

RESOLUTION NO. 2013- 55

**A RESOLUTION OF THE BOARD OF COUNTY COMMISSIONERS OF ST. JOHNS COUNTY, FLORIDA, AUTHORIZING THE CLERK OF COURT, UNDER SECTION 95.361, FLORIDA STATUTES TO FILE THE SURVEY MAP FOR A PORTION OF CARTER ROAD, 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 a portion of Carter Road that is neither dedicated to St. Johns County, nor are owned by St. Johns County; and

**WHEREAS**, Carter Road, as described in Exhibit "A," attached hereto incorporated by reference and made a part hereof, 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 seven (7) 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 proscribed 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 Court of St. Johns County, pursuant to Section 95.361, Florida Statutes, by St. Johns County serves as prima facie evidence of ownership of a portion of Carter Road; 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 a portion of Carter Road meets each of the criteria, set forth in Downing v. Bird, supra; and

**WHEREAS**, the public entity has been continuously using a portion of Carter Road 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 hereto as Exhibit "B," incorporated by reference and made a part hereof, that the County has been responsible for maintaining a portion of Carter Road 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 a portion of Carter Road; and

**WHEREAS**, it is in the best interest of St. Johns County to acquire ownership of a portion of Carter Road 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 Chair of the Board of County Commissioners and Clerk of Court are hereby authorized to file the attached Survey Map of a portion of Carter Road in the Public Records of St. Johns County, Florida.

**Section 3.** To the extent that there are administrative, scrivener or 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 Court is instructed to record this Resolution in the Public Records of St. Johns County, Florida.

**PASSED AND ADOPTED, this 19 day of March, 2013.**

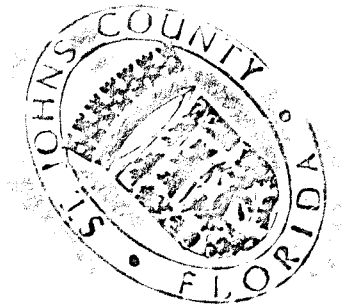
**BOARD OF COUNTY COMMISSIONERS,  
ST. JOHNS COUNTY, FLORIDA**

By: \_\_\_\_\_

*[Signature]*  
**John H. Morris, Chair**

**ATTEST: Cheryl Strickland, Clerk**

*[Signature]*  
\_\_\_\_\_  
Deputy Clerk



**RENDITION DATE 3/21/13**

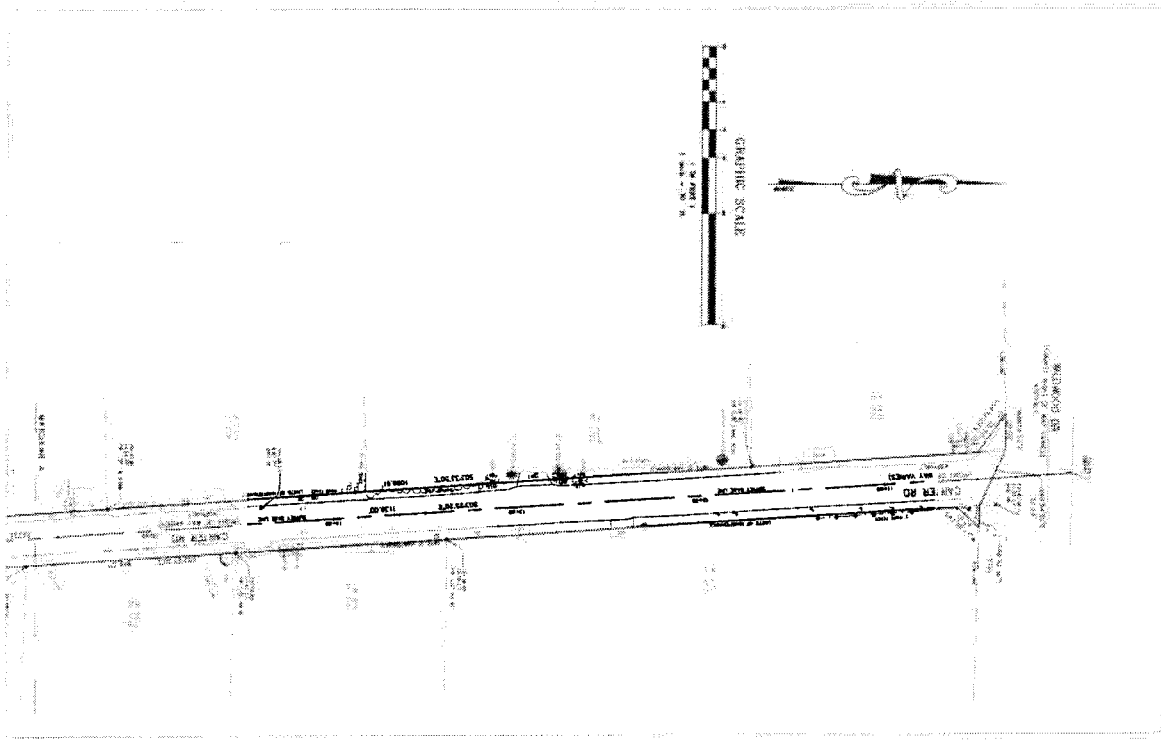
MAP SHOWING A SPECIFIC PURPOSE SURVEY OF  
 CARTER ROAD IN SECTION 13, TOWNSHIP 8 SOUTH, RANGE  
 29 EAST, ST. JOHNS COUNTY, FLORIDA.  
 FOR: ST. JOHNS COUNTY REAL ESTATE DIVISION.

THIS MAP WAS PREPARED BY THE ST. JOHNS COUNTY REAL ESTATE DIVISION, SURVEYING AND MAPPING DIVISION, ON BEHALF OF THE ST. JOHNS COUNTY REAL ESTATE DIVISION. THE SURVEY WAS CONDUCTED BY THE ST. JOHNS COUNTY REAL ESTATE DIVISION, SURVEYING AND MAPPING DIVISION, ON BEHALF OF THE ST. JOHNS COUNTY REAL ESTATE DIVISION. THE SURVEY WAS CONDUCTED BY THE ST. JOHNS COUNTY REAL ESTATE DIVISION, SURVEYING AND MAPPING DIVISION, ON BEHALF OF THE ST. JOHNS COUNTY REAL ESTATE DIVISION.

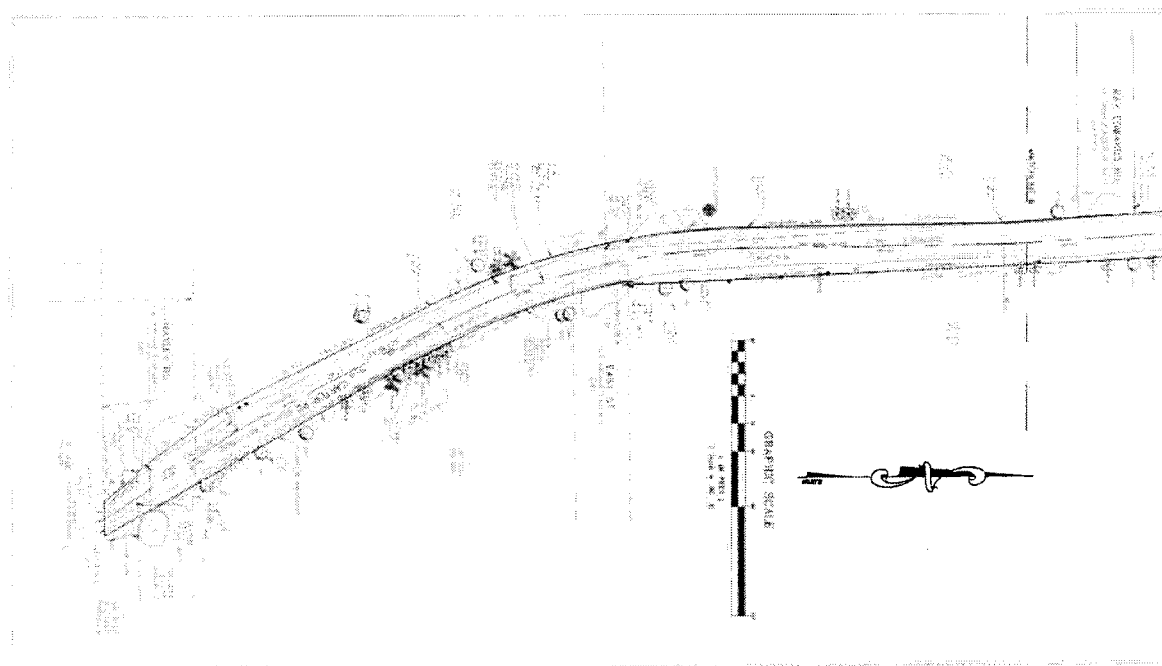
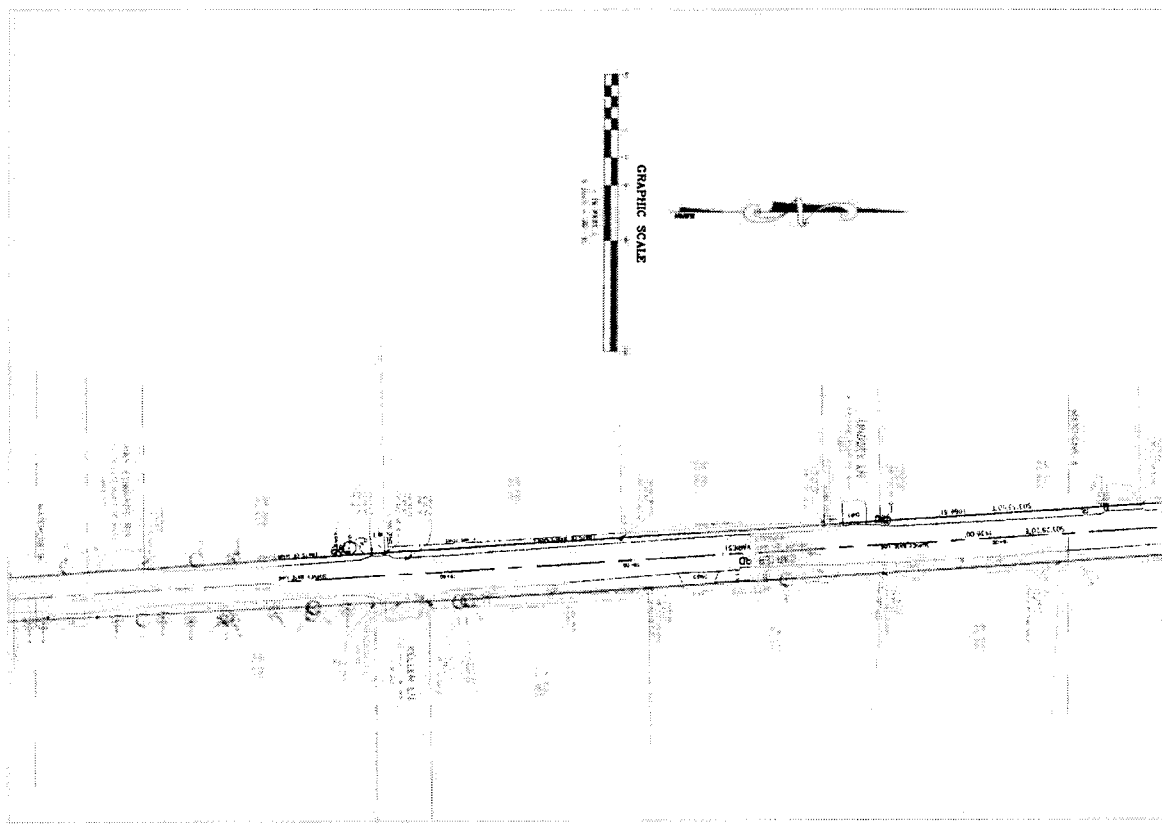
DATE: 10/15/2013  
 BY: ST. JOHNS COUNTY REAL ESTATE DIVISION

- LEGEND**
- 1. Centerline of road
  - 2. Right-of-way boundary
  - 3. Easement boundary
  - 4. Survey boundary
  - 5. Survey point
  - 6. Survey line
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  - 99. Survey line with bearing and distance (curved)
  - 100. Survey line with bearing and distance (curved)

THIS MAP WAS PREPARED BY THE ST. JOHNS COUNTY REAL ESTATE DIVISION, SURVEYING AND MAPPING DIVISION, ON BEHALF OF THE ST. JOHNS COUNTY REAL ESTATE DIVISION. THE SURVEY WAS CONDUCTED BY THE ST. JOHNS COUNTY REAL ESTATE DIVISION, SURVEYING AND MAPPING DIVISION, ON BEHALF OF THE ST. JOHNS COUNTY REAL ESTATE DIVISION. THE SURVEY WAS CONDUCTED BY THE ST. JOHNS COUNTY REAL ESTATE DIVISION, SURVEYING AND MAPPING DIVISION, ON BEHALF OF THE ST. JOHNS COUNTY REAL ESTATE DIVISION.



<p>CARTER ROAD MAINTENANCE MAP</p> <p>SPECIFIC PURPOSE SURVEY</p>	<p>APPENDIX 1</p>	<p>ST. JOHNS COUNTY LAND MANAGEMENT SYSTEMS                  SURVEYING AND MAPPING DIVISION</p> <p>500 SAN SEBASTIAN VIEW                  ST AUGUSTINE, FLORIDA 32084                  Phone (904) 209-0764 Email: goliver@sjclfl.us</p>	
	<p>DATE: 10/15/2013</p> <p>BY: ST. JOHNS COUNTY REAL ESTATE DIVISION</p>		



CARTER ROAD MAINTENANCE MAP SPECIFIC PURPOSE SURVEY	DATE: _____	DRAWN BY: _____
	CHECKED BY: _____	DATE: _____

**ST. JOHNS COUNTY LAND MANAGEMENT SYSTEMS**  
**SURVEYING AND MAPPING DIVISION**  
 500 SAN SEBASTIAN VIEW  
 ST AUGUSTINE, FLORIDA 32084  
 Phone (904) 209-0784 Email: golivar@sjclm.us




**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 St. Johns County has been maintaining Carter Road as shown as the "Area of Maintenance" on St. Johns County Land Management Systems Specific Purpose Survey File No. S-735 dated August 15, 2012 for the last 20 years and the public has continuously used the road during this time. This maintenance includes road grading and stabilization.

**FURTHER AFFIANT SAYETH NAUGHT.**

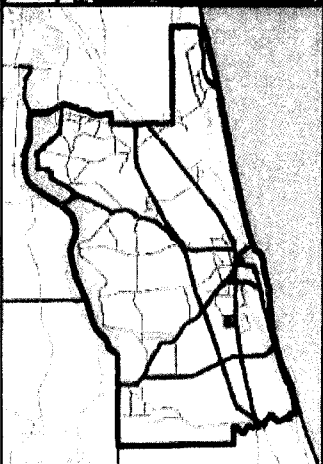
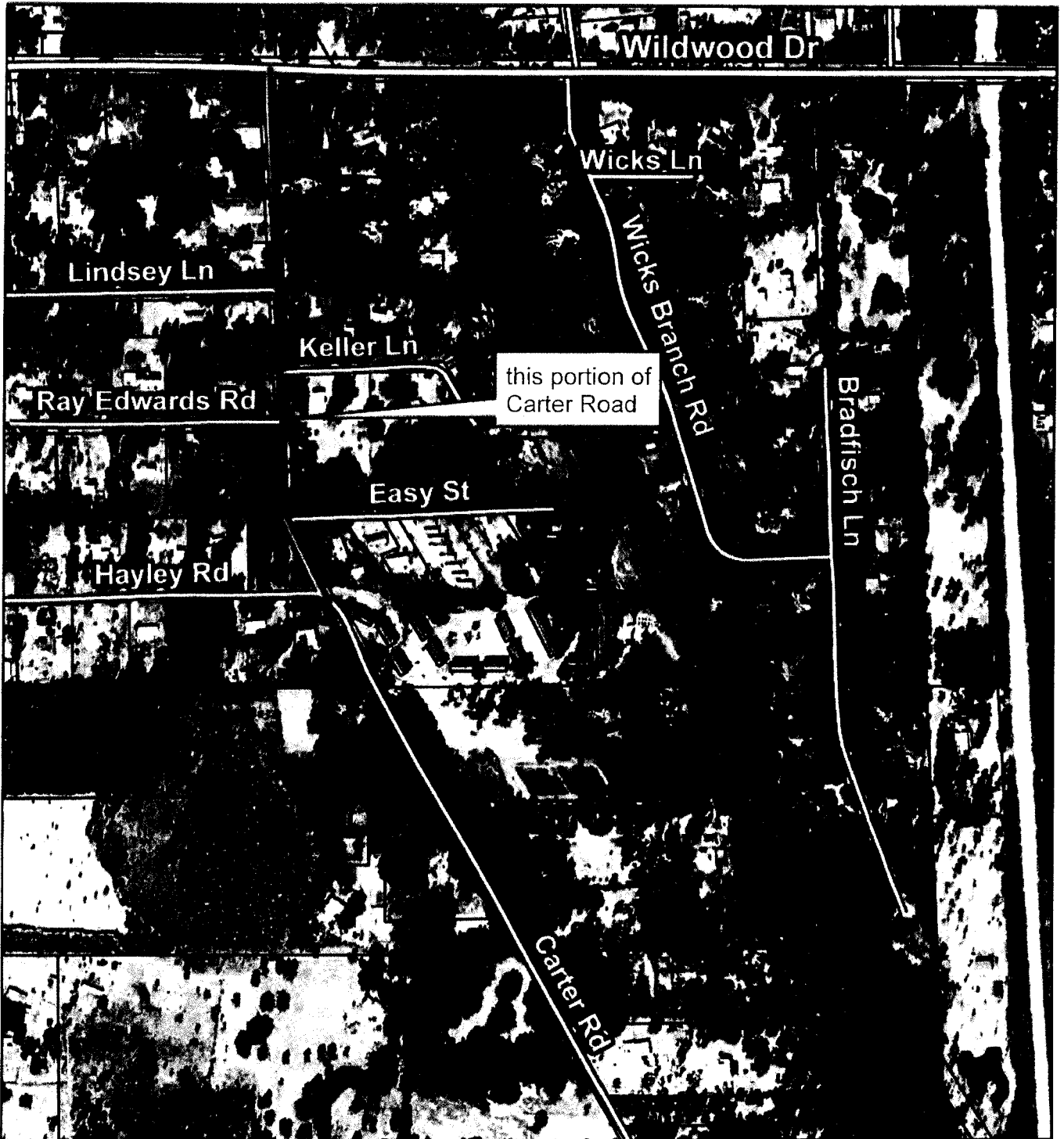
  
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**STATE OF FLORIDA  
COUNTY OF ST. JOHNS**

The foregoing instrument was acknowledged before me this 8 day of Jan, 2013 by Billy Tedder, Road and Bridge Supervisor, who is personally known to me.

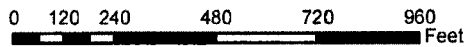
  
\_\_\_\_\_  
Notary Public





## Carter Road

### Maintenance Map



St. Johns County  
Land Mgmt Systems  
Real Estate Division



Map Prepared:  
February 14, 2013  
(904) 209-0788

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