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RESOLUTION NO. 2002- 261

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 OLD SPANISH TRAIL CLAIMING A VESTED INTEREST IN ST. JOHNS COUNTY IN THE RIGHT-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, Old Spanish Trail, 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 Old Spanish Trail meets each of the criteria, set forth in Downing v. Bird, supra; and

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

Frank P. Degrande
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 Old Spanish Trail for the last 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 Old Spanish Trail 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 Old Spanish Trail 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.

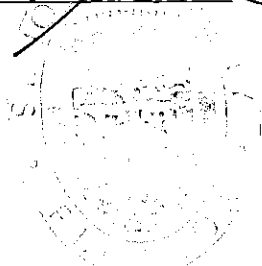
**BOARD OF COUNTY COMMISSIONERS,
ST. JOHNS COUNTY, FLORIDA**

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

ATTEST: Cheryl Strickland, Clerk

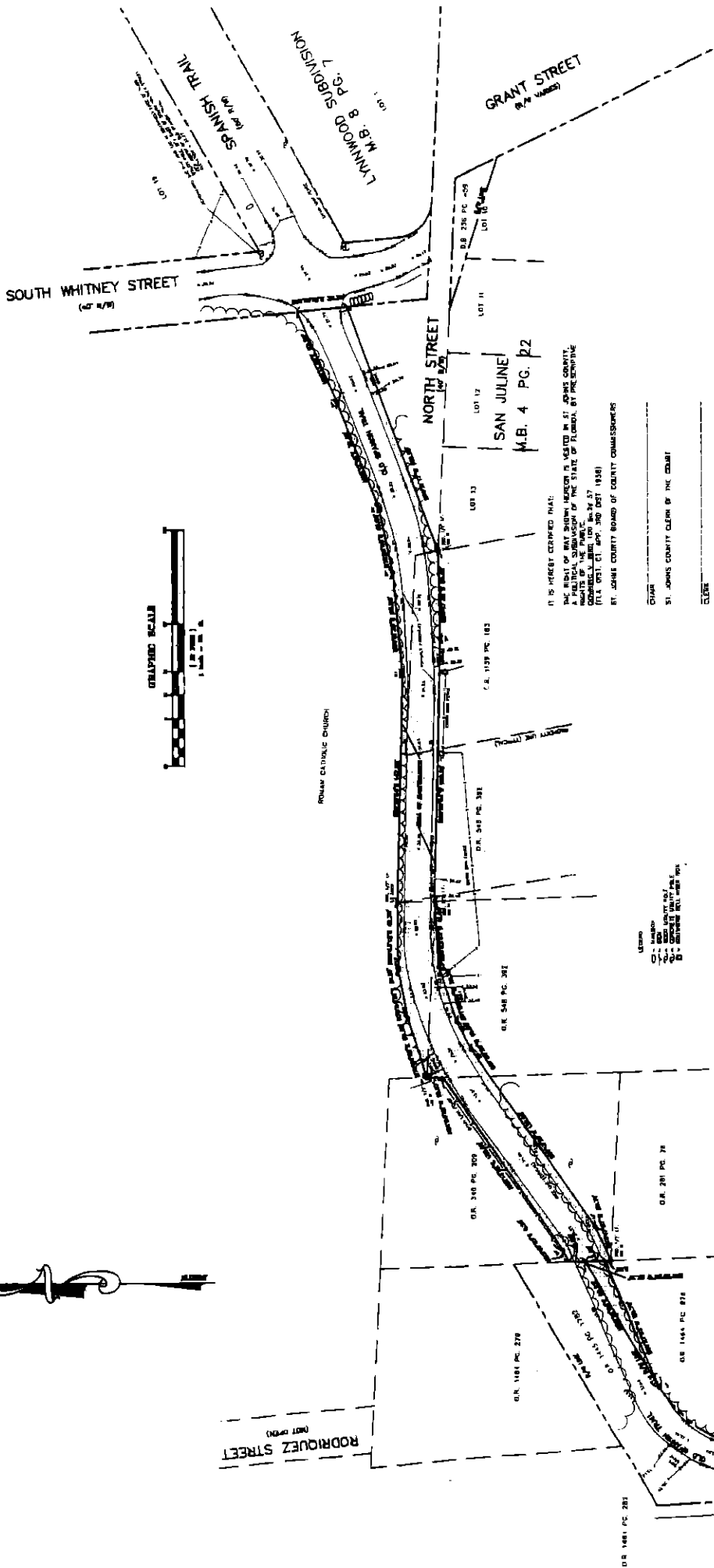
Patricia LaGrande
Deputy Clerk

RENDITION DATE 12-5-02



ROAD PLAT BOOK PAGE

MAP SHOWING A SPECIFIC PURPOSE SURVEY OF
 A PART OF OLD SPANISH TRAIL LYING IN
 SECTIONS 24 AND 45, TOWNSHIP 7 SOUTH,
 RANGE 29 EAST OF ST. JOHNS COUNTY, FLORIDA.
 FOR THE ST. JOHNS COUNTY REAL ESTATE DIVISION



IT IS HEREBY CERTIFIED THAT:
 THE RIGHT OF WAY SHOWN HEREON IS VESTED IN ST. JOHNS COUNTY,
 FLORIDA, BY VIRTUE OF THE ACTS OF THE LEGISLATURE OF THE STATE OF FLORIDA, BY PRESENTING
 COMPLETION OF THE PUBLIC,
 FILED FOR RECORD IN THE PUBLIC RECORDS OF ST. JOHNS COUNTY, FLORIDA, ON MAY 27,
 1938, AT 10:00 A.M., IN ACCORDANCE WITH THE PROVISIONS OF SECTION 10, CHAPTER 390, STATUTES
 OF THE STATE OF FLORIDA, AS AMENDED.
 ST. JOHNS COUNTY BOARD OF COUNTY COMMISSIONERS

CHAIR
 ST. JOHNS COUNTY CLERK OF THE COURT
 CLERK

ST. JOHNS COUNTY PUBLIC WORKS DEPARTMENT
 SURVEYING AND MAPPING/GIS DIVISION
 4080 LYONS BOULEVARD - P.O. BOX 649
 ST. AUGUSTINE, FLORIDA 32084
 Phone (904) 825 - 8400

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OLD SPANISH TRAIL
 SPECIFIC PURPOSE SURVEY
 FILE NUMBER: 1-21

Exhibit B to Resolution

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 Old Spanish Trail for the last 20 years and the public has continuously used the road during this time. This maintenance includes digging ditches, road grading and stabilization.

FURTHER AFFIANT SAYETH NAUGHT.

Frankie Hitchcock

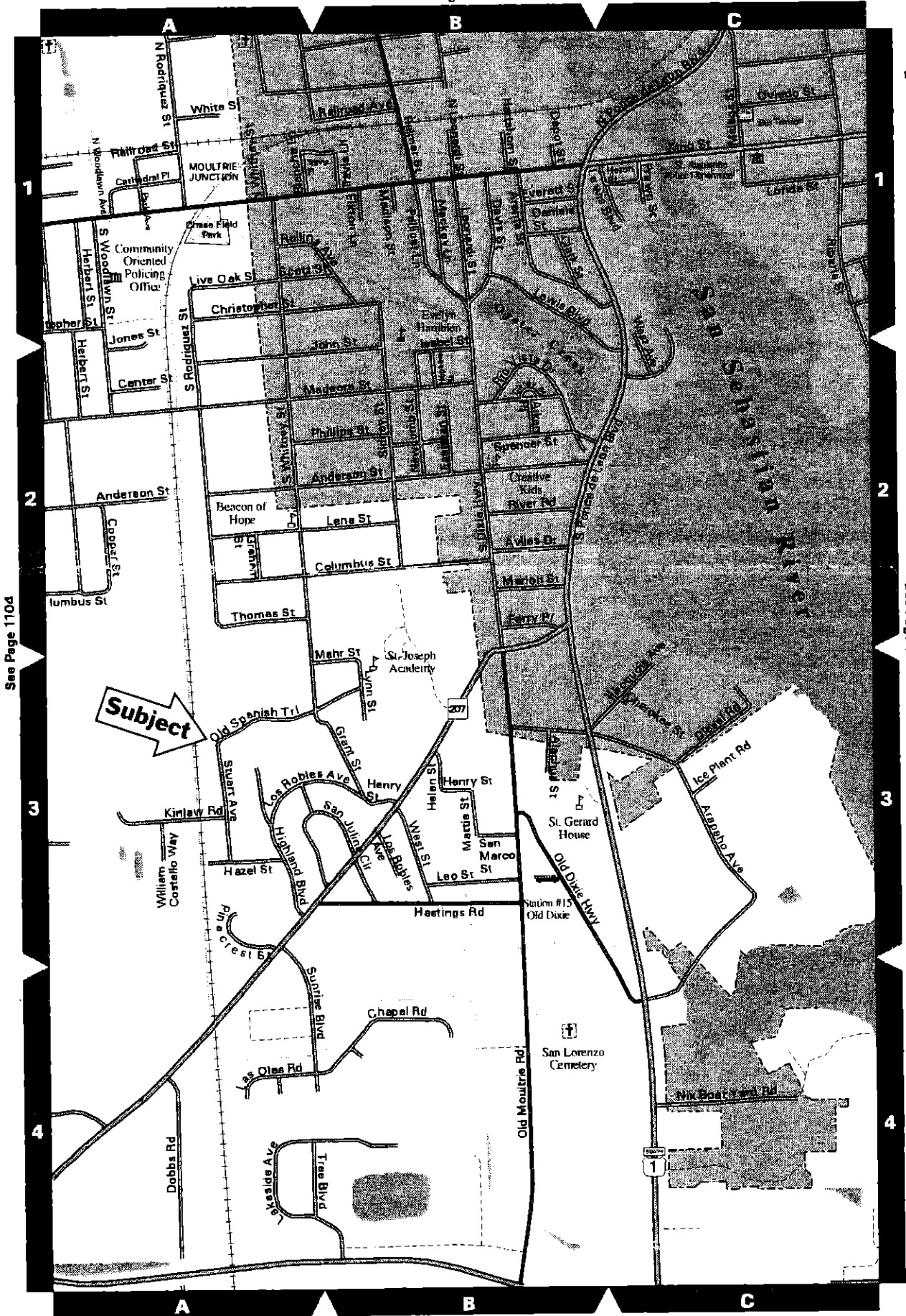
STATE OF FLORIDA
 COUNTY OF ST. JOHNS

The foregoing instrument was acknowledged before me this 21st day of November 2002, by Frankie Hitchcock, Road and Bridge Supervisor, who is personally known to me.

Laurie C. Braddock
 Notary



Laurie C. Braddock
 Commission # CC 928860
 Expires April 17, 2004
 Bonded Thru
 Atlantic Bonding Co., Inc.



See Page 1104

See Page 1106