

RESOLUTION NO. 2005-282

A RESOLUTION OF THE BOARD OF COUNTY COMMISSIONERS OF ST. JOHNS COUNTY, FLORIDA, AUTHORIZING THE CLERK OF THE COURTS, UNDER SECTION 95.361 FLORIDA STATUTES TO FILE THE SURVEY MAP FOR ST. JOHNS STREET BETWEEN COUNTY ROAD 214 (WEST KING STREET) AND FIRST STREET, CLAIMING A VESTED INTEREST IN THE ROAD DESCRIBED IN THE SURVEY MAP, AND/OR ESTABLISHING A PRESCRIPTIVE EASEMENT IN THE SAME RIGHTS-OF-WAY, IN ACCORDANCE WITH THE PRINCIPLES SET FORTH IN DOWNING V. BIRD, 100 SO. 2D 57 (FLA. 1958)

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

WHEREAS, a portion of St. Johns Street, as described in the attached and incorporated as **Exhibit "A"**, which is the **Survey Map**, and which is a road that County staff has documented as warranting continued County maintenance; and

WHEREAS, Section 95.361, Florida Statutes details the procedure for a local government to claim a vested interest in a road not constructed by the local government as follows:

- 1) the road has been constructed by a non-governmental entity, or not constructed by the entity currently maintaining or repairing the road;
- 2) the road has been maintained and/or repaired for the immediate past twenty (20) years by the County; and

WHEREAS, under the criteria set forth in Section 95.361, Florida Statutes, such road shall be deemed dedicated to the County, to the extent of the width of the road that actually has been maintained or repaired for the prescribed period, whether or not such road has been formally established as a public highway; and

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WHEREAS, the filing of the Survey Map with the Clerk of the Courts of St. Johns County, pursuant to Section 95.361, Florida Statutes, by St. Johns County serves as prima facie evidence of ownership by St. Johns County, as shown in the survey that is included as **Exhibit "A"**, attached hereto, and incorporated herein; and

WHEREAS, in Downing v. Bird, 100 So. 2d 57 (Fla. 1958), the Florida Supreme Court set forth separate criteria in which a public entity (such as the County), may establish, claim, and maintain a prescriptive easement on certain property; 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 St. Johns Street, meets each of the criteria, set forth in Downing v. Bird, supra; and

WHEREAS, the public entity has been continuously using St. Johns Street, without permission of the underlying land owners in excess of twenty (20) years; and

WHEREAS, County Road and Bridge Supervisor, **Vincent Wilcox**, has stated in an affidavit (attached and incorporated as **Exhibit "B"**) that the County has been responsible for maintaining St. Johns Street, for the last twenty (20) years; and

WHEREAS, St. Johns County can demonstrate that St. Johns County's actions meet the criteria set forth in both/either Section 95.361, Florida Statutes, and/or Downing v. Bird, 100 So. 2d 57 (Fla. 1958), with respect to establishing either statutory dedication, or a prescriptive easement over the above-noted, and described St. Johns Street; and

WHEREAS, it is in the best interest of St. Johns County to establish its existing ownership of St. Johns Street under either statutory dedication or prescriptive easement, 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 Chairman of the Board of County Commissioners, and Clerk of the Courts are hereby authorized to file the attached Survey Map for a portion of St. Johns Street, 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 4 day of October, 2005.

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

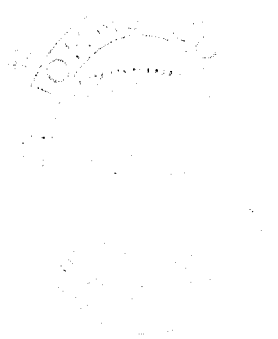
By: 

Bruce A. Maguire, Chairman

ATTEST: Cheryl Strickland, Clerk


Deputy Clerk

RENDITION DATE 10-6-05



- LEGEND**
- 1. BOUNDARY
 - 2. CENTERLINE
 - 3. RIGHT OF WAY
 - 4. EASEMENT
 - 5. CONVEYANCE
 - 6. ENCUMBRANCE
 - 7. EASEMENT
 - 8. ENCUMBRANCE
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 - 100. ENCUMBRANCE

INDEX

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| SHEET NO. | DESCRIPTION |
| 1 | COVER SHEET |
| 2 | DETAIL SHEET |

CONTROL DATA TABLE

| STATION | Y(NORTHING) | X(EASTING) |
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| 1+00.00 | 2,020,054.1024 | 516,581.0729 |
| 2+00.00 | 2,020,054.1024 | 516,581.0729 |
| 3+00.00 | 2,020,054.1024 | 516,581.0729 |
| 4+00.00 | 2,020,054.1024 | 516,581.0729 |
| 5+00.00 | 2,020,054.1024 | 516,581.0729 |
| 6+00.00 | 2,020,054.1024 | 516,581.0729 |
| 7+00.00 | 2,020,054.1024 | 516,581.0729 |
| 8+00.00 | 2,020,054.1024 | 516,581.0729 |
| 9+00.00 | 2,020,054.1024 | 516,581.0729 |
| 10+00.00 | 2,020,054.1024 | 516,581.0729 |

DATE: MAR 23/05
BY: JOHN A. ANDERSON
SCALE: AS SHOWN ON PLAN

MAINTENANCE CERTIFICATION

IT IS HEREBY CERTIFIED THAT:

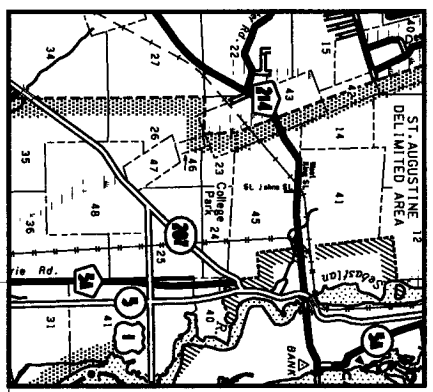
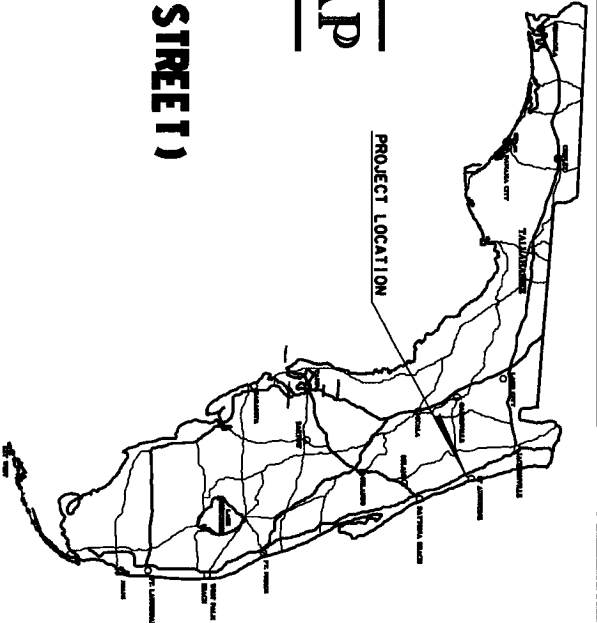
THE RIGHT OF WAY SHOWN HEREON IS VESTED IN ST. JOHNS COUNTY, FLORIDA, PURSUANT TO THE PROVISIONS OF THE FLORIDA STATUTES AND BY PREScriptive RIGHTS OF THE PUBLIC. (FLA. STAT., CT. APP., §80.0151, (1981))

ST. JOHNS COUNTY BOARD OF COUNTY COMMISSIONERS

CHAIRMAN:

ST. JOHNS COUNTY CLERK OF THE COURT

ST. JOHNS COUNTY
PUBLIC WORKS DEPARTMENT
MAPS OF THE
COUNTY ROAD
MAINTENANCE MAP
ST. JOHNS STREET BETWEEN
COUNTY ROAD NO. 214 (WEST KING STREET)
AND FIRST STREET



| STATION | DATE | BY | SCALE |
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| 1+00.00 | 03/23/05 | JA | 1"=100' |
| 2+00.00 | 03/23/05 | JA | 1"=100' |
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| 4+00.00 | 03/23/05 | JA | 1"=100' |
| 5+00.00 | 03/23/05 | JA | 1"=100' |
| 6+00.00 | 03/23/05 | JA | 1"=100' |
| 7+00.00 | 03/23/05 | JA | 1"=100' |
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| 9+00.00 | 03/23/05 | JA | 1"=100' |
| 10+00.00 | 03/23/05 | JA | 1"=100' |

ST. JOHNS COUNTY PUBLIC WORKS DEPARTMENT
1000 EAST STATE ROAD, SUITE 200
ST. JOHNS, FLORIDA 32058
TEL: 321-875-1300
FAX: 321-875-1301
WWW.SJCPLWD.COM

ST. JOHNS COUNTY
COUNTY ROAD NO. 214
ST. JOHNS STREET BETWEEN C.R. NO. 214 WEST KING STREET AND FIRST STREET

GENERAL NOTES

- Attention is directed to the fact that these maps may have been reduced in size by reproduction. This must be considered when scaling data.
- Boundaries are based on Florida State Plane Coordinate System East Zone, Lambert Projection, NAD 83/93.
- All Centerline P.C., P.T., and P.O.T. points are P.K. Noted and noted otherwise, unless otherwise noted.
- All angles are 800'00" unless otherwise noted.
- The field work was completed on May, 2005.

Filed for record in the office of the Clerk of the Circuit Court, St. Johns County, Florida, on this _____ day of _____, A.D. 2005, page _____ of _____.

Clerk of the Circuit Court
St. Johns County, Florida

SURVEY CERTIFICATION

This survey was performed for the specific purpose of determining the location and extent of the right of way shown on this map. The survey was conducted in accordance with the Florida Statutes, Chapter 80, and the rules of the State Board of Professional Engineers and Surveyors, Part 10, Chapter 60S, Florida Statutes. The field work was performed under my direction and completed in May, 2005.

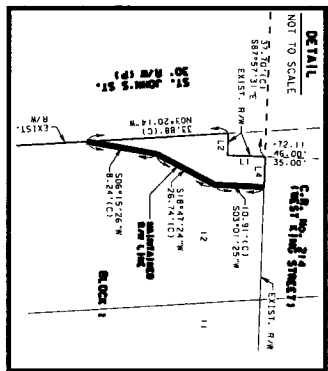
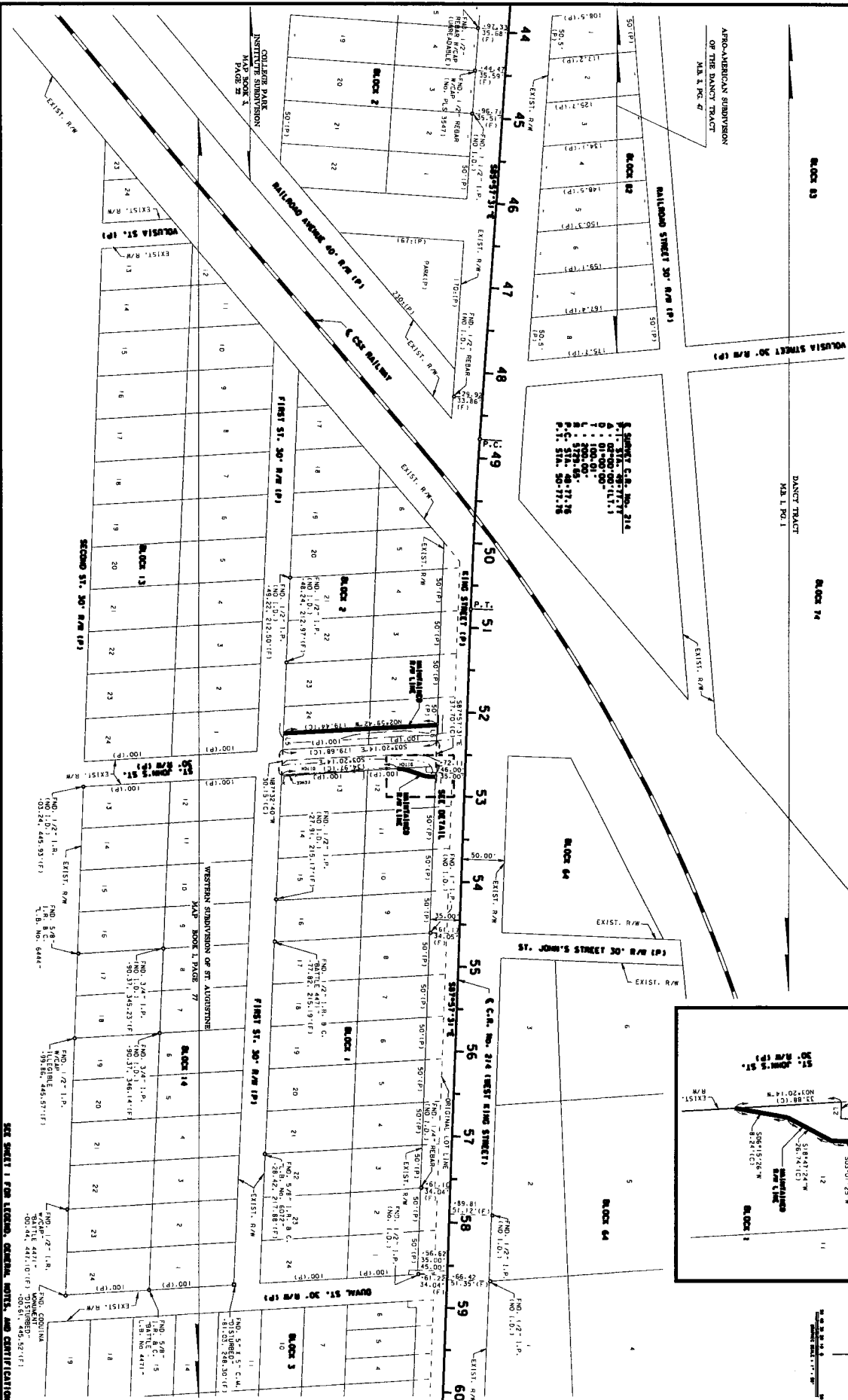
John A. Anderson, Professional Surveyor and Mapper No. 5881
P.O. Box 100, St. Johns County, Florida 32058
JAnderson@bosurvey.com, 321-875-1001
Date: _____

Not valid without signature and original sealed seal.

SECTIONS 41 & 45, TOWNSHIP 7 SOUTH, RANGE 29 EAST

TITLE BLOCK

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MAINTENANCE MAP

ST. JOHNS COUNTY PUBLIC WORKS DEPARTMENT

1425 STATE ROAD 16
ST. JOHNS COUNTY, FLORIDA 32094
TELEPHONE 321-833-4940

DRMP

DESIGNED BY: [Name]

DATE: [Date]

SCALE: 1" = 40'

ST. JOHNS STREET BETWEEN C.R. NO. 214 WEST END STREET AND FIRST STREET

AFFIDAVIT

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

On this day before me, the undersigned authority, personally appeared Vincent Wilcox, Road and Bridge Supervisor, who being first by me duly sworn, deposes and says that the County has been maintaining St. Johns Street for the last 20 years and the public has continuously used the road during this time. This maintenance includes mowing, cleaning ditches, overlaying the road with asphalt and patching pot holes.

FURTHER AFFIANT SAYETH NAUGHT.

Vincent Wilcox 9-22-05

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

The foregoing instrument was acknowledged before me this 22nd day of September 2005, by Vincent Wilcox, Road and Bridge Supervisor, who is personally known to me.

Jennifer G. Kinlaw
Notary

