RESOLUTION NO. 2006-<u>333</u>

A RESOLUTION BY THE BOARD OF COUNTY COMMISSIONERS OF ST. JOHNS COUNTY, FLORIDA, APPROVING THE TERMS AND AUTHORIZING THE COUNTY ADMINISTRATOR TO EXECUTE A CERTAIN PURCHASE AND SALE AGREEMENT FOR PROPERTY NEEDED FOR THE RACE TRACK ROAD FOUR-LANING PROJECT.

RECITALS

WHEREAS, the owners of property located on Race Track Road have executed and presented to the County a Purchase and Sale Agreement, attached hereto as Exhibit "A", incorporated by reference and made a part hereof; and

WHEREAS, the owners have agreed to sell two plus acres of land for \$535,250 along Race Track Road for required Right-of-Way for the four-laning project, as part of the Capital Improvement Project that was funded as part of the Transportation Trust Fund Budget; and

WHEREAS, it is in the best interest of the County to acquire this property for the safety improvements needed to the West King Street corridor.

NOW, THEREFORE, BE IT RESOLVED by the Board of County Commissioners of St. Johns County, Florida, as follows:

- 1. The above Recitals are incorporated by reference into the body of this Resolution and such Recitals are adopted as findings of fact.
- 2. The Board of County Commissioners hereby approves the terms of the Purchase and Sale Agreement and authorizes the County Administrator to take necessary action to facilitate and close the purchase in accordance with the terms of said agreement.
- 3. The Clerk is instructed to file the original Purchase and Sale Agreement in the Official Records of St. Johns County, Florida.

PASSED AND ADOPTED by the Board of County Commissioners of St. Johns County, Florida this 30 day of 000000.

BOARD OF COUNTY COMMISSIONERS OF ST. JOHNS COUNTY, FLORIDA

BY: Samuel Byont
James E. Bryant, Chairman

ATTEST: Cheryl Strickland, Clerk

By Ittricia / Le Grande)

Deputy Clerk

Exhibit "A" to the Resolution

PURCHASE AND SALE AGREEMENT

THIS PURCHASE AND SALE AGREEMENT ("Agreement") is made and effective as of the Effective Date (defined herein below), by and between ST. JOHNS COUNTY, FLORIDA, a political subdivision of the State of Florida, whose address is, 4020 Lewis Speedway, St. Augustine, Florida 32084 ("Buyer") and CREEKSIDE CHRISTIAN CHURCH, INC. ("Seller"), whose address is Post Office Box 600111, Jacksonville, Florida 32260-0111.

WITNESSETH:

WHEREAS, the Buyer is desirous of purchasing a portion of the property owned by the Seller and Seller is desirous of selling upon the terms and conditions hereinafter expressed; and

WHEREAS, it is in the public interest for the Buyer to acquire fee simple ownership of approximately 2.141 acres of land located on Race Track Road, which property is shown in Exhibit A, attached hereto, incorporated by reference and made a part hereof (hereinafter, the "Property"); and

NOW THEREFORE, for the mutual covenants set forth herein, and other good and valuable consideration, the receipt and sufficiency of which are hereby acknowledged by the parties, the parties mutually agree as follows:

1. <u>Consideration</u>. Consideration for the purchase by Buyer of the Property from Seller shall be in the form of payment of certain monetary amounts as set forth below:

<u>Purchase Price and Deposit</u>. The purchase price ("<u>Purchase Price</u>") is Five Hundred Thirty-Five Thousand Two Hundred Fifty and 00/100 Dollars (\$535,250.00), net of certain Buyer costs but subject to certain prorations as hereinafter provided. Payment of the Purchase Price to Seller shall be in cash or other immediately available funds. The Purchase Price shall be paid as follows:

PAYMENT	DUE	AMOUNT
FIRST PAYMENT: Deposit to be held in Escrow by Escrow Agent (hereinafter defined)	Due within thirty (30) days of Commission Approval (hereinafter defined)	\$53,525.00

SECOND PAYMENT: Cash to Close	Closing	\$481,725.00
TOTAL PURCHASE PRICE	\$535,250.00	

2. <u>Title Evidence</u>.

- (a) Seller agrees to take all reasonable action to obtain, within twenty (20) days from the date of the Effective Date, a title guarantee commitment ("Commitment") issued by a title company authorized to do business in the State of Florida ("Title Company") agreeing to issue to Buyer, upon recording the Deed, an owner's policy of title insurance in the amount of the Purchase Price, insuring Buyer's title to the property subject only to the following (the "Permitted Encumbrances"):
- (i) zoning, restrictions, prohibitions, regulations, ordinances and other requirements of any applicable governmental authority;
- (ii) the lien of taxes and assessments for the calendar year of the Closing and all subsequent years;
- (iii) roads, ways, streams or easements, if any, not shown of record, riparian rights and the title to any filled-in lands; and
- (b) Buyer shall notify Seller in writing ("<u>Title Notice</u>") within ten (10) days after Buyer's receipt of the Commitment if it discloses any defects in the title to the Property, other than the Permitted Encumbrances. Any such defects appearing in the Commitment not timely noted by Buyer in the Title Notice shall be deemed to have been waived by Buyer. In the event the Commitment discloses any defect or denial and such is timely noted in a Title Notice, Seller, at Seller's sole option and expense, shall have thirty (30) days from the date it receives the Title Notice within which to cure such defect (with a corresponding extension to the Closing Date as necessary). If after the expiration of such thirty (30)-day period, Seller has not cured title defects or denial, then in such event, Buyer's remedies shall be limited solely to either (x) accepting such title to the Property as Seller shall be able to convey, without adjustment to or diminution of the Purchase Price or (y) terminating this Agreement and receiving a return of the Deposit.

3. <u>Identity and Obligation of Escrow Agent.</u>

- (a) The law firm of Lindell Farson & Pincket, P.A., 12276 San Jose Blvd., Suite 126, Jacksonville, Florida 32223 (the "Escrow Agent"), shall be Escrow Agent, at no additional charge to Seller or Buyer and serve as agent for the underwriter for the Title Company.
- (b) If there is any dispute as to whether Escrow Agent is obligated to deliver the Deposit, or any other monies or documents which it holds or as to whom such Deposit, monies or documents are to be delivered, Escrow Agent shall not be obligated to make any delivery, but, in such event, may hold same until receipt by Escrow Agent of an authorization, in writing, signed by all the parties having an interest in such dispute directing the disposition of same, or in the absence of such authorization, Escrow Agent may hold such Deposit, monies or documents until the final determination of the rights of the parties in an appropriate proceeding. If such written authorization is not given or proceeding for such determination is not begun and diligently continued, Escrow Agent may, but not required to, bring an appropriate interpleader action or proceeding for leave to deposit such Deposit, monies or documents in court, pending such determination. Escrow Agent shall not be responsible for any acts or omissions unless the same constitutes gross negligence or willful misconduct and upon making delivery of the Deposit, monies or documents which Escrow Agent holds, in accordance with the terms of this Agreement, Escrow Agent shall have absolutely no further liability hereunder.

In the event Escrow Agent places the Deposit, monies or documents that have actually been delivered to Escrow Agent in the Registry of the Circuit Court in and for the County in which the Property is located and files an action of interpleader, naming the parties hereto, Escrow Agent shall be released and relieved from any and all further obligation and liability hereunder or in connection herewith.

Nothing contained herein shall preclude Escrow Agent from representing Seller in connection with this sale-purchase transaction or any dispute or litigation arising out of this Agreement, and Buyer hereby consents to such representation.

4. <u>Closing</u>. Unless extended by mutual agreement in a writing signed by the parties, the closing of the sale of the Property ("<u>Closing</u>") shall take place at the offices of the Escrow Agent on or before sixty (60) days from the Effective Date of this Agreement ("<u>Closing Date</u>"), TIME BEING OF THE ESSENCE.

- 5. <u>Prorations</u>. Any real property taxes shall be prorated on the basis of the 2006 taxes at the highest allowable discount.
- 6. <u>Seller's Representations</u>. Seller represents to Buyer that it owns fee simple title to the Property and has full right and authority to execute this Agreement and consummate the transactions contemplated hereby subject to the terms, provisions and conditions hereof.

7. Closing Procedure and Documents.

- (a) At the Closing, simultaneously with the payment of the Purchase Price by Buyer, Seller shall deliver or cause to be delivered to Buyer the following:
- (i) a special warranty deed ("<u>Deed</u>") conveying the fee simple title to the Property, subject only to the Permitted Encumbrances and the matters referred to on the Commitment;
- (ii) a Non-Foreign Certificate and Request for Taxpayer Identification Number "FIRPTA" affidavit to be signed by Seller.
- (iii) an affidavit in the form required by the Title Company to delete the standard printed exception relating to the "gap" and to remove the standard printed exceptions for mechanics' lien and parties in possession (except to the extent the same constitute Permitted Encumbrances).
- (b) At the Closing, Escrow Agent shall deliver the Deposit and Buyer shall deliver the cash to close, to Seller, in accordance with Section 1. Buyer shall execute and deliver to Seller such consents and authorizations as Seller, Escrow Agent or Title Company may reasonably deem necessary to evidence the authority of Buyer to purchase the Property and to consummate all other actions required to be taken by Buyer under this Agreement.
- (c) At the Closing, Seller and Buyer shall mutually execute and deliver to each other a closing statement in customary form.
- (d) At the Closing, Seller and Buyer shall execute such further documents and agreements as are reasonably appropriate or reasonably necessary to consummate the transaction as herein contemplated.

- 8. <u>Closing Expenses</u>. Buyer shall pay the cost of the owner's title policy issued pursuant to the Commitment, the cost of the survey, the cost of recording the deed and all of the expenses in connection with the transfer of the Property, including all documentary stamp taxes. Each party shall bear the expense of its own legal counsel.
- 9. <u>Survey and Legal Description</u>. Within thirty (30) days from the Effective Date, Buyer shall have the Property surveyed. Buyer shall provide written notice ("<u>Survey Notice</u>") to Seller within ten (10) days after Buyer's receipt of any such survey ("<u>Survey</u>") if the Survey discloses any encroachments or any other title defects affecting the Property (other than Permitted Encumbrances). All such encroachments or defects so noted in the Survey Notice are to be regarded for all purposes under this Agreement as title defects and, as such, are to be treated in the manner provided in Section 2. Any such title defects shown on the Survey and not timely noted in the Survey Notice to Seller shall be deemed to have been waived by Buyer.
- Condition of Property and Buyer's Right of Inspection. Buyer shall have 10. the right for forty five (45) days from the date Seller executes this Agreement ("Inspection Termination Date") to enter upon the Property for the purpose of physically inspecting the Property and conducting surveys, studies and tests, or assessments, including but not limited to Phase 1 environmental study, real estate appraisal, and engineering analysis to determine the Property's suitability for Buyer's intended purpose. Seller hereby gives Buyer the right to enter upon, test and inspect the Property for such period at Buyer's sole cost and risk. Seller agrees to provide Buyer any documents, tests, easements, wetland assessments, environmental assessments, surveys, etc., within their possession that would help Buyer make a suitability decision regarding the property. Buyer agrees to provide Seller with copies of all reports conducted on the Property. If Buyer determines that the Property is unsuitable for any reason, Buyer shall give written notice to Seller advising of such unsuitability and electing to terminate this Agreement on, or prior to, the Inspection Termination Date. Such notice of termination must be given on, or before, the Inspection Termination Date. If such notice is timely given, the Deposit shall be returned to Buyer, and upon such return, this Agreement shall terminate.
- 11. <u>Board Approval</u>. This Agreement is subject to the adoption of a resolution by the Board of County Commissioners of St. Johns County, Florida (Board) authorizing the County Administrator to execute this Agreement and approving the performance of this Agreement by Buyer. As an express condition precedent to Seller's obligations hereunder, the Board shall approve, draft and execute such resolution within thirty (30) days of Seller's execution hereof. If Buyer fails to execute the Agreement within thirty days of Seller's execution hereof, Buyer shall have the option, exercisable at any tine up to

Buyer's receipt of a fully recorded copy of this Agreement, to terminate this Agreement.

12. Grant of Easement. Buyer shall grant an easement to Seller, its members, guests, invitees, employees and other persons lawfully permitted to enter Seller's remaining property, for ingress and egress to and from Seller's remaining property (which is adjacent to the Property), for use during any period of time in which Race Track Road is under construction or repair and such aforesaid persons must traverse the Property to enter or exit Seller's remaining property. Such easement shall be granted such that it is aligned with the existing or future entrance and existing driveways of Seller and so that persons permitted to traverse thereupon may freely pass thereupon are not unreasonably inconvenienced.

13. Default.

- (a) <u>Default by Seller</u>. If Seller defaults by performance of any of Seller's obligations in this Agreement or breaches any warranty or representation, Buyer's sole remedies are to (i) elect to receive an immediate refund of the Deposit, in which event the parties shall have no further liability to one another on claims under this Agreement, or (ii) bring an action for specific performance.
- (b) <u>Default by Buyer</u>. If Buyer defaults in the performance of any of Buyer's obligations in this Agreement for any reason, other than the Seller's default or the termination of this Agreement pursuant to the specific provisions hereof, Seller will be entitled to receive the Deposit as Seller's sole and exclusive remedy for any such default, Seller hereby waiving any rights it might otherwise have to sue for damages or specific performance, and this Agreement and the rights of the parties hereunder shall immediately and automatically terminate.
- 14. <u>Survival</u>. All covenants, terms, provisions, representations and warranties set forth in this Agreement, except as specifically provided otherwise herein, shall at the Closing be merged into the Deed.
- 15. <u>Counterparts</u>. This Agreement may be executed in one or more counterparts, each of which shall be deemed to be an original but all of which shall constitute one and the same Agreement.
- 16. <u>Modification Must be in Writing</u>. No modification or termination of this Agreement shall be valid unless executed in writing and signed by the applicable duly authorized representatives of Seller and Buyer.

- 17. <u>No Waiver</u>. No waiver of any provision of this Agreement shall be effective unless it is in writing and signed by the party against whom it is asserted, and any such written waiver shall only be applicable to the specific instance to which it relates and shall not be deemed to be a continuing or future waiver.
- 18. <u>Assignability</u>. This Agreement may not be assigned by Seller or Buyer without the written consent of all parties.
- 19. <u>Time</u>. Time is of the essence of the performance of all provisions of this Agreement.
- 20. Governing Law, Venue, and Severability. This Agreement shall be construed and enforced in accordance with and governed by the laws of the State of Florida. The invalidation of one or more of the terms of this Agreement shall not affect the validity of the remaining terms. It is agreed that venue for determination of any dispute arising out of or in connection with this Agreement shall be in St. Johns County, Florida.
- 21. <u>Notices</u>. Any notice hereunder must be in writing and delivered personally or by Federal Express or equivalent courier service, and shall be effective only if and when received by the party to be notified. Notices hereunder are deemed given when received. For purposes of notice, the addresses of the parties shall be set forth below or as may be designated by notice to the other from time to time.

Seller:

Creekside Christian Church

Post Office Box 600111

Jacksonville, Florida 32260-0111

With copy to: Lindell Farson & Pincket, P.A.

12276 San Jose Blvd., Suite 126 Jacksonville, Florida 32223 Attn: Brian G. Pincket, Esq.

Buyer:

St. Johns County, Florida, a political subdivision

of the State of Florida 4020 Lewis Speedway

St. Augustine, Florida 32084

Escrow

Agent:

Lindell Farson & Pincket, P.A.

12276 San Jose Blvd., Suite 126

Jacksonville, Florida 32223 Attn: Brian G. Pincket, Esq.

- 22. <u>Entire Agreement</u>. This Agreement constitutes the entire agreement between the parties and there are no agreements, representations or warranties, oral or written which have not been incorporated herein.
- 23. <u>Applicability</u>. This Agreement shall be binding upon and shall inure to the benefits of the parties hereto and their respective successors and, to the extent that assignment is permitted hereunder, their assigns.
- **24.** <u>Commission/Brokerage Fees</u>. Seller and Buyer covenant to one another that neither has employed the services of a broker or other commissionable representative in this transaction and that no such commission is due to any third party. Each of the parties hereby indemnifies, holds harmless and shall make whole, the other party, from any claim of commissions or payment due arising through the indemnifying party.
- 25. <u>Effective Date</u>. The Effective Date of this Agreement shall be the first date upon which this Agreement or its valid counterparts are properly executed by all named parties. Provided however, notwithstanding the date of full execution, in no event shall the Effective Date be deemed to be later than five (5) days after Board Approval.
- Mortgage Release Pre-Condition. The parties acknowledge the existence of a mortgage presently existing upon the property. Closing of the transaction provided herein is contingent upon, and subject to, the Seller obtaining a release from the mortgagee as to the subject Property. If Seller does not obtain said release from the mortgagee on, or before, Closing, Buyer shall be entitled, as its sole remedy, to receive as a refund, any amount that Buyer has placed as a Deposit with the Escrow Agent, and each party shall be responsible for its own costs incurred up until the time of the refund.

[the signatures of the parties intentionally appear on the following page]

IN WITNESS WHEREOF, the parties hereto have duly executed this Agreement or its counterparts.

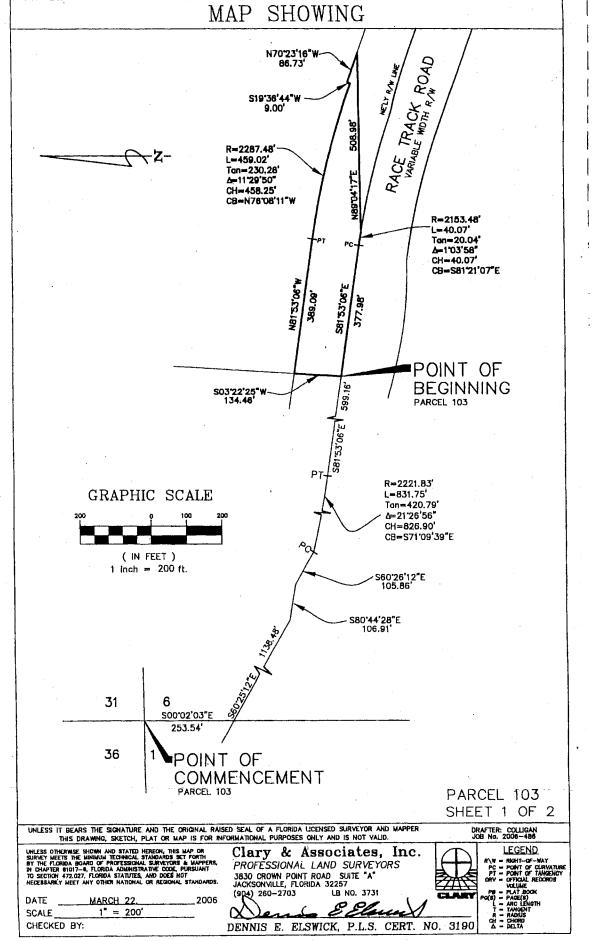
WITNESSES:	SELLER: CREEKSIDE CHRISTIAN CHURCH, INC., a Florida non-profit corporation
Robert N. Cockerham Print Name: Robert H. Cockerham Chule Peterman Print Name: Chuck Peterman WITNESSES:	By: Print Name: David Michael Kestry As its: President Dated: September 6, 2006 BUYER: ST. JOHNS COUNTY, FLORIDA, a political subdivision of the State of Florida
Print Name:	By:Ben W. Adams, Jr. As County Administrator Dated:, 2006
Print Name:	
ATTEST: Cheryl Strickland, Clerk	
By: Deputy Clerk	
Deputy Citin	

Deposit received by Lindell Farson & Pincket, P.A. (Escrow Agent), which the Escrow Agent agrees to hold in accordance with the terms and conditions within the Agreement.

ESCROW AGENT

LINDELL FARSON & PINCKET, P.A.

Ву:	
Name:	
Title:	
Date:	



MAP SHOWING

PARCEL 103

A PORTION OF SECTION 6, TOWNSHIP 5 SOUTH, RANGE 28 EAST, ST. JOHNS COUNTY, FLORIDA AND BEING MORE PARTICULARLY DESCRIBED AS FOLLOWS:

COMMENCE AT THE NORTHWEST CORNER OF SAID SECTION 6 (ALSO BEING THE NORTHEAST CORNER OF SECTION 1, TOWNSHIP 5 SOUTH, RANGE 27 EAST, OF SAID COUNTY); THENCE SOUTH 00'02'03" EAST, ALONG THE WESTERLY LINE OF SAID SECTION 6, A DISTANCE OF 253.54 FEET TO AN INTERSECTION WITH THE EXISTING NORTHEASTERLY RIGHT OF WAY LINE OF RACE TRACK ROAD (A VARIABLE WIDTH RIGHT OF WAY AS NOW ESTABLISHED); THENCE SOUTHEASTERLY ALONG SAID EXISTING NORTHEASTERLY RIGHT OF WAY LINE OF RACE TRACK ROAD RUN THE FOLLOWING FIVE (5) COURSES AND DISTANCES; COURSE NO. 1: THENCE SOUTH 60'25'12" EAST, 1138.48 FEET; COURSE NO. 2: THENCE SOUTH 80'44'28" EAST, A DISTANCE OF 106.91 FEET; COURSE NO. 3: THENCE SOUTH 60'26'12" EAST, A DISTANCE OF 105.86 FEET TO A POINT OF CURVATURE OF A CURVE TO THE SOUTHEAST; COURSE NO. 4: THENCE ALONG THE ARC OF SAID CURVE, CONCAVE NORTHEASTERLY, HAVING A RADIUS OF 2221.83 FEET, THROUGH A TOTAL CENTRAL ANGLE OF 21'26'56", AN ARC DISTANCE OF 831.75 FEET, SAID CURVE BEING SUBTENDED BY A CHORD BEARING AND DISTANCE OF SOUTH 71'09'39" EAST, 826.90 FEET; COURSE NO. 5: THENCE SOUTH 81'53'06" EAST, A DISTANCE OF 599.16 FEET TO THE POINT OF BEGINNING: THENCE CONTINUE SOUTH 81'53'06" EAST, ALONG SAID EXISTING NORTHEASTERLY RIGHT OF WAY LINE OF RACE TRACK ROAD, A DISTANCE OF 377.98 FEET TO A POINT OF CURVATURE; THENCE SOUTHEASTERLY, ALONG SAID EXISTING NORTHEASTERLY RIGHT OF WAY LINE OF RACE TRACK ROAD AND ALONG THE ARC OF SAID CURVE, CONCAVE SOUTHWESTERLY, HAVING A RADIUS OF 2153.48 FEET, THROUGH A TOTAL CENTRAL ANGLE OF 01'03'58", AN ARC DISTANCE OF 40.07 FEET, SAID CURVE BEING SUBTENDED BY A CHORD BEARING AND DISTANCE OF SOUTH 81°21'07" EAST, 40.07 FEET; THENCE NORTH 89'04'17" EAST, A DISTANCE OF 508.98 FEET; THENCE NORTH 70'23'16" WEST, A DISTANCE OF 86.73 FEET; THENCE SOUTH 19'36'44" WEST, A DISTANCE OF 9.00 FEET TO A POINT ON A CURVE; THENCE NORTHWESTERLY, ALONG THE ARC OF SAID CURVE, CONCAVE SOUTHWESTERLY, HAVING A RADIUS OF 2287.48 FEET, THROUGH A TOTAL CENTRAL ANGLE OF 11'29'50", AN ARC DISTANCE OF 459.02 FEET, SAID CURVE BEING SUBTENDED BY A CHORD BEARING AND DISTANCE OF NORTH 76'08'11" WEST. 458.25 FEET; THENCE NORTH 81'53'06" WEST, A DISTANCE OF 389.09 FEET; THENCE SOUTH 03'22'25" WEST, A DISTANCE OF 134.46 FEET TO THE POINT OF BEGINNING.

CONTAINING 93303 SQUARE FEET (2.141 ACRES), MORE OR LESS.

GENERAL NOTES

- BEARINGS SHOWN HEREON ARE BASED ON THE WESTERLY LINE SECTION 6, TOWNSHIP 5 SOUTH, RANGE 28 EAST, ST. JOHNS COUNTY, FLORIDA, AS SOUTH 00'02'03" EAST.
- 2. THIS MAP DOES NOT REPRESENT A BOUNDARY SURVEY.
- 3. THIS DRAWING MAY HAVE BEEN ENLARGED OR REDUCED FROM THE ORIGINAL. UTILIZE THE GRAPHIC SCALE AS SHOWN.
- 4. CROSS REFERENCE CLARY & ASSOC. MAP FILE NO. T5S-328

PARCEL 103 SHEET 2 OF 2 UNLESS IT BEARS THE SIGNATURE AND THE ORIGINAL RAISED SEAL OF A FLORIDA LICENSED SURVEYOR AND MAPPER DRAFTER: COLLIGAN JOB No. 2008-488 THIS DRAWING, SKETCH, PLAT OR MAP IS FOR INFORMATIONAL PURPOSES ONLY AND IS NOT VALID. UNLESS OTHERWISE SHOWN AND STATED HEREON, THIS MAP OR SURVEY MEETS THE IMMANN TECHNICAL STANDARDS SET FORTH SY THE FLORING BOARD OF PROFESSIONAL SURVEYORS & MAPPERS, IN CHAPTER \$1917-8, FLORIDA ADMINISTRATIVE CODE, PURSUANT TO SECTION 472,027, FLORIDA STATUTES, AND DOES NOT NECESSARIZY MEET ANY OTHER NATIONAL OR REGIONAL STANDARDS. LEGEND Clary & Associates, Inc. R\W = RIGHT-OF-WAY
PC = POINT OF CURVATURE
PT = POINT OF TANGENCY
ORV = DEFICIAL RECORDS
VOLUME PROFESSIONAL LAND SURVEYORS 3830 CROWN POINT ROAD SUITE "A" JACKSONVILLE, FLORIDA 32257 LB NO. 3731 (904) 280-2703 MARCH 22. 2006 DATE & Bleur SCALE 1" = 200' CHECKED BY: DENNIS E. ELSWICK, P.L.S. CERT. NO. 3190

