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RESOLUTION NO. 2003- 188

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 A PORTION OF YELVINGTON ROAD CLAIMING A VESTED INTEREST IN ST. JOHNS COUNTY IN THE RIGHTS-OF-WAY THAT ARE DESCRIBED IN THIS SURVEY AND LOCATED WITHIN THE BOUNDARIES OF ST. JOHNS COUNTY, BY PRESCRIPTIVE RIGHTS OF THE PUBLIC IN ACCORD WITH THE PRINCIPLES SET FORTH IN DOWNING V. BIRD, 100 SO.2D 57 (FLA. 1958) AND APPROVING THE TERMS AND CONDITIONS OF AN INTERLOCAL AGREEMENT BETWEEN ST. JOHNS COUNTY AND PUTNAM COUNTY WHICH AUTHORIZES ST. JOHNS COUNTY TO DRIP-PAVE AND MAINTAIN A PORTION OF YELVINGTON ROAD DESCRIBED IN THE ABOVE REFERENCED SURVEY AND AUTHORIZING THE EXECUTION OF SAID AGREEMENT.

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, a portion of Yelvington Road which straddles the boundary between St. Johns County and Putnam County, as described and depicted 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 length, width, and termini; and

W. Kel - P. Degrande
BCC Secty

WHEREAS, St. Johns County can demonstrate that the portion of Yelvington Road located within the boundaries of St. Johns County meets each of the criteria, set forth in Downing v. Bird, *supra*; and

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

WHEREAS, County Road and Bridge Supervisor, Johnny Newsome, has stated in an affidavit that the County has been responsible for maintaining the identified portion Yelvington Road for the last twenty eight (28) years attached hereto, and incorporated herein as **Exhibit B**, 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 that is located in St. Johns County as shown in the survey that is attached 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 portions of Yelvington Road since through the acquisition of ownership, improvements shall then be made which will benefit both the citizens of St. Johns County and adjoining counties, and

WHEREAS, part of this roadway is in need of improvement, both in the boundaries of St. Johns County and within the boundaries of Putnam County and St. Johns County intends to utilize its Dirt Road Improvement Program (**DRIP**) to pave an identified portion of the right-of-way comprising Yelvington Road, and

WHEREAS, representatives from both St. Johns County and Putnam County have determined that an Agreement is needed to authorize St. Johns to pave and then maintain that portion of Yelvington Road located in Putnam County and the governing bodies of both St. Johns County and Putnam County agree to work cooperatively to effect these improvements and maintenance thereof.

WHEREAS, an Interlocal Agreement attached as **Exhibit "D"** authorizes St. Johns County to DRIP-pave and maintain the identified portion of Yelvington Road is hereby incorporated by reference and made part hereof.

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 Yelvington Road in the Public Records of St. Johns County, Florida thereby acquiring a vested interest in that portion of Yelvington Road located in St. Johns County.

Section 3. The terms and conditions of the attached Interlocal Agreement are hereby approved and the Chair of the Board of County Commissioners is authorized to execute said Agreement.

Section 4. The Clerk is instructed to record this Resolution in the Public Records of St. Johns County, Florida.

PASSED AND ADOPTED, this 7th day of October, 2003.

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

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

ATTEST: Cheryl Strickland, Clerk

Patricia DeGrande
Deputy Clerk

RENDITION DATE 10-10-03

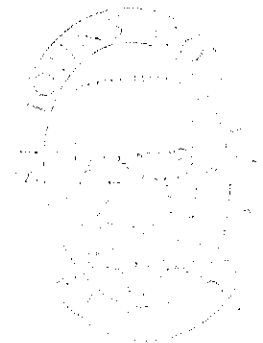


EXHIBIT A (to Resolution)

Reduced version of the Survey filed as a Maintenance Map

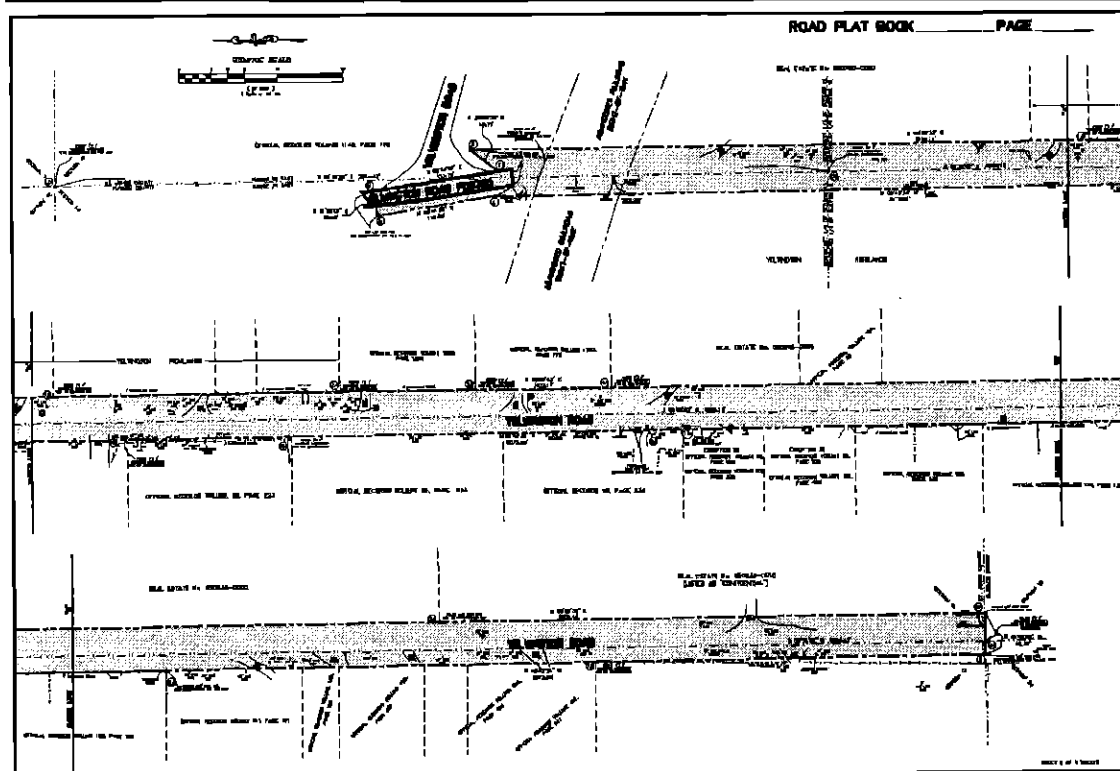
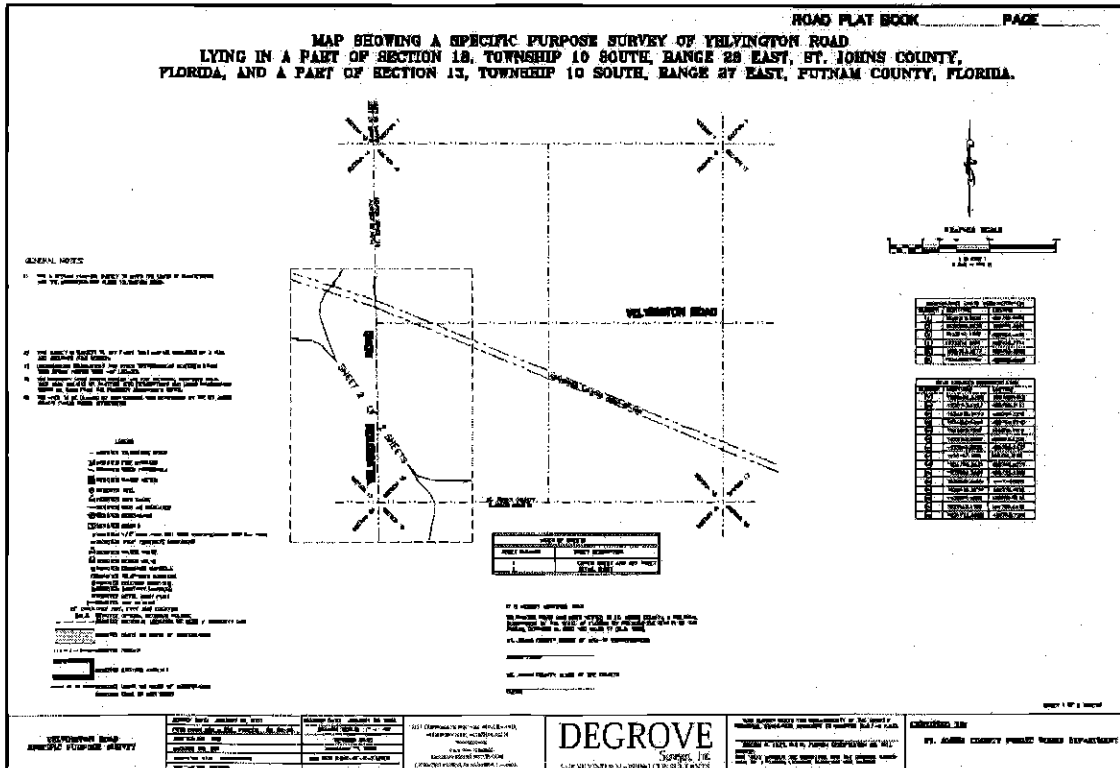


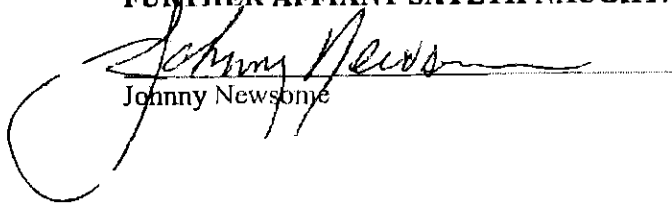
EXHIBIT B
(to Resolution)

AFFIDAVIT

STATE OF FLORIDA
COUNTY OF ST. JOHNS


On this day before me, the undersigned authority, personally appeared Johnny Newsome, Road and Bridge Supervisor, who being first by me duly sworn, deposes and says that the County has been maintaining Yelvington Road for the last 28 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.


Johnny Newsome

STATE OF FLORIDA
COUNTY OF ST. JOHNS

The foregoing instrument was acknowledged before me this 27th day of August, 2002 by Johnny Newsome, Road and Bridge Supervisor, who is personally known to me.


Notary Public



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

EXHIBIT C
(to Resolution)

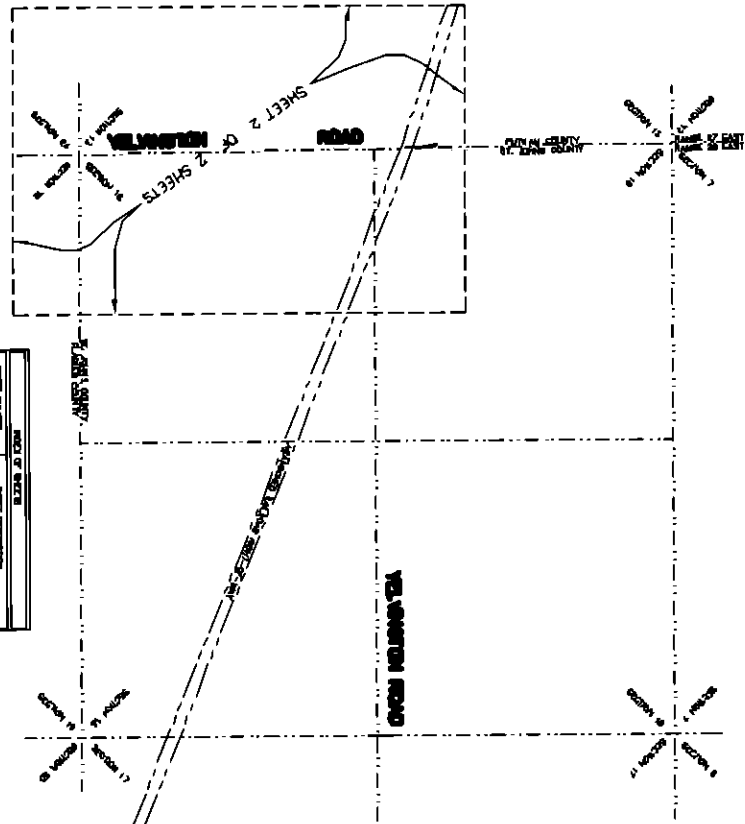
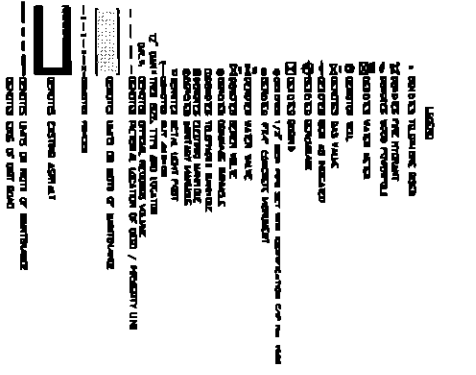
Survey Filed as Maintenance Map – See Survey of a North-South portion of Yelvington Road by DeGrove Surveyors Inc.

Exhibit C

ROAD PLAT BOOK PAGE _____

**MAP SHOWING A SPECIFIC PURPOSE SURVEY OF YELVINGTON ROAD
LYING IN A PART OF SECTION 16, TOWNSHIP 10 SOUTH, RANGE 28 EAST, ST. JOHNS COUNTY,
FLORIDA, AND A PART OF SECTION 13, TOWNSHIP 10 SOUTH, RANGE 27 EAST, PUTNAM COUNTY, FLORIDA.**

- ### GENERAL NOTES
1. THE SURVEY WAS MADE BY ME, JOHN A. DEGROVE, REGISTERED SURVEYOR.
 2. THE SURVEY WAS MADE IN ACCORDANCE WITH THE PROVISIONS OF CHAPTER 94, F.S., AS AMENDED.
 3. THE SURVEY WAS MADE IN ACCORDANCE WITH THE PROVISIONS OF CHAPTER 94, F.S., AS AMENDED.
 4. THE SURVEY WAS MADE IN ACCORDANCE WITH THE PROVISIONS OF CHAPTER 94, F.S., AS AMENDED.



OWNER	DEGROVE, JOHN A.
OWNER	DEGROVE, JOHN A.
OWNER	DEGROVE, JOHN A.
OWNER	DEGROVE, JOHN A.
OWNER	DEGROVE, JOHN A.

TRACT NUMBER	TRACT DESCRIPTION	ACRES
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3	TRACT 3	0.10
4	TRACT 4	0.10
5	TRACT 5	0.10
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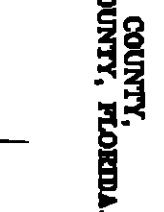
214 WINDSOR SQUARE BOULEVARD
JACKSONVILLE, FLORIDA 32202
TELEPHONE 385-2244
FACSIMILE 385-2244
REGISTERED SURVEYOR NUMBER 12405

DEGROVE

SURVEYOR, L.L.C.
SURVEYING & MAPPING CONSULTANTS

THIS MAP SHOWS THE RESULT OF THE SURVEY IN ACCORDANCE WITH THE PROVISIONS OF CHAPTER 94, F.S., AS AMENDED. THE SURVEY WAS MADE BY ME, JOHN A. DEGROVE, REGISTERED SURVEYOR.

ST. JOHN'S COUNTY PUBLIC WORKS DEPARTMENT



SHEET 1 OF 2 SHEETS

Exhibit C

ROAD FLAT BOOK PAGE

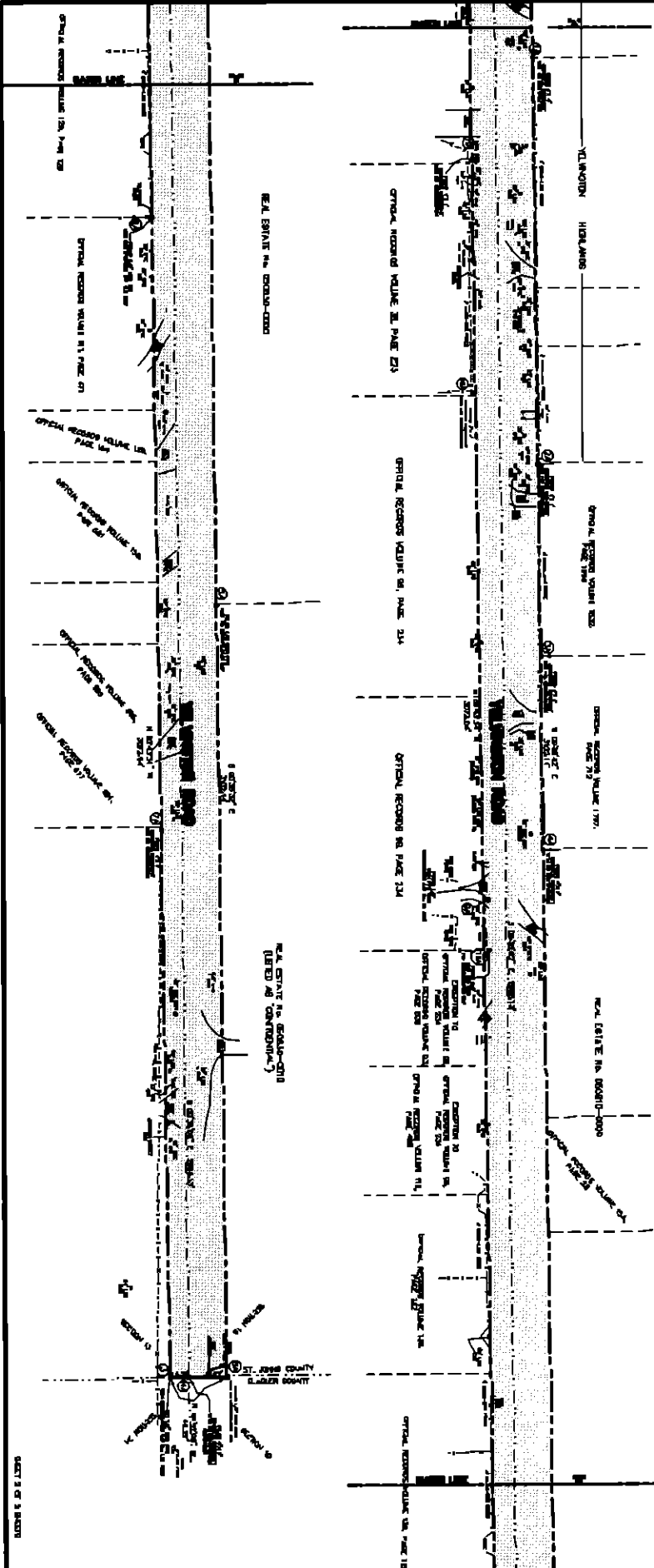
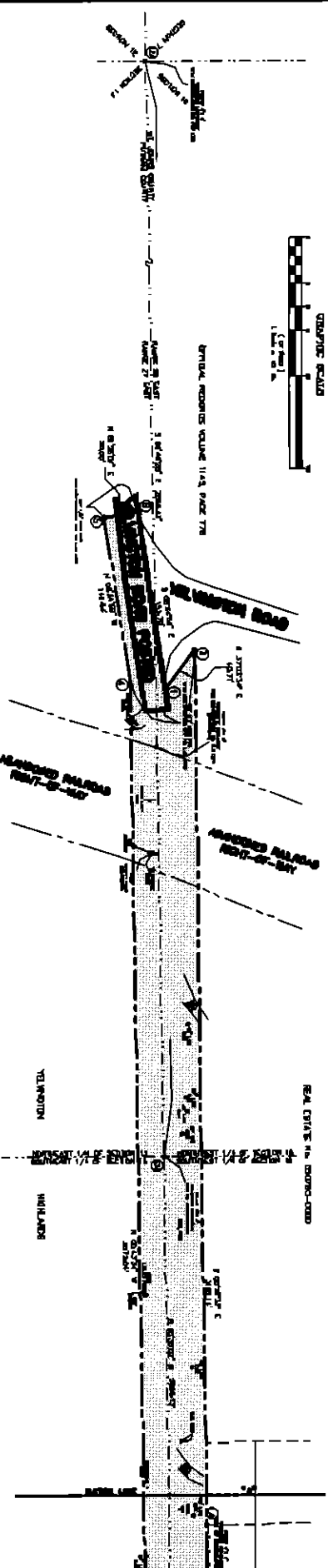


EXHIBIT D
(to Resolution)

INTERLOCAL AGREEMENT

THIS INTERLOCAL AGREEMENT ("Agreement") made and entered into this _____ day of _____, 2003, by and between PUTNAM COUNTY, a political subdivision of the State of Florida ("Putnam"), and ST. JOHNS COUNTY, a political subdivision of the State of Florida ("St. Johns").

WHEREAS, a segment of Yelvington Road ("Roadway") is located within the boundaries of St. Johns County and a segment is located within the boundaries of Putnam County; and

WHEREAS, the St. Johns County Road and Bridge Department wishes to pave a section of this Roadway that is located in both Counties; and

WHEREAS, that part of the Roadway to which this Agreement addresses itself is attached hereto as **Schedule "A"**, incorporated by reference, and made part hereof, and

WHEREAS, the Roadway is in need of improvement, both within the boundaries of St. Johns County and within the boundaries of Putnam County; and

WHEREAS, St. Johns intends to utilize St. Johns County's Dirt Road Improvement Program (DRIP) for the paving operation of identified segments of the Roadway; and

WHEREAS, in the spirit of interlocal assistance and cooperation, both St. Johns and Putnam agree to contribute effort and/or costs towards the proposed improvements, so that a better roadway facility for citizens of both Counties may result; and

WHEREAS, St. Johns and Putnam have determined that an Agreement is needed, in order to authorize St. Johns to pave, and then maintain, that segment of the Roadway located in Putnam County; and

WHEREAS, the governing bodies of both St. Johns and Putnam agree to work cooperatively to effect these improvements and maintenance thereof.

NOW, THEREFORE, in consideration of mutual covenants and promises contained herein, it is agreed by and between the parties as follows:

Section 1. The following has been prepared to delineate the respective responsibilities of the parties, defined as follows:

a. St. Johns will proceed as expeditiously as possible to prepare any required design, plans, permits or specifications for the DRIP paving of the Roadway.

b. St. Johns will be responsible for all costs associated with the DRIP paving operation including appurtenant drainage improvements and costs relative to the administration, management and inspection of the construction work and subsequent maintenance for this project.

c. Putnam will be responsible for any vertical and/or horizontal adjustments to its manholes, valve boxes, water or sewer facilities, etc. located within its boundaries, that may become necessary in the course of construction, upon notification by St. Johns. All drainage work directly appurtenant to the Roadway will be addressed as part of the DRIP paving operation and, accordingly, will be the responsibility of St. Johns. Any facilities or improvements not directly appurtenant to the Roadway as depicted in **Schedule "A"** will remain the responsibility of Putnam.

d. St. Johns and Putnam both agree to pursue these improvements: 1) cooperatively; 2) with due diligence; 3) to ensure that the necessary resources are made available in a timely basis; and 4) that all portions of the overall effort are completed under the terms and conditions of this Agreement.

e. Once the improvements of the Roadway are completed, St. Johns will thereafter maintain and employ pavement management techniques consistent with its normal activities on like-situated roadways for an initial period of 15 years, but St. Johns shall have the sole discretion to cease activities in Putnam County with or without cause.

f. This Agreement may be amended by mutual written agreement of St. Johns and Putnam and this Agreement may be terminated by mutual written agreement of St. Johns and Putnam.

Section 2. If any word, phrase, sentence, part, subsection, section, or other portion of this Agreement, or any application thereof, to any person or circumstance is declared void, unconstitutional, or invalid for any reason, then such word, phrase, sentence, part, subsection, or other portion, or the proscribed application thereof, shall be severable, and the remaining portions of this Agreement, and all applications thereof, not having been declared void, unconstitutional, or invalid, shall remain in full force, and effect.

Section 3. Both St. Johns and Putnam acknowledge that this Agreement constitutes the complete agreement and understanding of both parties. Both St. Johns and Putnam acknowledge that any amendments to the Agreement shall be in writing, and approved by the appropriate legislative body of each County.

Section 4. This Agreement shall be construed according to the laws of the State of Florida. Venue for any legal action arising under this Agreement shall be in St. Johns County, Florida.

IN WITNESS WHEREOF, the parties hereto have hereunto set their hand and seals this day and year below written.

Board of County Commissioners,
St Johns County, Florida

By: _____
James E. Bryant, Chairman

Date: _____

ATTEST:

Clerk to the Board of County Commissioners,
St. Johns County, Florida

Board of County Commissioners,
Putnam County, Florida

By: _____
Chairman

Date: _____

ATTEST:

Clerk to the Board of County Commissioners,
Putnam County, Florida

Schedule "A" (to Interlocal Agreement)

Reduced version of the Maintenance Map for the north-south portion of Yelvington Road

