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Public Records of
St. Johns County, FL
Clerk# 02-075078
O.R. 1867 PG 763
01:43PM 12/19/2002
REC \$29.00 SUR \$4.00

RESOLUTION NO. 2002- 259

A RESOLUTION OF THE BOARD OF COUNTY COMMISSIONERS OF ST. JOHNS COUNTY, FLORIDA, AUTHORIZING THE CLERK OF THE COURTS TO FILE THE SURVEY MAP FOR OSCAR ASHTON ROAD CLAIMING A VESTED INTEREST IN ST. JOHNS COUNTY IN THE RIGHTS-OF-WAY DESCRIBED IN THIS SURVEY BY PRESCRIPTIVE RIGHTS OF THE PUBLIC IN ACCORD WITH THE PRINCIPLES SET FORTH IN DOWNING V. BIRD, 100 SO.2D 57 (FLA. 1958)

WHEREAS, the Board of County Commissioners, have instructed County Staff to obtain documentation in order to justify continued County maintenance of roads that are neither dedicated to St. Johns County nor are owned by St. Johns County; and

WHEREAS, Oscar Ashton Road, as described in **Exhibit A**, attached hereto, and incorporated herein, is a road that County staff has documented as warranting continued County maintenance; and

WHEREAS, in Downing v. Bird, 100 So.2d 57 (Fla. 1958), the Florida Supreme Court set forth criteria for the public to establish a prescriptive easement; and

WHEREAS, the criteria set forth in Downing v. Bird, supra, is as follows:

- 1) actual, continuous uninterrupted use by the public entity for the full prescriptive period of twenty (20) years;
- 2) that the use be adverse under a claim of right, and either be with the actual knowledge of the owner, or so open, notorious, and visible that knowledge of the use is imputed to the owner;
- 3) that such use be inconsistent with the owner's use and enjoyment of his land and must not be a permissive use; and
- 4) that such use be related to a certain limited and defined area of land, or if for a right-of-way, the use be of a definite route with a reasonably certain line, width, and termini; and

WHEREAS, St. Johns County can demonstrate that Oscar Ashton Road meets each of the criteria, set forth in Downing v. Bird, supra; and

WHEREAS, the public has been continuously using Oscar Ashton Road without permission of the underlying land owners for in excess of twenty (20) years; and

*Lu + let - P. DeGrandie
BCC Secty*

WHEREAS, County Road and Bridge Supervisor, Frankie Hitchcock, has stated in an affidavit (**Exhibit B**, attached hereto, and incorporated herein), that the County has been responsible for maintaining Oscar Ashton Road for the last twenty (20) years; and

WHEREAS, by filing the survey map with the Clerk of the Courts of St. Johns County, the County acquires a vested interest in the right-of-way as shown in the survey that is included as Exhibit C, attached hereto, and incorporated herein; and

WHEREAS, it is in the best interest of St. John's County to acquire ownership of Oscar Ashton Road, and that such acquisition will benefit the citizens of St. Johns County.

NOW, THEREFORE, BE IT RESOLVED BY THE BOARD OF COUNTY COMMISSIONERS OF ST. JOHNS COUNTY, FLORIDA, as follows:

- Section 1. The above recitals are incorporated by reference into the body of this Resolution, and such recitals are adopted as findings of fact.
- Section 2. The Chair of the Board of County Commissioners, and the Clerk of the Courts are hereby authorized to file the attached survey map of Oscar Ashton Road in the Public Records of St. Johns County, Florida.
- Section 3. The Clerk is instructed to record this Resolution in the Public Records of St. Johns County, Florida.

PASSED AND ADOPTED, this 3rd day of December, 2002.

**BOARD OF COUNTY COMMISSIONERS,
ST. JOHNS COUNTY, FLORIDA**

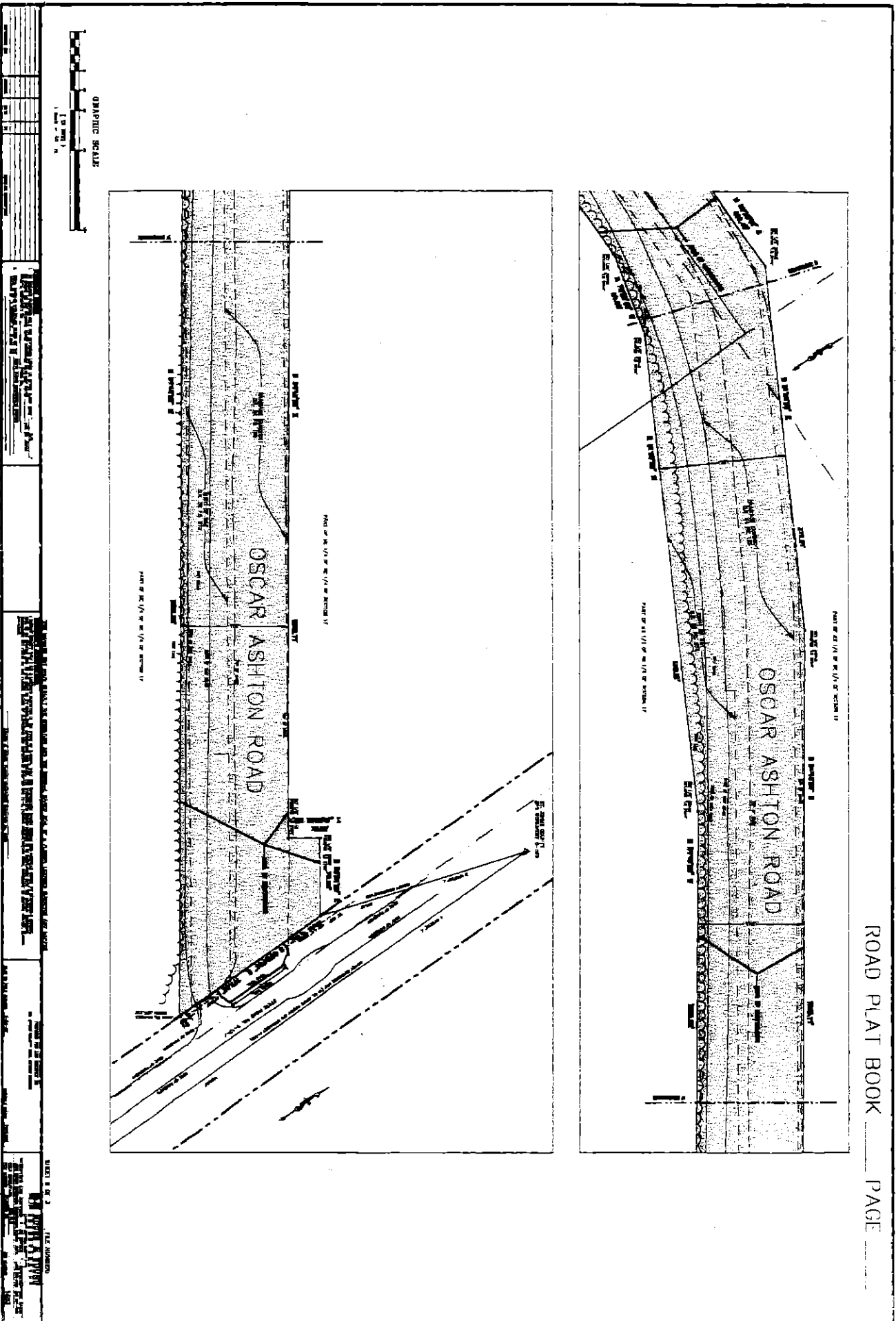
By: James E. Bryant
James E. Bryant, Chairman

ATTEST: Cheryl Strickland, Clerk

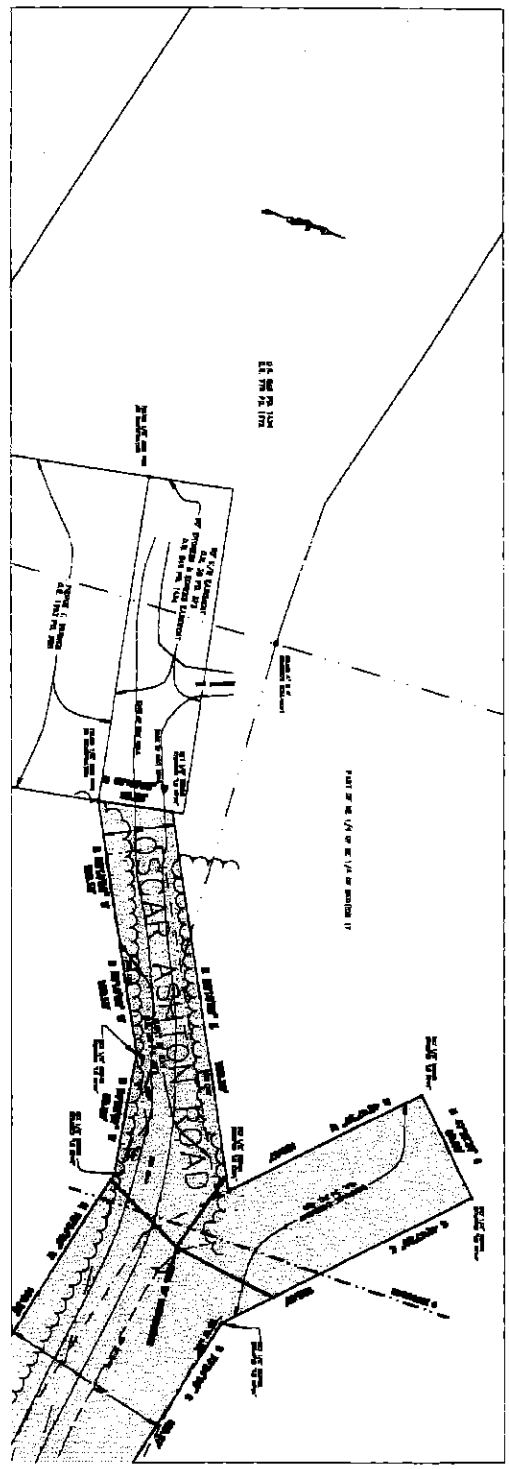
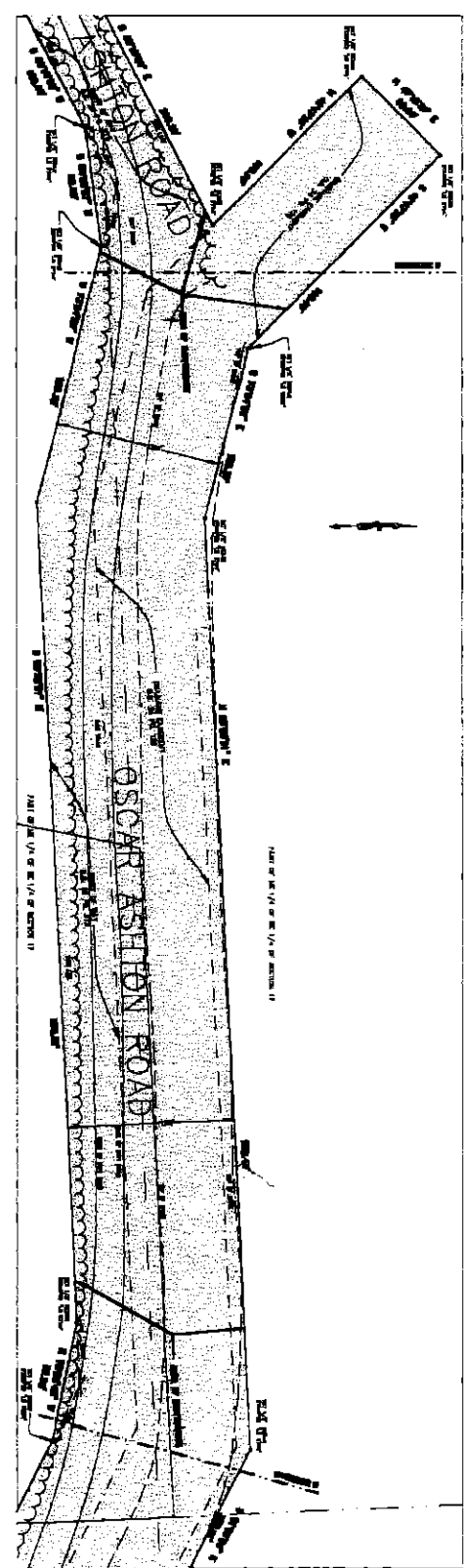
Patricia DeGrasse
Deputy Clerk

RENDITION DATE 12-5-02





PROJECT NO.	DATE	SCALE	BY	CHECKED	APPROVED	DATE



AFFIDAVIT

STATE OF FLORIDA
COUNTY OF ST. JOHNS

On this day before me, the undersigned authority, personally appeared Frankie Hitchcock, Road and Bridge Supervisor, who being first by me duly sworn, deposes and says that the County has been maintaining Oscar Ashton Road for the last 20 years and the public has continuously used the road during this time. This maintenance includes digging ditches, road grading, and mowing.

FURTHER AFFIANT SAYETH NAUGHT.

Frankie Hitchcock

STATE OF FLORIDA
COUNTY OF ST. JOHNS

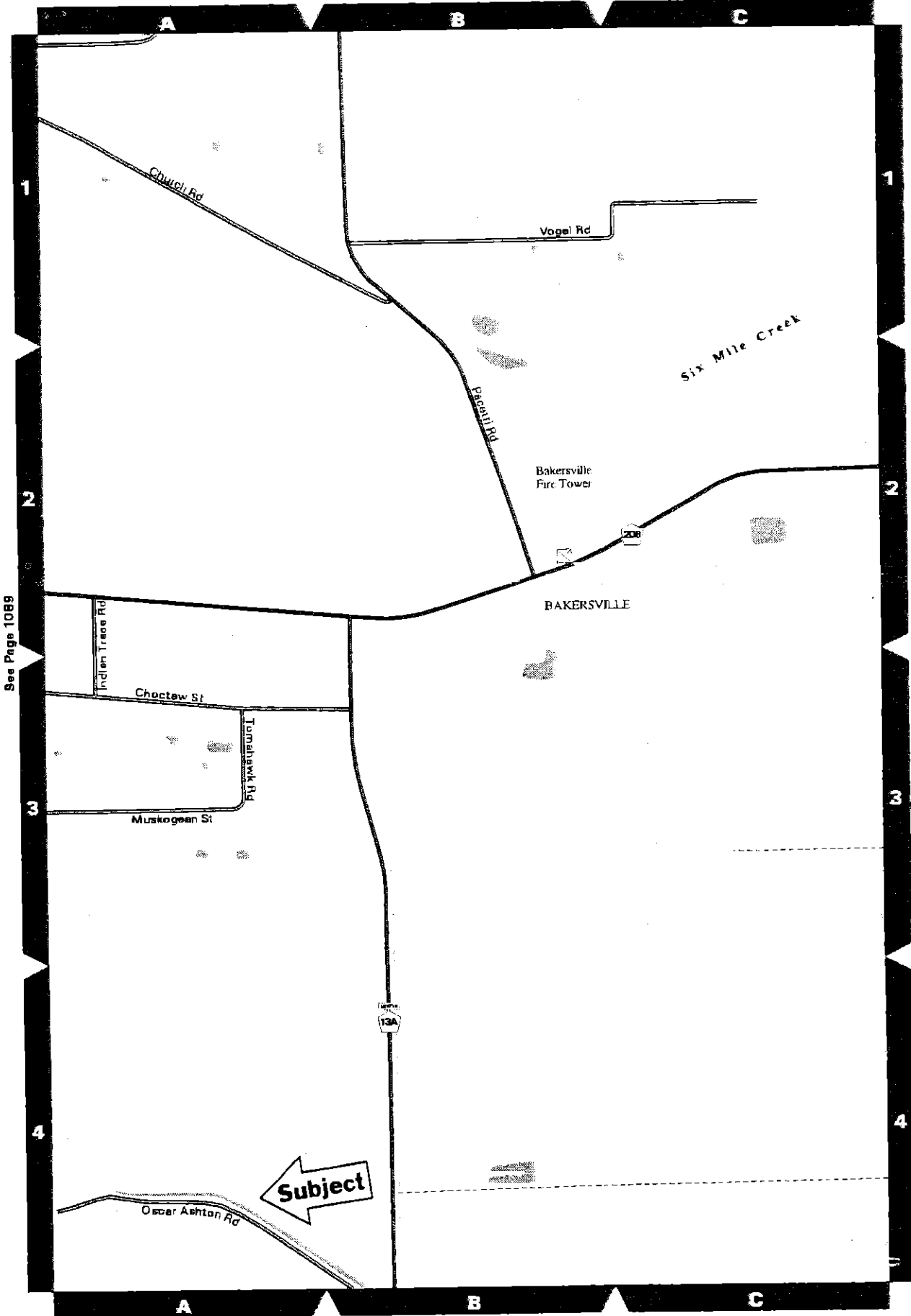
The foregoing instrument was acknowledged before me this 12th day of November 2002, by Frankie Hitchcock, Road and Bridge Supervisor, who is personally known to me.

Debbie Taylor
Notary



Debbie Taylor
Commission # CC 913963
Expires April 14, 2004
Bonded Thru
Atlantic Bonding Co., Inc.

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