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Public Records of
St. Johns County, FL
Clerk# 04-005602
O.R. 2128 PG 1117
02:23PM 01/26/2004
REC \$21.00 SUR \$3.00

RESOLUTION NO. 2004- 12

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 PART OF CAT 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 not dedicated to St. Johns County or are owned by St. Johns County; and

WHEREAS, a part of Cat 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 a part of Cat Road, meets each of the criteria, set forth in Downing v. Bird, *supra*; and

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

*Shirley - P. DeGrande
BCC Secty*

WHEREAS, County Road and Bridge Supervisor, Frankie Hitchcock, has stated in a memo (**Exhibit B**, attached hereto, and incorporated herein), that the County has been responsible for maintaining a part of Cat Road, for the last twenty 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 varying 40 foot to 60 foot wide right-of-way; and

WHEREAS, it is in the best interest of St. Johns County to acquire ownership of a part of Cat 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 survey map of a part of Cat Road, in the Public Records of St. Johns County, Florida.

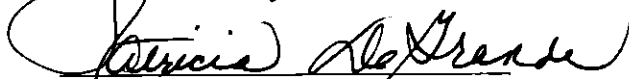
Section 3. The Clerk of Circuit Court is instructed to record this Resolution in the Public Records of St. Johns County, Florida.

PASSED AND ADOPTED, this 20 day of January, 2004.

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

By: 
Karen R. Stern, Chair

ATTEST: Cheryl Strickland, Clerk


Deputy Clerk



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 Cat Road for the last 20 years and the public has continuously used the road during this time. This maintenance includes digging ditches, road grading, stabilization and patching.

FURTHER AFFIANT SAYETH NAUGHT.

Frankie Hitchcock

**STATE OF FLORIDA
COUNTY OF ST. JOHNS**

The foregoing instrument was acknowledged before me this 8th day of December 2003, by Frankie Hitchcock, Road and Bridge Supervisor, who is personally known to me.

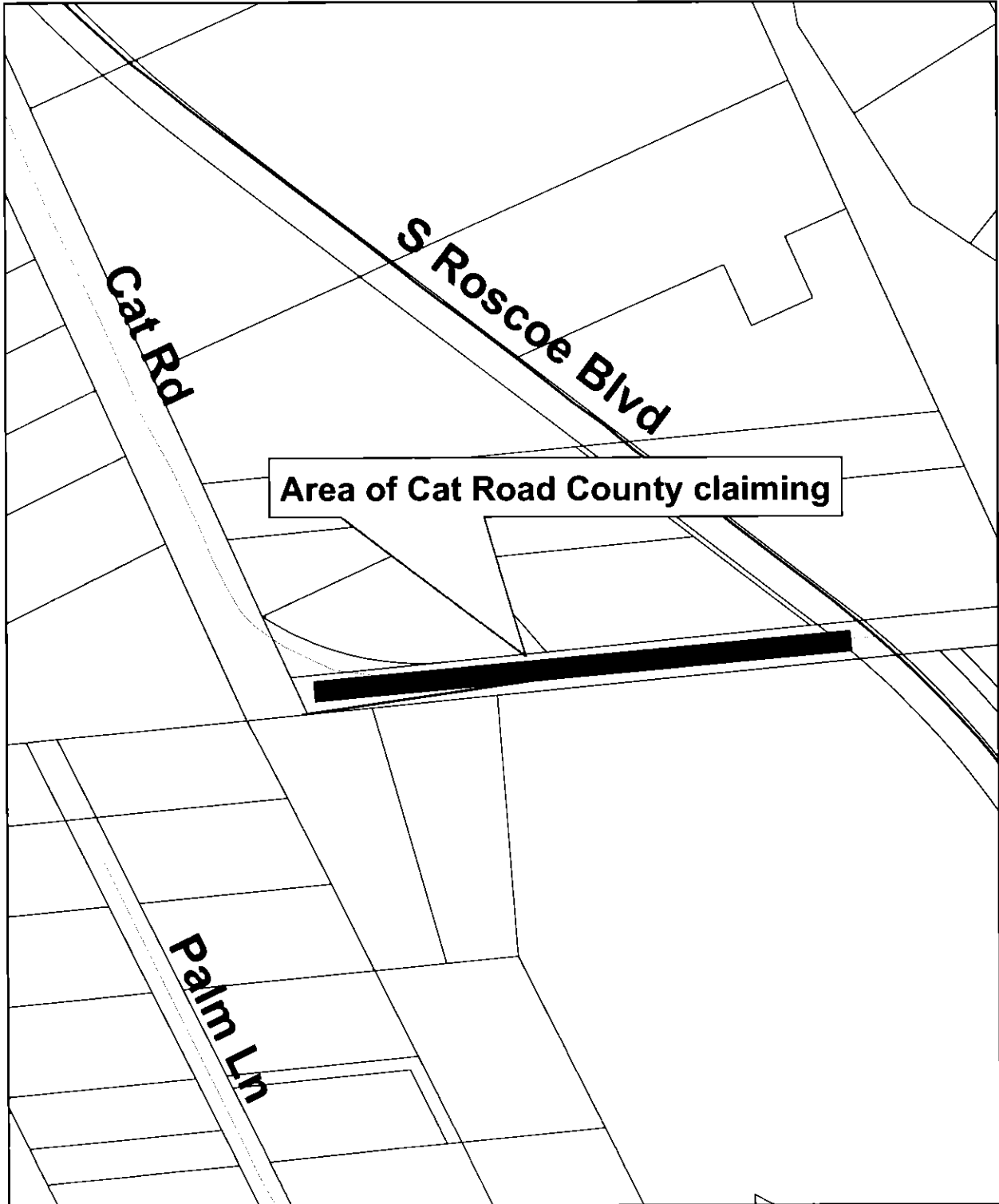
Debbie Taylor
Notary



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

This map is to indicate the general area of the County of the subject property

Cat Road Maintenance Map



DISCLAIMER: This map is provided by the St. Johns County Real Estate Division and should be used for estimate purposes only. Data provided herein are from multiple sources with varying degrees of accuracy. This map should not be used for final site-specific land use decisions.



PREPARED BY:

ST. JOHNS COUNTY
REAL ESTATE DIVISION