

RESOLUTION NO. 2009- 321

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 REQUIRED FOR PHASE II OF CR 210 AT I-95 ROADWAY IMPROVEMENT PROJECT.

RECITALS

WHEREAS, per Resolution No. 2008-326, approved by the St. Johns County Board of County Commissioners at a regular meeting on November 18, 2008, the State of Florida Department of Transportation (FDOT) and St. Johns County executed the Transportation Regional Incentive Program (TRIP) Agreement; and

WHEREAS, in the TRIP Agreement, FDOT agrees to provide one-half of the match for project expenditures, and St. Johns County agrees to provide the other one-half pursuant to Florida Statute 339.2819; and

WHEREAS, this phase of the project includes the widening of CR 210 at I-95 to accommodate dual turn lanes and dual through lanes and ultimate six-lane traffic; and

WHEREAS, the property owner, Robert Burton, Burton 210, LLC, has agreed to sell approximately 3,464 square feet for \$149,000.00 and has executed a Purchase and Sale Agreement attached hereto as Exhibit "A", incorporated by reference and made a part hereof; and

WHEREAS, Prosser Hallock, the consultant Engineering firm, has identified the parcels required for this transportation project and this is the 5th or 24 parcels identified; and

WHEREAS, this Capital Improvement Project shall be funded jointly with FDOT TRIP funds and St. Johns County 2006 Transportation Bond; and

WHEREAS, it is in the best interest of the County to acquire this property in order to move forward with the needed roadway improvements.

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 Purchase and Sale Agreement and authorizes the County Administrator to execute the Purchase and Sale Agreement on behalf of the County, and take necessary action to facilitate and close the purchase in accordance with the terms of said agreement.

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 of Circuit Court is instructed to file the Purchase and Sale Agreement in the Clerk's Office.

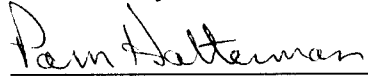
PASSED AND ADOPTED by the Board of County Commissioners of St. Johns County, Florida, this 3rd day of November, 2009.

BOARD OF COUNTY COMMISSIONERS
OF ST. JOHNS COUNTY, FLORIDA

By: 

Chair

ATTEST: Cheryl Strickland, Clerk

By: 
Deputy Clerk

RENDITION DATE 11/5/09



PURCHASE AND SALE AGREEMENT

THIS PURCHASE AND SALE AGREEMENT ("Agreement") is made and effective as of _____, 2009, 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 **BURTON 210, LLC, a Florida limited liability company, c/o Robert R. Burton**, ("Seller"), whose address is 1570 Drury Court, St. Augustine, Florida 32092.

WITNESSETH:

WHEREAS, the County 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 3,464 square feet, the property 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 Recitals are incorporated into the body of this Agreement, and such Recitals are adopted as Findings of Fact.

2. Purchase Price and Deposit.

(a) The purchase price ("Purchase Price") is **\$149,000.00**, subject to the prorations hereinafter provided. The Purchase Price shall be paid as follows:

<u>Payment</u>	<u>Due Date</u>	<u>Amount</u>
(i) Deposit to be held in Escrow by Escrow Agent (hereinafter defined)	Due within thirty (30) days of Commission Approval (hereinafter defined)	\$ 14,900.00
(ii) Cash to Close	Closing Day	\$134,100.00
TOTAL PURCHASE PRICE		\$149,000.00

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

3. Title Evidence.

Conditions and Limitations

- (a) Seller is responsible for all taxes due on the property up to, but not including, the day of closing.
- (b) Seller is responsible for delivering marketable title to Buyer. Marketable title shall be determined according to applicable title standards adopted by the Florida Bar in accordance with Florida Law subject only to those exceptions that are acceptable to Buyer. Seller shall be liable for any encumbrances not disclosed in the public records or arising after closing as a result of actions of the Seller.
- (c) Seller shall maintain the property described in **Exhibit "A"** of this agreement until the day of closing. The property shall be maintained in the same condition existing on the date of this agreement, except for reasonable wear and tear.
- (d) Any occupancy of the property described in **Exhibit "A"** of this agreement by Seller extending beyond the day of closing must be pursuant to a lease from Buyer to Seller.
- (e) The property described in **Exhibit "A"** of this agreement is being acquired by Buyer for transportation purposes under threat of condemnation pursuant to **Section 337.25 Florida Statutes.**
- (f) Pursuant to **Rule 14-10.004, Florida Administrative Code**, Seller shall deliver completed **Outdoor Advertising Permit Cancellation Form(s), Form Number 575-070-12**, executed by the outdoor advertising permit holder(s) for any outdoor advertising structure(s) described in Section I of this agreement and shall surrender, or account for, the outdoor advertising permit tag(s) at closing.
- (g) Seller agrees that the real property described in **Exhibit "A"** of this agreement shall be conveyed to Buyer by conveyance instrument(s) acceptable to Buyer.
- (h) Seller and Buyer agree that a real estate closing pursuant to the terms of this agreement shall be contingent upon delivery by Seller of an executed Public Disclosure affidavit in accordance with **Section 286.23, Florida Statutes.**
- (i) Seller and Buyer agree that this agreement represents the full and final agreement for the herein described sale and purchase and no other agreements or representations, unless incorporated into this agreement, shall be binding on the parties.
- (j) **Other:** _____

4. Identity and Obligation of Escrow Agent.

(a) ACTION TITLE SERVICES OF ST. JOHNS COUNTY, INC., 3670 US 1 South, Suite 110, St. Augustine, Florida 32086, shall be Escrow Agent, at no additional charge to Seller or Buyer but with the right to serve as underwriter for the title insurance policy.

(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.

5. 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 the Escrow Agent, ACTION TITLE SERVICES OF ST. JOHNS COUNTY, INC., 3670 US 1 South, Suite 110, St. Augustine, Florida 32086, on or before one hundred (100) days from the date of this Agreement (“Closing Date”), TIME BEING OF THE ESSENCE.

6. Prorations. Any real property taxes shall be prorated on the basis of the 2008 taxes at the highest allowable discount.

7. 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.

8. 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 general warranty deed (“Deed”) 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 other than Occupancy Tenants (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 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.

9. Closing Expenses. Buyer shall pay the cost of the owner’s title policy issued pursuant to the Commitment and the cost of recording the deed, documentary stamps, and any other affiliated recording fees or closing cost excluding property taxes. Seller will pay for property taxes prorated to the day of closing.

10. 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.

11. 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.

12. 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. Such notice is timely given, the Deposit shall be returned to Buyer, and upon such return, this Agreement shall terminate.

13. 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, 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 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. 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 Deed.

15. 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.

16. 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.

17. **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.

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

19. **Time.** Time is of the essence of all provisions of this Agreement.

20. **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.

21. **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: **Burton 210, LLC**
 c/o Robert R. Burton
 1570 Drury Court
 St. Augustine, Florida 32092

Buyer: **St. Johns County, Florida, a political subdivision**
 Of the State of Florida
 4020 Lewis Speedway
 St. Augustine, Florida 32084

Escrow Agent: **Action Title Services of St. Johns County, Inc.**
 3670 US 1 South, Suite 110
 St. Augustine, Florida 32086
 (904) 797-4777

22. **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.

23. **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.

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

25. **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.

26. **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.

27. **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(8), F.S.)

28. **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 closing date, without such referenced further action of the Board. This accommodation extends only to extension of closing dates. Any other Amendment of this Purchase and Sale Agreement must be approved by action of the Board of County Commissioners of St. Johns County.

29. **Final Agency Acceptance:** Seller and Buyer hereby acknowledge and agree that their signatures as Seller and Buyer below constitute their acceptance of this agreement as a binding real estate contract. It is mutually acknowledged that this Purchase Agreement is subject to Final Agency Acceptance by Buyer pursuant to **Section 119.0711(2), Florida Statutes.** A closing shall not be conducted prior to 30 days from the date this agreement is signed by Seller and Buyer to allow public review for the transaction. Final Agency Acceptance shall not be withheld by Buyer absent evidence of fraud, coercion, or undue influence involving this agreement. Final Agency Acceptance shall be evidenced by the signature of Buyer in **Section 29** of this agreement.

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

WITNESSES:

Cecelia Aldrich

Signature

Cecelia Aldrich

Print

Harrie Ford

Signature

Harrie Ford

Print

SELLER: **Burton 210, LLC**

RR Burton

by: Robert R. Burton

30. **Final Agency Acceptance:** The Buyer has granted Final Agency acceptance this _____ day of _____, 2009.

By: _____

Print Name: _____

This document delivered by Cecelia Aldrich Date: 10/14/09

This document received by RR Burton Date: 10/14/09

Deposit received by _____, (Escrow Agent), which the Escrow Agent agrees to return in accordance with the terms and conditions within the Agreement.

ESCROW AGENT

By: Action Title Services of St. Johns County, Inc.

Name: _____

Title: _____

Date: _____

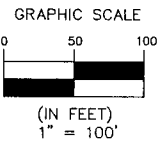
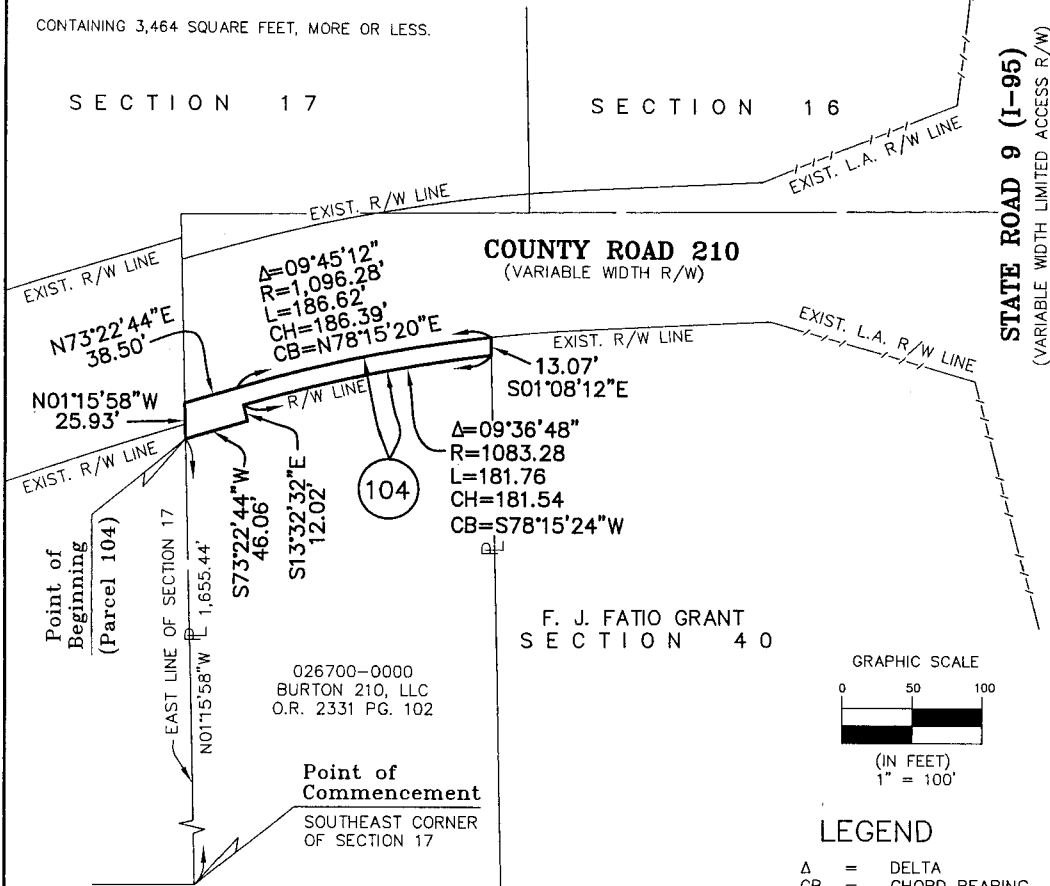
SKETCH AND LEGAL DESCRIPTION OF

PARCEL 104

A PART OF THE F.J. FATIO GRANT, SECTION 40, TOWNSHIP 5 SOUTH, RANGE 28 EAST, ST. JOHNS COUNTY, FLORIDA, (ALSO BEING A PART OF THOSE LANDS DESCRIBED IN OFFICIAL RECORDS VOLUME 2331, PAGE 102, OF THE PUBLIC RECORDS OF SAID ST. JOHNS COUNTY, FLORIDA), AND BEING MORE PARTICULARLY DESCRIBED AS FOLLOWS:

COMMENCE AT THE SOUTHEAST CORNER OF SECTION 17, TOWNSHIP 5 SOUTH, RANGE 28 EAST, ST. JOHNS COUNTY, FLORIDA; THENCE NORTH 01°15'58" WEST, ALONG THE EASTERLY LINE OF SAID SECTION 17, A DISTANCE OF 1,655.44 FEET TO THE POINT OF BEGINNING; THENCE CONTINUE NORTH 01°15'58" WEST, ALONG SAID EASTERLY LINE OF SECTION 17, A DISTANCE OF 25.93 FEET TO THE SOUTHERLY EXISTING RIGHT OF WAY LINE OF COUNTY ROAD 210 (A VARIABLE WIDTH RIGHT OF WAY AS NOW ESTABLISHED); THENCE EASTERLY ALONG SAID SOUTHERLY EXISTING RIGHT OF WAY LINE OF COUNTY ROAD 210 THE FOLLOWING TWO COURSES AND DISTANCES: (1) THENCE NORTH 73°22'44" EAST, 38.50 FEET TO A POINT OF CURVATURE; (2) THENCE NORTHEASTERLY, ALONG THE ARC OF SAID CURVE, CONCAVE SOUTHEASTERLY, HAVING A RADIUS OF 1,096.28 FEET, THROUGH A TOTAL CENTRAL ANGLE OF 09°45'12", AN ARC DISTANCE OF 186.62 FEET, SAID ARC BEING SUBTENDED BY A CHORD BEARING AND DISTANCE OF NORTH 78°15'20" EAST, 186.39 FEET; THENCE SOUTH 01°08'12" EAST, DEPARTING SAID SOUTHERLY EXISTING RIGHT OF WAY LINE OF COUNTY ROAD 210, A DISTANCE OF 13.07 FEET TO A POINT ON A CURVE; THENCE SOUTHWESTERLY ALONG THE ARC OF SAID CURVE, CONCAVE SOUTHEASTERLY, HAVING A RADIUS OF 1,083.28 FEET, THROUGH A TOTAL CENTRAL ANGLE OF 09°36'48", AN ARC DISTANCE OF 181.76 FEET, SAID ARC BEING SUBTENDED BY A CHORD BEARING AND DISTANCE OF SOUTH 78°15'24" WEST, 181.54 FEET; THENCE SOUTH 13°32'32" EAST, A DISTANCE OF 12.02 FEET; THENCE SOUTH 73°22'44" WEST, A DISTANCE OF 46.06 FEET TO THE POINT OF BEGINNING.

CONTAINING 3,464 SQUARE FEET, MORE OR LESS.



LEGEND

- Δ = DELTA
- CB = CHORD BEARING
- CH = CHORD
- EXIST. = EXISTING
- L = LENGTH
- L.A. = LIMITED ACCESS
- O.R. = OFFICIAL RECORDS
- PG. = PAGE
- R = RADIUS
- R/W = RIGHT OF WAY

GENERAL NOTES

1. BEARINGS SHOWN HEREON ARE BASED ON THE EASTERLY LINE OF SECTION 17, TOWNSHIP 5 SOUTH, RANGE 28 EAST, ST. JOHNS COUNTY, FLORIDA AS N 01°15'58" W. (STATE PLANE COORDINATE SYSTEM, FLORIDA EAST ZONE, NAD 1983 1990 NGS ADJUSTMENT.)

2. THIS MAP DOES NOT REPRESENT A BOUNDARY SURVEY. ITS SOLE PURPOSE IS TO GRAPHICALLY ILLUSTRATE THE ABOVE DESCRIPTION.

CADD FILE: PARCEL 104.DWG DRAFTER: MJB CHECKED BY: JES

UNLESS OTHERWISE SHOWN AND STATED HEREON, THIS MAP OR SURVEY MEETS THE MINIMUM TECHNICAL STANDARDS SET FORTH BY THE FLORIDA BOARD OF PROFESSIONAL SURVEYORS & MAPPERS, IN CHAPTER 61G17-6, FLORIDA ADMINISTRATIVE CODE, PURSUANT TO SECTION 472.027, FLORIDA STATUTES, AND DOES NOT NECESSARILY MEET ANY OTHER NATIONAL OR REGIONAL STANDARDS.

UNLESS IT BEARS THE SIGNATURE AND THE ORIGINAL RAISED SEAL OF A FLORIDA LICENSED SURVEYOR AND MAPPER, THIS DRAWING, SKETCH, PLAT OR MAP IS FOR INFORMATIONAL PURPOSES ONLY AND IS NOT VALID. (CHAPTER 61G17-6, FLORIDA ADMINISTRATIVE CODE)

Clary & Associates, Inc.

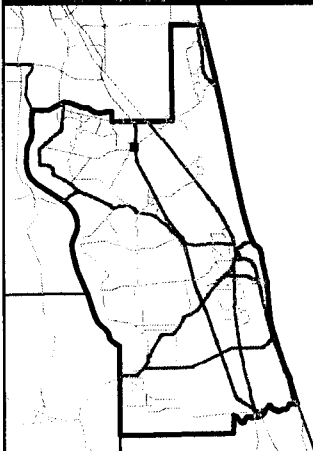
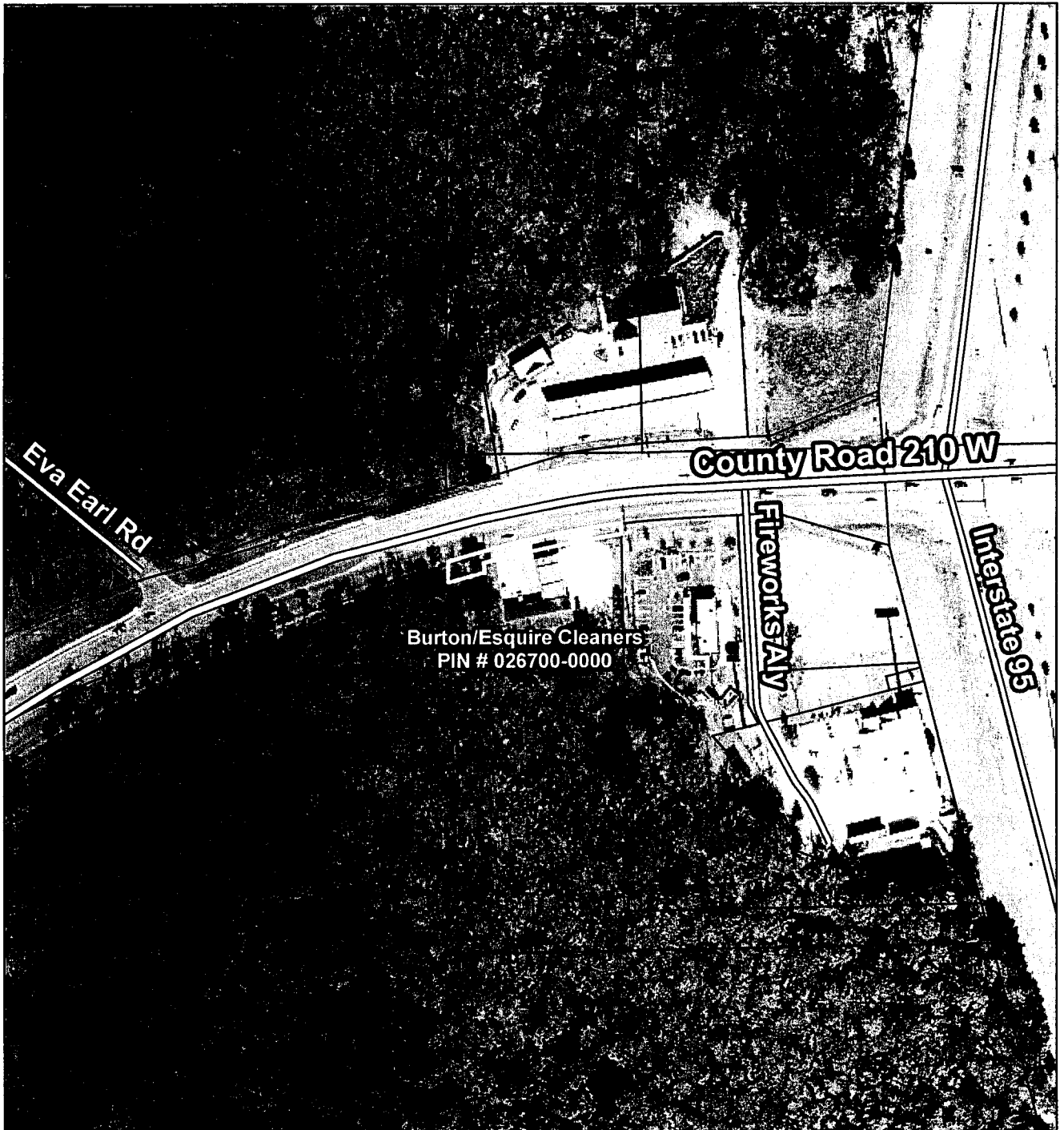
PROFESSIONAL LAND SURVEYORS
 LB NO. 3731
 3830 CROWN POINT ROAD
 JACKSONVILLE, FLORIDA 32257
 (904) 260-2703



Dennis W. Elswick

DENNIS W. ELSWICK, P.L.S. CERT. NO. 3190

DATE APRIL 22 2009
 SCALE 1" = 100'



PHase II-I-95/CR 210 Roadway Improvement Project

0 70 140 280 420 560 Feet

St. Johns County
Land Mgmt Systems
Real Estate Division



Map Prepared:
October 13, 2009
(904) 209-0786



2008 Aerial Imagery

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