

RESOLUTION NO. 2010- 104

**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 EAST ST. JOHNS AVENUE, 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 have instructed staff to obtain documentation in order to justify continued County maintenance of roads that are neither dedicated to St. Johns County, nor are owned by St. Johns County; and

**WHEREAS**, **East St. Johns Avenue**, as described in attached and incorporated **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; and

**WHEREAS**, the procedure set forth in Section 95.361, Florida Statutes, is 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 being varying in width as shown in the survey 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

**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 of **East St. Johns Avenue**, 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 **East St. Johns Avenue**, meets each of the criteria, set forth in Downing v. Bird, supra; and

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

**WHEREAS**, County Road and Bridge Supervisor, Billy Tedder, has stated in an affidavit (attached and incorporated as **Exhibit B**) that the County has been responsible for maintaining **East St. Johns Avenue**, 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 **East St. Johns Avenue**; and

**WHEREAS**, it is in the best interest of St. Johns County to establish its existing ownership of **East St. Johns Avenue**, 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 of East St. Johns Avenue**, in the Public Records of St. Johns County, Florida.

**Section 3.** To the extent that there are scrivener's, typographical and/or administrative 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.

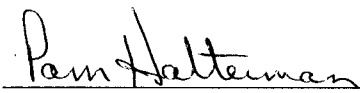
**Section 4.** The Clerk is instructed to record this Resolution in the Public Records of St. Johns County, Florida.

PASSED AND ADOPTED, this 18<sup>th</sup> day of May, 2010.

BOARD OF COUNTY COMMISSIONERS,  
ST. JOHNS COUNTY, FLORIDA

By:   
Ron Sanchez, Chair

ATTEST: Cheryl Strickland, Clerk

By:   
Deputy Clerk

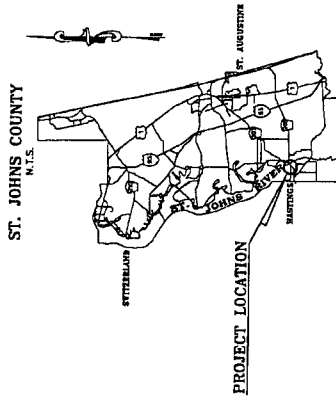
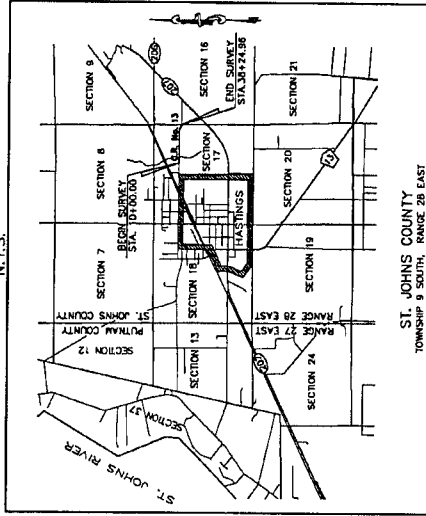
RENDITION DATE 5/20/10

# MAPS OF THE COUNTY HIGHWAY MAINTENANCE MAP

## C.R. No. 13 (East St. Johns Avenue)

### ST. JOHNS COUNTY, FLORIDA

VICINITY MAP  
N.T.S.



ST. JOHNS AVENUE has been laid in the County in accordance with Chapter 85, F.S. 195-361 Subsection (1) and the plat of the same as shown on the plat of the St. Johns County Board of County Commissioners

Board Clerk \_\_\_\_\_

St. Johns County Clerk of Courts \_\_\_\_\_

Clerk \_\_\_\_\_

#### SURVEYOR'S CERTIFICATION

This survey was performed for the specific purpose of establishing a survey boundary or boundary and locating the limits of established right of way, and the surveyor certifies that he has personally examined the field notes and bearings and distances and that the same are true and correct in accordance with the provisions of Chapter 85, F.S. 195-361, and that he is a duly licensed Professional Surveyor and Mapper, pursuant to Section 1222.01, Florida Statutes.

DENISE E. ELWICK  
Professional Surveyor and Mapper No. 3180  
3800 CROWN POINT ROAD, SUITE 200  
DUNEDIN, FL 33527

THIS SURVEY MAP OR COPY THEREOF IS NOT VALID WITHOUT THE SIGNATURE AND THE ORIGINAL BASED SEAL OF A FLORIDA LICENSED SURVEYOR AND MAPPER.

SHEET NO.	SHEET DESCRIPTION
1	COVER SHEET
2	KEY MAP
3-4	DETAIL SHEET

COVER SHEET  
C.R. No. 13  
(EAST ST. JOHNS AVENUE)  
FROM 0.05 TO 10.00 SECTION ROAD

ST. JOHNS COUNTY LAND MANAGEMENT SYSTEMS  
REAL ESTATE DIVISION  
600 SAN SEBASTIAN VIEW  
ST. AUGUSTINE, FLORIDA 32084  
Phone (904) 209 - 0700



C.R. No. 13  
(EAST ST. JOHNS AVENUE)  
MAINTENANCE MAP  
SHEET 1 OF 4

#### LEGEND

- 1. BOUNDARY
- 2. TELEPHONE CABLE
- 3. WATER VALVE
- 4. POLE & TRANSFORMER
- 5. POWER POLE
- 6. POWER POLE
- 7. POWER POLE
- 8. MAP BOOK
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#### GENERAL NOTES

- BEARINGS AND COORDINATE SHOWN HEREON ARE BASED ON THE FLORIDA STATE PLANE COORDINATE SYSTEM. THE POINT OF BEGINNING OF THIS SURVEY IS LOCATED IN SECTION 13, TOWNSHIP 9 SOUTH, RANGE 28 EAST, ST. JOHNS COUNTY, FLORIDA. THE POINT OF BEGINNING OF THIS SURVEY IS LOCATED IN SECTION 13, TOWNSHIP 9 SOUTH, RANGE 28 EAST, ST. JOHNS COUNTY, FLORIDA.
- ATTENTION IS DRAWN TO THE FACT THAT THESE BEARINGS HAVE BEEN REDUCED TO SEA LEVEL BY THE USE OF THE MEAN SEA LEVEL DATUM.
- UNLESS OTHERWISE NOTED, ALL DIMENSIONS SHOWN HAVE BEEN CALCULATED FROM A CLOSED FIELD TRAVERSE OR DIRECT FIELD MEASUREMENT.
- PROPERTY BOUNDARIES SHOWN HEREON WERE DETERMINED FROM FIELD SURVEY PLATS OF RECORD AND RECORD PLATS.
- LINE NUMBERS AND CURVE NUMBERS REFER TO THEIR PARTICULAR SHEET ONLY.

STATION	DISTANCE	BEARING	COORDINATE	COORDINATE
BEGIN STA. 10+00.00	145.97	S89°18'28"E	153501.4534	497224.1952
P.I. STA. 24+48.27	107.74	S89°35'27"E	153608.5202	497372.8803
E.O. STA. 35+27.51	243.84	S47°59'24"E	153908.8809	497254.6013
P.I. STA. 37+48.84	56.57	S59°10'11"E	153831.7484	497374.9250
E.O. STA. 38+24.88			153820.1814	500501.7433

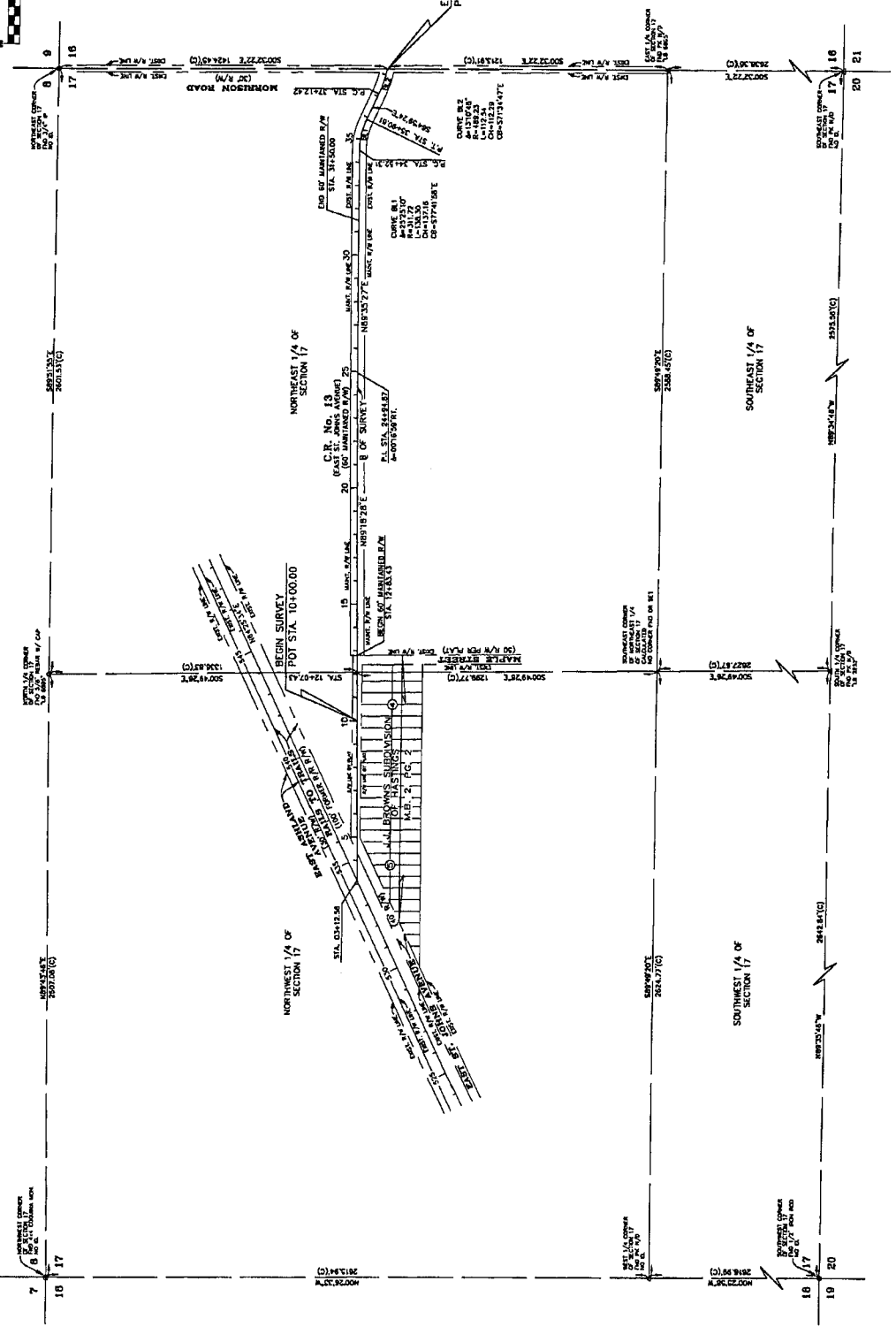
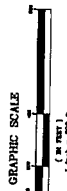
MAINTAINED RIGHT-OF-WAY TABULATION		REMARKS
R/W LIMITS	R/W WIDTH	R/W BY MAINTENANCE
Sta. 10+00.00 to Sta. 38+24.88	60.00'	MONUMENTATION & PHYSICAL CONDITIONS
		R/W BY MAINTENANCE

DATE: 01/15/2008	BY: DENISE E. ELWICK
SCALE: N/A	
CAD FILE: 100801.dwg	
PROJECT NO: 1008-073	
FIELD BOOK: 1008	
FIELD DATE: 12/20/07	
FIELD TIME: 10:00 AM	
FIELD LOCATION: ST. JOHNS COUNTY, FLORIDA	
FIELD SURVEYOR: DENISE E. ELWICK	
FIELD CHECKER: DENISE E. ELWICK	
FIELD SUPERVISOR: DENISE E. ELWICK	

MAPS PREPARED BY:  
**Clary & Associates, Inc.**  
Professional Surveyors and Mappers  
100801.dwg  
12/20/07  
DENISE E. ELWICK

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SCALE: N/A	
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ST. JOHNS COUNTY LAND MANAGEMENT SYSTEMS  
REAL ESTATE DIVISION  
600 SAN SEBASTIAN VIEW  
ST. AUGUSTINE, FLORIDA 32084  
Phone (904) 209 - 0700



KEY MAP  
C.R. No. 13  
(EAST ST. JOHNS AVENUE)  
FROM 0.00 MILES WEST OF MAPLE STREET  
TO MORRISON ROAD

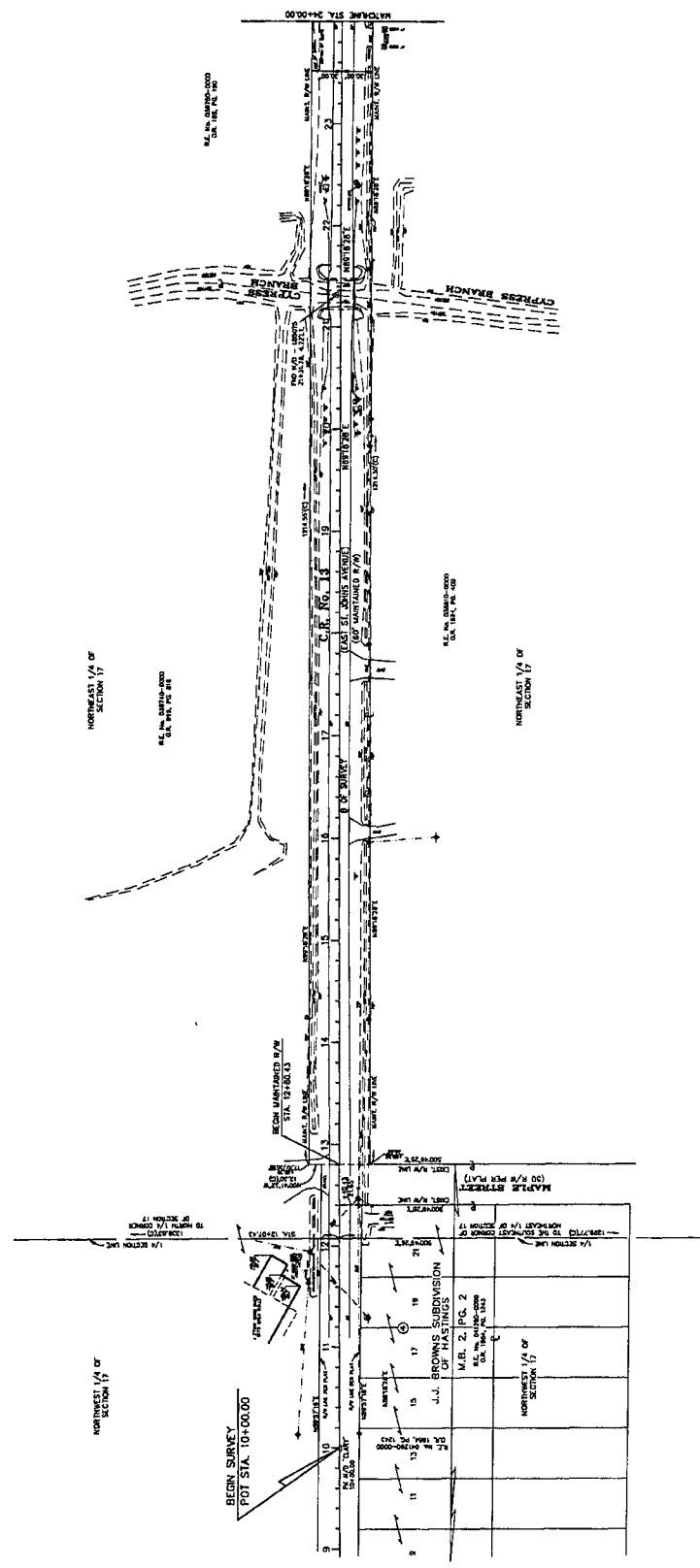
ST. JOHNS COUNTY LAND MANAGEMENT SYSTEMS  
REAL ESTATE DIVISION  
800 SAN SEBASTIAN VIEW  
ST. AUGUSTINE, FLORIDA 32084  
Photo (814) 209 - 0760

C.R. No. 13  
(EAST ST. JOHNS AVENUE)  
MAINTENANCE MAP  
SHEET 2 OF 4

ST. JOHNS COUNTY LAND MANAGEMENT SYSTEMS  
REAL ESTATE DIVISION  
800 SAN SEBASTIAN VIEW  
ST. AUGUSTINE, FLORIDA 32084  
Photo (814) 209 - 0760

DATE: 08/11/10	SCALE: 1"=100'
PROJECT NO: 2008-073	PROJECT NAME: MORRISON ROAD
DATE OF SURVEY: 08/11/10	PROJECT LOCATION: MORRISON ROAD, T9S R28E S17
DATE OF PLOTTING: 08/11/10	PROJECT NUMBER: 2008-073
DATE OF RECORDING: 08/11/10	PROJECT TITLE: MORRISON ROAD

MAPS PREPARED BY:  
**CLARY & Associates, Inc.**  
PROFESSIONAL LAND SURVEYORS  
1000 W. UNIVERSITY BLVD., SUITE 200  
GAINESVILLE, FLORIDA 32609  
TEL: (352) 339-7531  
FAX: (352) 339-7532  
www.clarysurvey.com



DETAIL MAP  
C.R. No. 13  
(EAST ST. JOHNS AVENUE)  
FROM 0.05 MILES WEST OF MAPLE STREET  
TO 0.07 MILES WEST OF ABRONSON ROAD



ST. JOHNS COUNTY LAND MANAGEMENT SYSTEMS  
REAL ESTATE DIVISION  
800 SAN SEBASTIAN VIEW  
ST. AUGUSTINE, FLORIDA 32084  
PHONE (904) 209 - 0760

ST. JOHNS COUNTY LAND MANAGEMENT SYSTEMS  
REAL ESTATE DIVISION  
800 SAN SEBASTIAN VIEW  
ST. AUGUSTINE, FLORIDA 32084  
PHONE (904) 209 - 0760

DATE: 12/11/08  
SCALE: 1"=50'  
DRAWN BY: M. J. BRYAN  
CHECKED BY: M. J. BRYAN  
DATE: 12/11/08  
PROJECT NO.: 08047  
SHEET NO.: 001  
FILE NO.: 08047

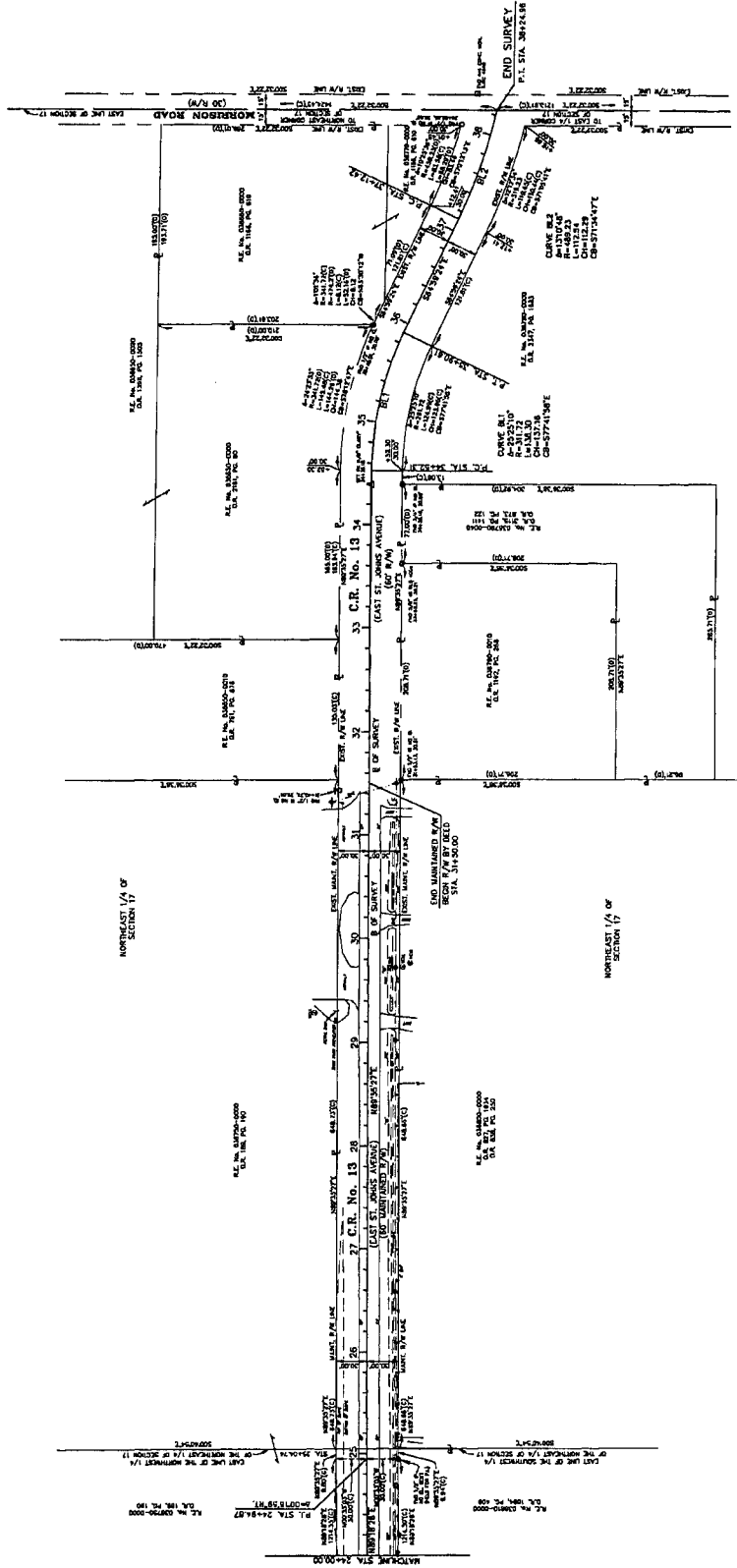
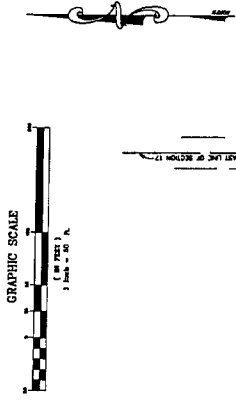
MAPS PROVIDED BY:  
Clevy & Associates, Inc.  
PROFESSIONAL LAND SURVEYORS  
1000 W. BAYVIEW BLVD.  
SUITE 200  
ST. AUGUSTINE, FL 32084  
(904) 280-3700

DATE: 12/11/08  
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DRAWN BY: M. J. BRYAN  
CHECKED BY: M. J. BRYAN  
DATE: 12/11/08  
PROJECT NO.: 08047  
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SCALE: 1"=50'  
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TOWNSHIP 9 SOUTH RANGE 28 EAST  
ST. JOHNS COUNTY, FLORIDA



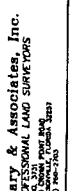
DETAIL MAP  
C.R. No. 13  
(EAST ST. JOHNS AVENUE)  
FROM 100.00 FEET WEST OF IMPLE STREET  
TO 510.00 FEET WEST OF ANDERSON ROAD



ST. JOHNS COUNTY LAND MANAGEMENT SYSTEMS  
REAL ESTATE DIVISION  
600 SAN SEBASTIAN VIEW  
ST. AUGUSTINE, FLORIDA 32084  
PHONE (904) 208-0700

DATE PREPARED BY: \_\_\_\_\_  
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DRAWN BY: \_\_\_\_\_  
CHECKED BY: \_\_\_\_\_  
FIELD BOOK: \_\_\_\_\_  
C.F.S. NO.: \_\_\_\_\_

MADE PREPARED BY:  
**Clary & Associates, Inc.**  
PROFESSIONAL LAND SURVEYORS  
1100 SOUTH POINT BLVD.  
ST. AUGUSTINE, FLORIDA 32084  
(904) 208-0700



REVISION	BY	DATE	DESCRIPTION

AFFIDAVIT

STATE OF FLORIDA  
COUNTY OF ST JOHNS

On this day before me, the undersigned authority, personally appeared Billy Tedder Road and Bridge Supervisor, who being first by me duly sworn, deposes and says that the County been maintaining East St. Johns Avenue as shown on the attached map for the last 30 years and the public has continuously used the road during this time. This maintenance includes digging ditches, mowing, road grading and stabilization.

FURTHER AFFIANT SAYEITH NAUGHT.

Billy Tedder

STATE OF FLORIDA  
COUNTY OF ST. JOHNS

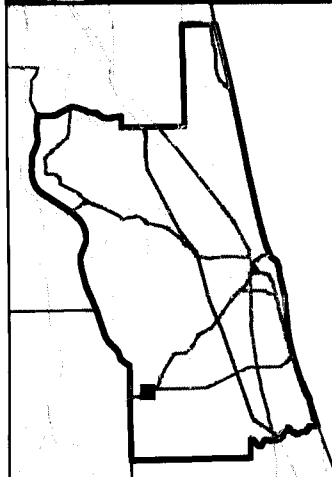
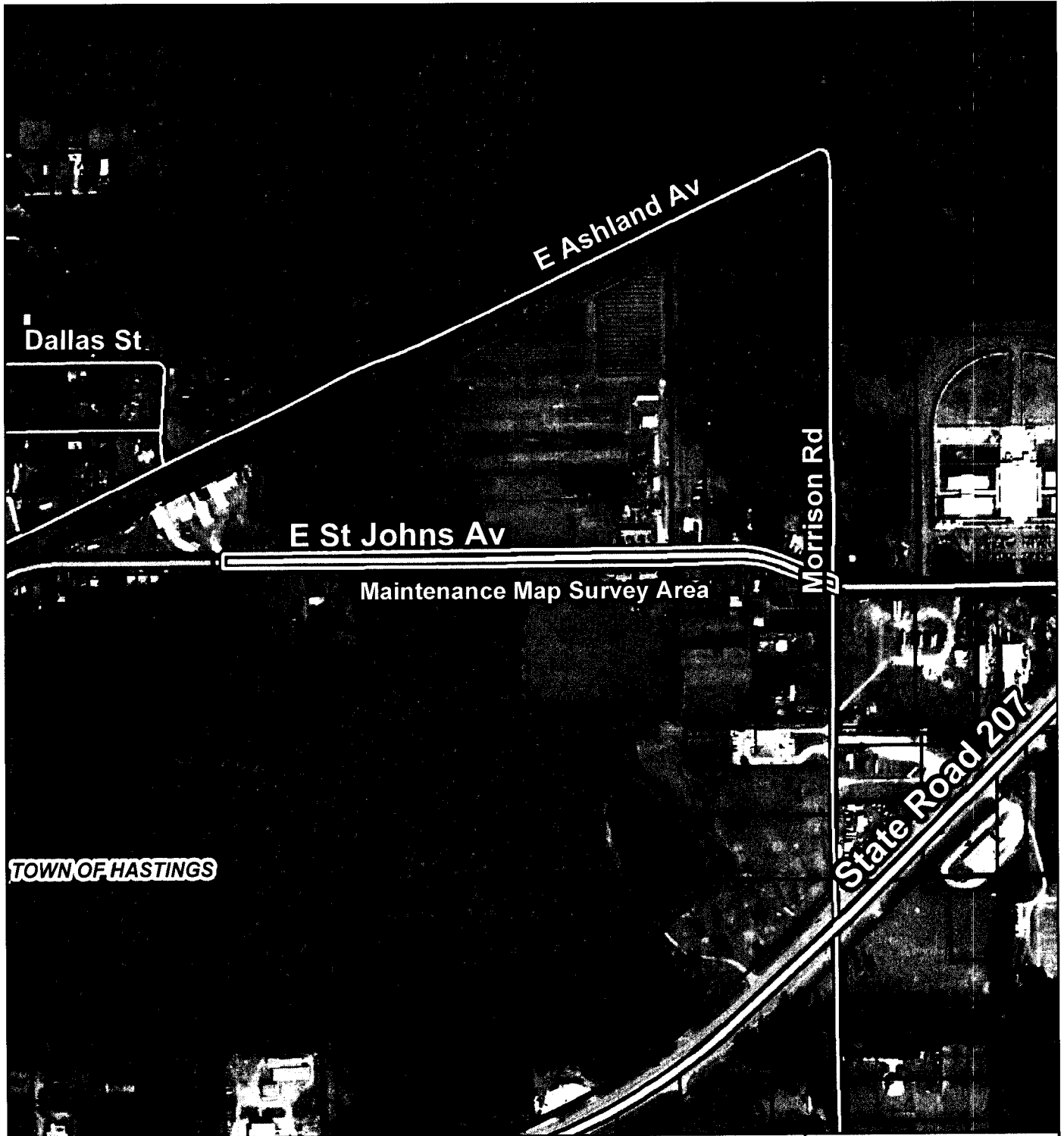
The foregoing instrument was acknowledged before me this 22<sup>nd</sup> day of March, 2010 by Billy Tedder Road and Bridge Supervisor, who is personally known to me.

Jennifer M Kinlaw  
Notary Public

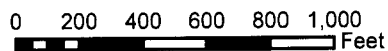


JENNIFER G. KINLAW  
MY COMMISSION # DD 903942  
EXPIRES: July 1, 2013  
Bonded Thru Budget Notary Services





# Maintenance Map E. St. Johns Avenue (County Road 13)



St. Johns County  
Land Mgmt Systems  
Real Estate Division



Map Prepared:  
April 28, 2010  
(904) 209-0794



**2009 Aerial Imagery**

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