

RESOLUTION NO. 2010- 178

**A RESOLUTION BY THE BOARD OF COUNTY COMMISSIONERS OF ST. JOHNS COUNTY, FLORIDA, APPROVING THE TERMS AND AUTHORIZING THE COUNTY ADMINISTRATOR, OR DESIGNEE, TO EXECUTE A PURCHASE AND SALE AGREEMENT FOR THE DRAINAGE EASEMENT NEEDED FOR THE DUVAL/ST. JOHNS STREET DRAINAGE IMPROVEMENTS IN THE WEST ST. AUGUSTINE AREA.**

**RECITALS**

**WHEREAS**, the property owners 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, for the acquisition of a Drainage Easement required for the Duval/St. Johns Street Drainage Improvement Project; and

**WHEREAS**, the owners, Wilbur family, have agreed to the appraised value for the land and improvements of \$3,000.00. The drainage easement represents the seventh of eight easements identified by Prosser Hallock the Consulting Engineers for this project; and

**WHEREAS**, acquiring a Drainage Easement in this area will help to alleviate the risk of flooding in the area and eliminate areas of stagnant water; and

**WHEREAS**, the improvements will improve traffic flow for the new Regional Park; and

**WHEREAS**, this project is a Capital Improvement Project and is funded from the Transportation Trust Fund.

**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 Board of County Commissioners hereby approves the terms of the a Purchase and Sale Agreements for Drainage Easement and authorizes the County Administrator, or designee, to execute the Purchase and Sale Agreement for a Drainage Easement and move forward to close these transactions.

**Section 3.** To the extent that there are typographical errors that do not change the tone, tenor, or concept of this Resolution, then this Resolution may be revised without subsequent approval by the Board of County Commissioners.

**Section 4.** The Clerk is instructed to file the original Purchase and Sale Agreement for the Drainage Easement in the Clerk's Office.

**PASSED AND ADOPTED** by the Board of County Commissioners of St. Johns County, Florida, this 7th day of September 2010.

BOARD OF COUNTY COMMISSIONERS  
OF ST. JOHNS COUNTY, FLORIDA

By: Ron Sanchez  
Ron Sanchez, Chair

ATTEST: Cheryl Strickland, Clerk

By: Wanetta King  
Deputy Clerk

RENDITION DATE 09/08/10



## EXHIBIT "A" TO RESOLUTION

**PURCHASE AND SALE AGREEMENT FOR DRAINAGE EASEMENT**

**THIS PURCHASE AND SALE AGREEMENT** ("Agreement") is made and effective as of \_\_\_\_\_, 2010, by and between **ST. JOHNS COUNTY, FLORIDA**, a political subdivision of the State of Florida, whose address is, 500 San Sebastian View, St. Augustine, Florida 32084 ("Buyer") and **MARY WILBUR, JAMES RIVERS, DOROTHY STAFFORD, RICHARD RIVERS, DERRICK SMITH, CARLOS HARRIS, and SEDRICK RIVERS**, ("Seller"), whose address is 845 W. 2<sup>nd</sup> Street, St. Augustine, FL 32084.

**WITNESSETH:**

**WHEREAS**, the County is desirous of purchasing a Drainage Easement over the property owned by the Sellers and the Sellers are desirous of selling a Drainage Easement upon the terms and conditions hereinafter expressed; and

**WHEREAS**, it is in the public interest for the Buyer to acquire a Drainage Easement of approximately 705 square feet, the Drainage Easement is shown in Exhibit "A", attached hereto, incorporated by reference and made a part hereof, (hereinafter "Property"); and

**NOW THEREFORE**, it is mutually agreed as follows:

1. The above Whereas are incorporated into the body of this Agreement, and such Whereas are adopted as Findings of Fact.
2. Purchase Price and Deposit.

(a) The purchase price for the Drainage Easement ("Purchase Price") is **\$1,500.00**, and \$1,500 for a fence that will be the owner's responsibility to have it installed. The proceeds will be equally split between the above parties.

<u>Payment</u>	<u>Amount</u>
<b>PURCHASE PRICE</b>	<b>\$1,500.00</b>
<b>IMPROVEMENTS</b>	<b>\$1,500.00</b>
<b>TOTAL AMOUNT PAID</b>	<b>\$3,000.00</b>

Payment of the Purchase Price shall be in cash or other immediately available funds.

Said Drainage Easement shall contain substantially the same terms and conditions as set forth on the Drainage Easement Outline attached hereto as Exhibit "B" and by this reference incorporated herein.

If the Easement Property does not have physical and legal access to a dedicated public road, street or highway, then Seller shall provide Buyer with an easement for physical and legal access to the Easement Property from a dedicated public road, street, or highway, to facilitate Buyer's inspection rights under the Drainage Easement, which access is insurable under the title policy called for in Section 2 herein.

4. Closing. Unless extended by the terms of Section 2, or other provisions hereof, the closing of the sale of the Property ("Closing") shall take place at the offices of St. Johns County, 500 San Sebastian View, St. Augustine, Florida 32084 or before ninety (90) days from the date of this Agreement ("Closing Date"), TIME BEING OF THE ESSENCE.

5. Prorations. Any real property taxes shall be prorated on the basis of the 2010 taxes at the highest allowable discount.

6. Seller's Representations. Seller represents to Buyer that he 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 Drainage Easement conveying the Drainage Easement interest to the Property, subject only to the Permitted Encumbrances.

(b) At the Closing, Seller 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 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. Closing Expenses. Buyer shall pay the cost of recording the Drainage Easement, documentary stamps, and Seller will pay any taxes due. Each party shall bear the expense of its own legal counsel.

9. Survey and Legal Description. Between this date and Closing, Buyer shall have the Property surveyed. Buyer shall provide written notice ("Survey Notice") to Seller within 10 days after Buyer's receipt of any such new survey ("Survey") 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.

10. Condition of Property and Buyer's Right of Inspection. Buyer shall have the right for ninety (90) days from the date of 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 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. Default. (a) Default by Seller. If Seller defaults by performance of any of Seller's obligations in this Agreement or breaches any warranty or representation, Buyer may receive an immediate refund of the Deposit, if one has been made, and then at its option either may terminate this Agreement and sue for damages or sue for specific performance. (b) Default by Buyer. 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, if there is one, 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.

12. Survival. 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 Drainage Easement.

13. Counterparts. 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.

14. Modification Must be in Writing. 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.

15. No Waiver. 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.

16. Termination of Contract. If Buyer for any reason determines that the Property is unsuitable for the Buyer's intended use, **or that there are other circumstances that negatively affect the Buyer's intended use, then** 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. If such notice is timely given, the Deposit shall be returned if there is one, to Buyer, and upon such return, this Agreement shall terminate.

17. Assignability. This Agreement may not be assigned by Seller or Buyer without the written consent of all parties.

18. Time. Time is of the essence of all provisions of this Agreement.

19. Governing Law and Venue. 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 venue for determination of such disputes shall be in St. Johns County.

20. Notices. Any notice hereunder must be in writing and delivered personally or by United States Mail, Registered or Certified, Return Receipt Requested; United States Express Mail; or Federal Express or equivalent courier service, and shall be effective only if and when received by the party to be notified. 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:	<b>Mary Wilbur, et al</b> 845 W. 2 <sup>nd</sup> Street St. Augustine, FL 32084
Buyer:	<b>St. Johns County, Florida, a political subdivision Of the State of Florida</b> 500 San Sebastian View St. Augustine, Florida 32084

21. Entire Agreement. 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.

22. Applicability. 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.

23. Commission Dues. Seller agrees to pay any real estate commissions that may be owed as a result of this transaction.

24. Board of County Commission Approval. This Agreement is subject to the adoption of a resolution by the St. Johns County Commissioners authorizing the County Administrator to execute this Agreement and approving the performance of this Agreement by Buyer.

25. Effective Date. The effective date of this Agreement shall be the first date upon which this Agreement or its valid counterparties are properly executed by all named parties.

26. Radon Gas. Radon is a naturally occurring radioactive gas that, when it has accumulated in a building in sufficient quantities, may present health risks to persons who are exposed to it over a period of time. Levels of radon that exceed federal and state guidelines have been found in buildings in Florida. Additional information regarding radon and radon testing may be obtained from your county public health unit. (Section 404.056(5), F.S.)

27. Amendment. Notwithstanding any other provision contained in this Agreement, the closing date may be extended by the County, and the Seller, without further action of the Board of County Commissioners of St. Johns County. As a result, the County Administrator may execute an extension of the Inspection Termination Date and the Closing Date, without such referenced further action of the Board. This accommodation extends only to the Inspection Termination Date and the Closing Date. Any other Amendment of this Purchase and Sale Agreement must be approved by action of the Board of County Commissioners of St. Johns County.

28. Access to Records. The access to, disclosure, non-disclosure, or exemption of records, data, documents, and/or materials associated with this Agreement/Contract shall be subject to the applicable provisions of the Florida Public Records Law (Chapter 119, Florida Statutes). Access to such public records may not be blocked, thwarted, or hindered by placing the public records in the possession of a third party, or an unaffiliated party.

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

**WITNESSES:**

Amelia J. Haynes 7-16-10  
Witness Signature Date

Amelia J. Haynes  
Witness Print

Dorothy L. Green 7-26-10  
Witness Signature Date

Dorothy L. Green 7-26-10  
Witness Print

**SELLERS:**

Mary Wilbur 7-16-10  
MARY WILBUR Date

James Rivers 7-16-10  
JAMES RIVERS Date

Dorothy Stafford 7-25-10  
DOROTHY STAFFORD Date

Richard Rivers  
RICHARD RIVERS

Kimberly Ray Rivers 7/15/10  
Witness Signature Date

Derrick Smith 7/15/10  
DERRICK SMITH Date

Kimberly Ray Rivers  
Witness Print

Carlos Harris 7/15/10  
CARLOS HARRIS Date

Kimberly Ray Rivers 7/14/10  
Witness Signature Date

Sedrick Rivers 7/14/10  
SEDRICK RIVERS Date

Kimberly Ray Rivers  
Witness Print

**WITNESSES:**

**BUYER:**  
**ST. JOHNS COUNTY, FLORIDA**  
A political subdivision of the  
State of Florida

\_\_\_\_\_  
Signature Date

By: \_\_\_\_\_  
Michael D. Wanchick Date  
County Administrator

\_\_\_\_\_  
Print

\_\_\_\_\_  
Signature Date

\_\_\_\_\_  
Print

**ATTEST:** Cheryl Strickland, Clerk

Legally Sufficient

By: \_\_\_\_\_  
Deputy Clerk

By: \_\_\_\_\_  
Deputy County Attorney Date

EXHIBIT "A" TO PURCHASE AND SALE AGREEMENT

LEGAL DESCRIPTION:

A PORTION OF LOT 12, BLOCK 15, WESTERN SUBDIVISION OF ST. AUGUSTINE (ALSO KNOWN AS CLARK'S ADDITION), ACCORDING TO THE PLAT THEREOF AS RECORDED IN PLAT BOOK 1, PAGE 77 OF THE PUBLIC RECORDS OF ST. JOHNS COUNTY, FLORIDA, BEING MORE PARTICULARLY DESCRIBED AS FOLLOWS:

BEGINNING AT THE NORTHWEST CORNER OF SAID LOT 12; THENCE SOUTH 87°27'12" EAST ALONG THE NORTH LINE OF SAID LOT 12 AND ALONG THE SOUTH RIGHT OF WAY LINE OF SECOND STREET, BEING A 30 FOOT WIDE RIGHT OF WAY ACCORDING TO SAID PLAT, A DISTANCE OF 7.02 FEET; THENCE SOUTH 2°46'16" EAST ALONG A LINE 7.00 FEET EAST OF AND PARALLEL WITH THE WEST LINE OF SAID LOT 12, A DISTANCE OF 100.73 FEET TO A POINT ON THE SOUTH LINE OF SAID LOT 12; THENCE NORTH 88°03'48" WEST ALONG SAID SOUTH LINE, A DISTANCE OF 7.02 FEET; THENCE NORTH 2°46'16" WEST ALONG THE WEST LINE OF SAID LOT 12 AND THE EASTERLY RIGHT OF WAY LINE OF ST. JOHNS STREET, BEING A 30 FOOT WIDE RIGHT OF WAY ACCORDING TO SAID PLAT, A DISTANCE OF 100.80 FEET TO THE POINT OF BEGINNING.

LEGEND

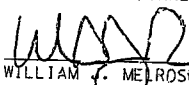
- C.R.     ▪ COUNTY ROAD
- DRMP   ▪ DYER, RIDDLE, MILLS AND PRECOURT, INC.
- LS      ▪ LICENSED SURVEYOR
- M.B.   ▪ MAP BOOK
- NO.     ▪ NUMBER
- PG.     ▪ PAGE
- PKWY.   ▪ PARKWAY
- (P)     ▪ PLATTED
- P.B.    ▪ PLAT BOOK
- P.O.B.  ▪ POINT OF BEGINNING
- P.O.C.  ▪ POINT OF COMMENCEMENT
- R/W     ▪ RIGHT OF WAY


NOTES

1. BEARINGS SHOWN HEREON ARE BASED ON THE FLORIDA STATE PLANE COORDINATE SYSTEM, EAST ZONE, NAD83 (90).
2. THIS PROPERTY IS SUBJECT TO EASEMENTS, ENCUMBRANCES AND RIGHTS OF WAY OF RECORD, IF ANY.
3. NOT VALID WITHOUT SURVEYOR'S ORIGINAL SIGNATURE AND RAISED SEAL.
4. THIS IS NOT A SURVEY. NO CORNERS WERE SET OR RECOVERED IN THE FIELD.
5. NO TITLE INFORMATION WAS PROVIDED TO THIS SURVEYOR, NOR DID THIS SURVEYOR ABSTRACT THESE LANDS.
6. NO UNDERGROUND INSTALLATIONS OR IMPROVEMENTS WERE LOCATED.

SURVEYOR'S CERTIFICATION

THIS IS TO CERTIFY THAT THIS SKETCH AND LEGAL DESCRIPTION MEETS THE MINIMUM TECHNICAL STANDARDS AS SET FORTH BY THE BOARD OF PROFESSIONAL SURVEYORS AND MAPPERS IN CHAPTER 5J-17 OF THE FLORIDA ADMINISTRATIVE CODE, PURSUANT TO CHAPTER 472.027 FLORIDA STATUTES AND THAT SAID SKETCH AND DESCRIPTION IS TRUE AND CORRECT TO THE BEST OF MY KNOWLEDGE AND BELIEF.

  
 WILLIAM C. MELROSE  
 PROFESSIONAL SURVEYOR AND MAPPER  
 FLORIDA LICENSE NO. 45 5843

SKETCH OF LEGAL DESCRIPTION	WEST AUGUSTINE IMPROVEMENTS ST. JOHNS COUNTY, FLORIDA		PROJECT No. 06-1145.000
			PARCEL NO. 131590-0000-A
DRAINAGE EASEMENT	SHEET 1 OF 2	DATE: 04/10	SKETCH PREPARED BY  <b>DRMP</b> <small>ENGINEERS • SURVEYORS • PLANNERS • SCIENTISTS</small> 8001 BELFORT PKWY., SUITE 200 JACKSONVILLE, FLORIDA 32256 (904) 641-0123
		SCALE: NONE	
		CHECKED: JAA	
	REVISION	BY	DATE

WESTERN SUBDIVISION OF ST. AUGUSTINE  
M.B. 1, PG. 77



SECOND STREET  
30' R/W (P)

P.O.B.  
N.W. CORNER  
LOT 12

S 87° 27' 12" E  
7.02'

BLOCK 16

LOT 12

LOT 11

BLOCK 15

ST. JOHNS STREET  
30' R/W (P)

N 2° 46' 16" W  
100.80'

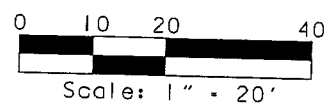
S 2° 46' 16" E  
100.73'

PROPOSED  
DRAINAGE  
EASEMENT


N 88° 03' 48" W  
7.02'

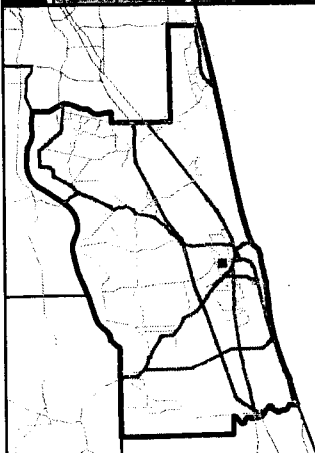
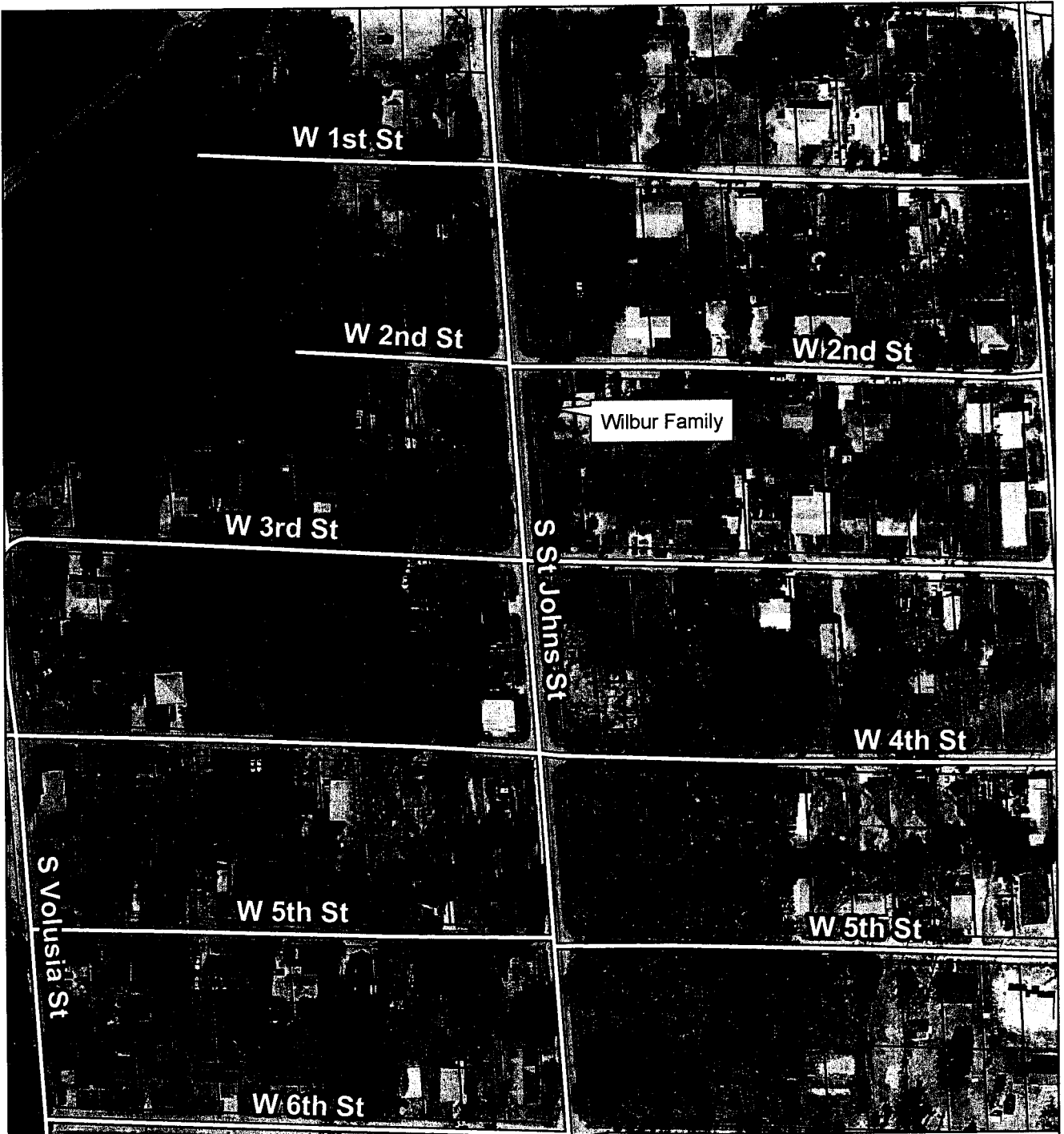
LOT 13

LOT 14

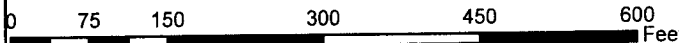


SEE SHEET 1 OF 2 FOR LEGAL DESCRIPTION, NOTES & LEGEND.  
THIS IS NOT A SURVEY.

SKETCH OF LEGAL DESCRIPTION	WEST AUGUSTINE IMPROVEMENTS ST. JOHNS COUNTY, FLORIDA		PROJECT No. 06-1145.000
			PARCEL NO. 131590-0000-A
DRAINAGE EASEMENT	SHEET 2 OF 2		DATE: 04/10
			SCALE: 1" = 20'
			CHECKED: JAA
	REVISION	BY	DATE
		DRAWN: WJM	SKETCH PREPARED BY  <b>DRMP</b> ENGINEERS • SURVEYORS • PLANNERS • SCIENTISTS 8001 BELFORT PKWY., SUITE 200 JACKSONVILLE, FLORIDA 32256 (904) 641-0123



**West St. Augustine  
Drainage Improvement Project  
Drainage Easements**



St. Johns County  
Land Mgmt Systems  
Real Estate Division



Map Prepared:  
Date: 8/6/10  
(904) 209-0796



**2008 Aerial Imagery**

**DISCLAIMER.**  
This map is for reference use only. Data provided are derived from multiple sources with varying levels of accuracy.