

MEMORANDUM



County Administrator's Office
1112 Manatee Avenue West
Bradenton, FL 34205

MANATEE COUNTY FLORIDA

Phone: 941.745.3717
Fax: 941.745.3790
www.mymanatee.org

DATE: January 24, 2012
TO: Ed Hunzeker, County Administrator
FROM: Marianne Lopata, Agenda Coordinator
SUBJECT: AGENDA UPDATE FOR MEETING OF JANUARY 24, 2012

ADDITION TO REGULAR AGENDA

ATTORNEY

31. **Eminent Domain: 51st Avenue East Intersection Improvement Project** – Adopt Resolution R-12-034 determining purpose and necessity, and R-12-035 authorizing use of eminent domain “quick take” proceedings, for the acquisition of certain parcels of privately owned realty as related to the proposed improvements to the intersection of 51st Avenue East at 15th Street East

MANATEE COUNTY PORT AUTHORITY

*A meeting of the Port Authority is scheduled to convene at 10:00 a.m.
Agenda materials for this meeting were distributed separately by Port Manatee staff (copy attached)*

MANATEE COUNTY GOVERNMENT
AGENDA MEMORANDUM

SUBJECT	51 st Avenue East at 15 th Street East Intersection Improvement Project, Authorization to commence and to prosecute eminent domain proceedings regarding the proposed improvements	TYPE AGENDA ITEM	Regular
DATE REQUESTED	January 24, 2012	DATE SUBMITTED/REVISED	January 19, 2012
BRIEFINGS? Who?	None	CONSEQUENCES IF DEFERRED	Property necessary for the right-of-way project will not be acquired by the County thus delaying or compromising the project.
DEPARTMENT/DIVISION	County Attorney's Office	AUTHORIZED BY TITLE	Tedd N. Williams, Jr. County Attorney
CONTACT PERSON TELEPHONE/EXTENSION	Rodney C. Wade/Sandi Murphy Ext. 3750	PRESENTER/TITLE TELEPHONE/EXTENSION	Rodney C. Wade Deputy County Attorney Ext. 3750
ADMINISTRATIVE APPROVAL		<i>John 1/19/12</i>	

ACTION DESIRED
INDICATE WHETHER 1) REPORT; 2) DISCUSSION; 3) FORM OF MOTION; OR 4) OTHER ACTION REQUIRED

FORM OF MOTIONS:

- Adoption of Resolution R-12-034, determining public purpose and necessity for the acquisition of certain parcels of privately owned realty, as related to the proposed improvements to the intersection of 51st Avenue East at 15th Street East.**
- Adoption of Resolution R-12-035, authorizing the use of eminent domain "quick take" proceedings in the acquisition of certain parcels of privately owned realty, as related to the proposed improvements to the intersection of 51st Avenue East at 15th Street East.**

ENABLING/REGULATING AUTHORITY
Federal/State law(s), administrative ruling(s), Manatee County Comp Plan/Land Development Code, ordinances, resolutions, policy

Chapters 73, 74, and 127, Florida Statutes

BACKGROUND/DISCUSSION

Manatee County proposes to improve the intersection of 51st Avenue East at 15th Street East. This project is a CIP-approved project.

The County has previously notified the fee owner of his rights and obligations pursuant to Florida Statutes § 73.015. The time period by which the County must wait in order to file suit has expired. The Property Acquisition Division has requested the County Attorney's Office to commence and prosecute eminent domain proceedings in order to acquire the remaining necessary interests.

The owner of the lands to be acquired are as follows:

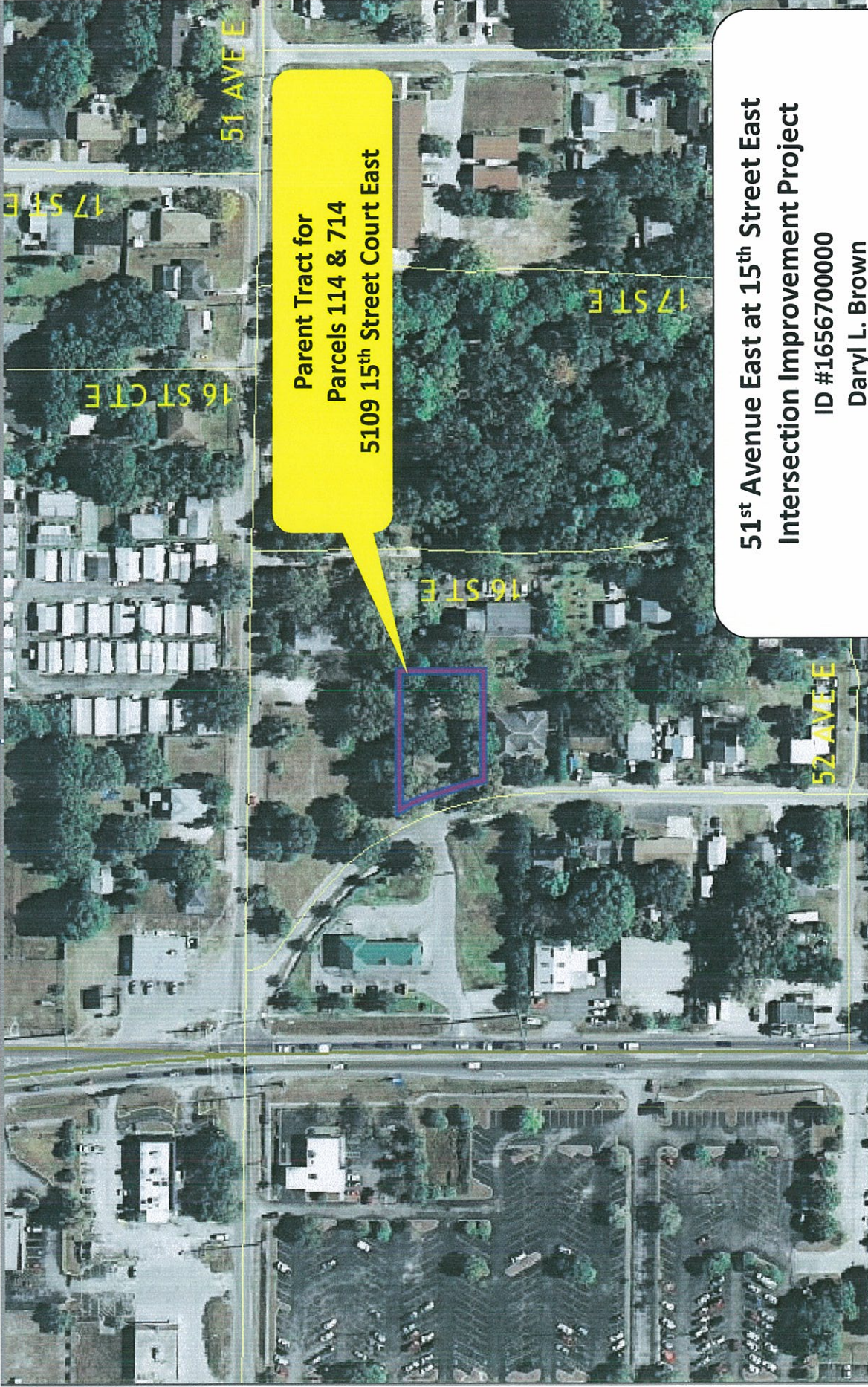
<u>PARCELS</u>	<u>OWNER</u>	<u>INTERESTS TO BE ACQUIRED</u>	<u>APPRAISED VALUE</u>
114	Daryl L. Brown	Fee Simple Interest	\$10,600

714	Daryl L. Brown Temporary Construction Easement for a period of three (3) years	\$100
TOTAL		\$10,700
Specific information on the appraised values of the various lands to be acquired can be provided at the time of presentation of this matter, if the Board so desires.		

COUNTY ATTORNEY REVIEW	
Check appropriate box	
<input type="checkbox"/>	REVIEWED Written Comments: <input type="checkbox"/> Attached <input type="checkbox"/> Available from Attorney (Attorney's initials:)
<input type="checkbox"/>	NOT REVIEWED (No apparent legal issues.)
<input type="checkbox"/>	NOT REVIEWED (Utilizes exact form or procedure previously approved by CAO.)
<input checked="" type="checkbox"/>	OTHER This is a County Attorney item.

ATTACHMENTS: (List in order as attached)	INSTRUCTIONS TO BOARD RECORDS:
1. Aerial Map 2. Proposed Resolutions R-12-034 and R-12-035, each with the attached legal descriptions/sketches.	Forward three (3) certified copies of each Resolution, with attachments, to Deputy County Attorney, Rodney C. Wade. Forward one (1) approved copy of this Agenda Memo to Deputy County Attorney, Rodney C. Wade (rodney.wade@mymanatee.org).
COST: The eventual cost to Manatee County of condemning this land is unknown.	SOURCE (ACCT # & NAME): 307-6029960 561000/6029960-0003 Gas Tax
COMMENTS:	AMT./FREQ. OF RECURRING COSTS: (ATTACH FISCAL IMPACT STATEMENT)

- cc: Ron Schulhofer, Director, Public Works Department
 Sia Mollanazar, P.E., Deputy Director, Engineering Services
 Jeff Streitmatter, Interim Manager, Project Management Division
 Vincent Canna, Senior Engineering Specialist, Project Management Division
 Charlie H. Bishop, PMP, Director, Property Management Department
 Joaquin Servia, Manager, Property Acquisition Division
 Barbara Carter, SR/WA, Real Property Supervisor, Property Acquisition Division



Parent Tract for
Parcels 114 & 714
5109 15th Street Court East

**51st Avenue East at 15th Street East
Intersection Improvement Project**
ID #1656700000
Daryl L. Brown
Commissioner: Robin DiSabatino

RESOLUTION R-12-034

A RESOLUTION OF NECESSITY AND FOR EMINENT DOMAIN PROCEEDINGS FOR THE PUBLIC USE AND PUBLIC PURPOSE OF CONSTRUCTING, WIDENING, OR IMPROVING A PUBLIC STREET, ROAD, OR HIGHWAY AS PART OF THE PUBLIC ROAD SYSTEM IN MANATEE COUNTY, FLORIDA.

**51ST AVENUE EAST AT 15TH STREET EAST
INTERSECTION IMPROVEMENT PROJECT
PARCELS 114 AND 714
PROJECT NO. 6029960**

WHEREAS, Manatee County is a political subdivision of the State of Florida and is authorized under Chapters 73, 74, and 127, Florida Statutes, to acquire interests in privately owned lands which are necessary for the public use; and

WHEREAS, Manatee County has determined that 51st Avenue East at 15th Street East must be improved to relieve congestion and to safely accommodate vehicular traffic and that additional land is needed for the construction, reconstruction, widening, repairing, and maintaining of the road, and for other right-of-way purposes, including, but not limited to, sidewalks; streetlights, drainage, retention and utility facilities, and drainage ditches; and

WHEREAS, Manatee County has determined that it is necessary to acquire or utilize portions of property adjacent to or within the planned corridor of the above-described roads; and

WHEREAS, the owner of said land has been or may be unwilling or unable to sell the real property needed by Manatee County; and

WHEREAS, the construction of the project will be impeded unless the properties are acquired by Manatee County.

NOW, THEREFORE, BE IT RESOLVED BY THE BOARD OF COUNTY COMMISSIONERS OF MANATEE COUNTY, FLORIDA, that the Manatee County Public

Works and Property Management Departments are authorized to employ the services of the County Attorney, or retained counsel assigned by the County Attorney, to commence and to prosecute eminent domain proceedings to acquire the necessary interests in the aforementioned properties, which properties are more particularly described in the Schedules which are attached hereto and made a part hereof (totaling 2 in number).

BE IT FURTHER RESOLVED that the Board of County Commissioners of Manatee County, Florida, after having considered safety of the public, cost of acquiring the right-of-way, alignment, long-term planning, and environmental factors in acquiring and utilizing the properties, hereby finds and determines that the acquisition of the following interests are necessary as to the real property described in the attached Schedules:

<u>Schedule No.</u>	<u>Parcel No.</u>	<u>Interests to be Acquired</u>
1.	114	Fee Simple Interest
2.	714	Temporary Construction Easement for a period of three (3) years

ADOPTED with a quorum present and voting this ____ day of January, 2012.

BOARD OF COUNTY COMMISSIONERS
MANATEE COUNTY, FLORIDA

By: _____
Chairman

ATTEST: R. B. SHORE
CLERK OF THE CIRCUIT COURT

By: _____
Deputy Clerk

SCHEDULE 1

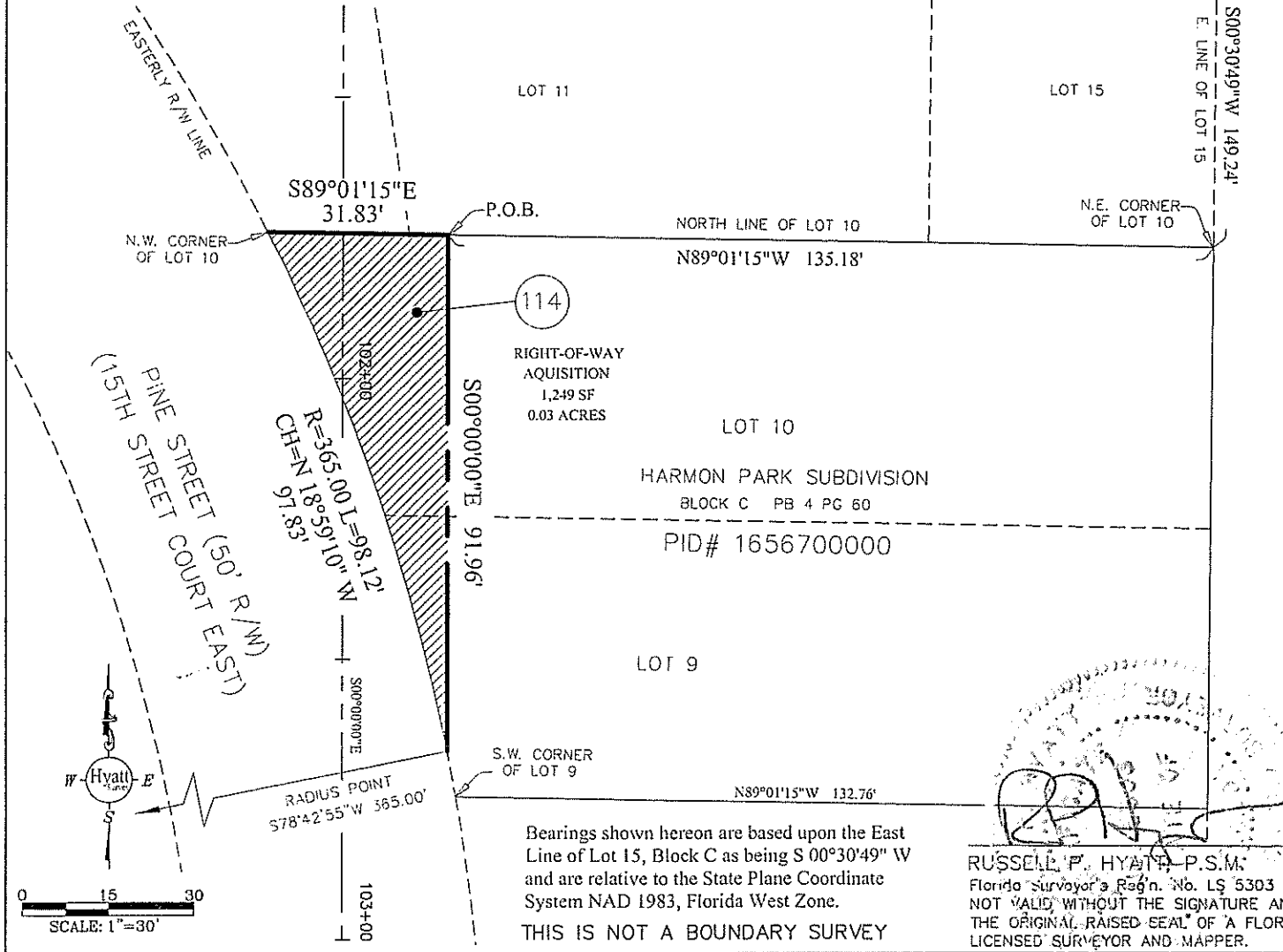
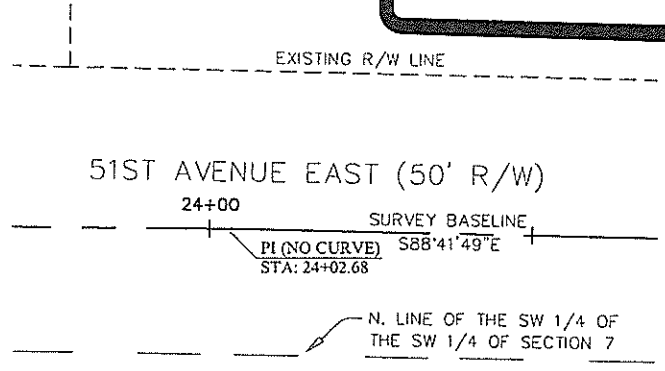
P.O.C. POINT OF COMMENCEMENT
 P.O.B. POINT OF BEGINNING
 OR OFFICIAL RECORDS R RADIUS
 PB PLAT BOOK L ARC LENGTH
 PG PAGE CH CHORD
 SF SQUARE FEET
 R/W RIGHT-OF-WAY

DESCRIPTION

COMMENCE AT THE NORTHEAST CORNER OF LOT 15 BLOCK C, AS SHOWN AND DESIGNATED ON A PLAT ENTITLED "HARMON PARK" RECORDED AMONG THE PUBLIC RECORDS OF MANATEE COUNTY, FLORIDA IN PLAT BOOK 4, PAGE 60; THENCE ALONG THE EAST LINE OF SAID LOT 15, S 00°30'49" W, A DISTANCE OF 149.24 FEET TO THE NORTHEAST CORNER OF LOT 10, BLOCK C OF SAID "HARMON PARK"; THENCE WEST ALONG THE NORTH LINE OF SAID LOT 10, N 89°01'15" W, A DISTANCE OF 135.18 FEET TO THE POINT OF BEGINNING;

THENCE THROUGH AND ACROSS SAID LOT 10, S 00°00'00" E, A DISTANCE OF 91.96 FEET TO A POINT ON THE EASTERLY RIGHT-OF-WAY OF 15TH STREET COURT EAST ALSO KNOWN AS PINE STREET; THENCE NORTHERLY ALONG SAID EASTERLY RIGHT-OF-WAY BY A NON TANGENT CURVE CONCAVE WESTERLY WHOSE RADIUS POINT LIES S 78°42'55" W 365.00' AND HAS A CHORD OF N 18°59'10" W 97.83 FEET, AN ARC DISTANCE OF 98.12 FEET TO THE NORTHWEST CORNER OF SAID LOT 10; THENCE ALONG THE NORTH LINE OF SAID LOT 10, S 89°01'15" E, A DISTANCE OF 31.83 FEET TO THE POINT OF BEGINNING.

CONTAINING A DESCRIBED AREA OF 1,249 SQUARE FEET MORE OR LESS.



Bearings shown hereon are based upon the East Line of Lot 15, Block C as being S 00°30'49" W and are relative to the State Plane Coordinate System NAD 1983, Florida West Zone.
 THIS IS NOT A BOUNDARY SURVEY

(Signature)
 RUSSELL P. HYATT, P.S.M.
 Florida Surveyor's Reg'n. No. LS 5303
 NOT VALID WITHOUT THE SIGNATURE AND THE ORIGINAL RAISED SEAL OF A FLORIDA LICENSED SURVEYOR AND MAPPER.

RIGHT-OF-WAY TAKING #114
 PARCEL ID#1656700000
 MANATEE COUNTY, FLORIDA

Hyatt Survey Services, Inc.
 L.B No.: 7203 Geographic Data Specialists
 11007 8th Avenue East Bradenton, Florida 34212
 Phone (941) 748-4693 Fax (941) 744-1643

JOB NUMBER 09-1461	SECTION 7, TOWNSHIP 35 SOUTH, RANGE 18 EAST	SCALE 1"=30'	DATE 08/26/10	DRAWN BY CBW	FILE NAME RW S&D_114.dwg	SHEET 1 OF 1
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SCHEDULE 2

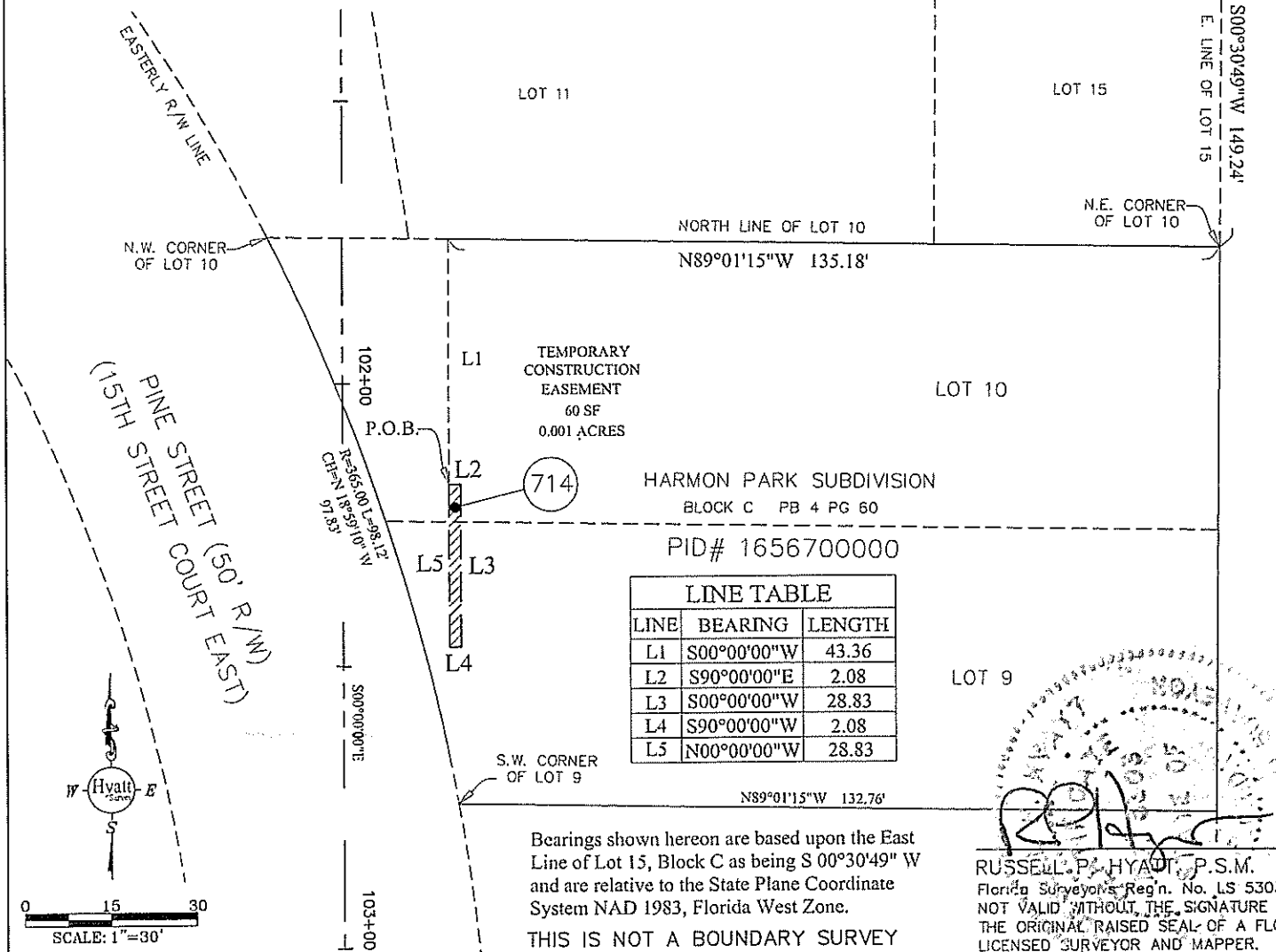
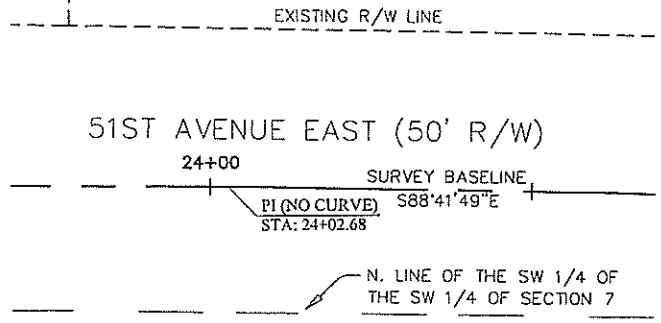
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THENCE THROUGH AND ACROSS SAID LOT 10, S 90°00'00" E, A DISTANCE OF 2.08 FEET.
 THENCE THROUGH AND ACROSS LOT 9, BLOCK C OF SAID "HARMON PARK", S 00°00'00" W, A DISTANCE OF 28.83 FEET;
 THENCE S 90°00'00" W, A DISTANCE OF 2.08 FEET;
 THENCE N 00°00'00" W, A DISTANCE OF 28.83 FEET TO THE POINT OF BEGINNING.

CONTAINING A DESCRIBED AREA OF 60 SQUARE FEET MORE OR LESS.



LINE TABLE		
LINE	BEARING	LENGTH
L1	S00°00'00"W	43.36
L2	S90°00'00"E	2.08
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THIS IS NOT A BOUNDARY SURVEY

TEMPORARY CONSTRUCTION EASEMENT #714
PARCEL ID#1656700000
MANATEE COUNTY, FLORIDA

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 11007 8th Avenue East Bradenton, Florida 34212
 Phone (941) 748-4693 Fax (941) 744-1643

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RESOLUTION R-12-035

**A RESOLUTION AUTHORIZING USE OF “QUICK TAKING”
CONDEMNATION PROCEEDINGS FOR THE PUBLIC USE
AND PUBLIC PURPOSE OF CONSTRUCTING, WIDENING,
OR IMPROVING A PUBLIC STREET, ROAD, OR HIGHWAY
AS PART OF THE PUBLIC ROAD SYSTEM IN MANATEE
COUNTY, FLORIDA; PROVIDING AN EFFECTIVE DATE.**

**51ST AVENUE EAST AT 15TH STREET EAST
INTERSECTION IMPROVEMENT PROJECT
PARCELS 114 AND 714
PROJECT NO. 6029960**

WHEREAS, Manatee County, Florida, has made an effort to acquire certain property interests along or within the planned corridor of 51st Avenue East at 15th Street East by purchase from the owners; and

WHEREAS, the Board of County Commissioners has heretofore authorized the institution of eminent domain proceedings to acquire said properties, all as described and set out in Resolution R-12-034; and

WHEREAS, the Board of County Commissioners wishes to utilize “quick taking” condemnation proceedings.

NOW, THEREFORE, BE IT RESOLVED BY THE BOARD OF COUNTY COMMISSIONERS OF MANATEE COUNTY, FLORIDA, as follows that:

1. Manatee County is authorized to utilize “quick taking” eminent domain proceedings under Chapter 74, Florida Statutes, and all other applicable statutes, and that the Board of County Commissioners declares its intention to utilize such proceedings to acquire the necessary interests in the properties hereinafter described.

2. Manatee County cannot proceed with the necessary improvements to the intersection of 51st Avenue East at 15th Street East until it acquires title to the hereinafter-described properties.

3. Delay in acquiring the necessary interests and the resultant delay in construction will adversely affect the project.

4. Manatee County will diligently pursue and prosecute the eminent domain proceedings.

5. The properties to be taken are more particularly described in the Schedules which are attached hereto and made a part hereof (totaling 3 in number).

6. This Resolution shall take effect immediately upon its passage.

ADOPTED with a quorum present and voting this ____ day of January, 2012.

BOARD OF COUNTY COMMISSIONERS
MANATEE COUNTY, FLORIDA

By: _____
Chairman

ATTEST: R. B. SHORE
CLERK OF THE CIRCUIT COURT

By: _____
Deputy Clerk

SCHEDULE 1

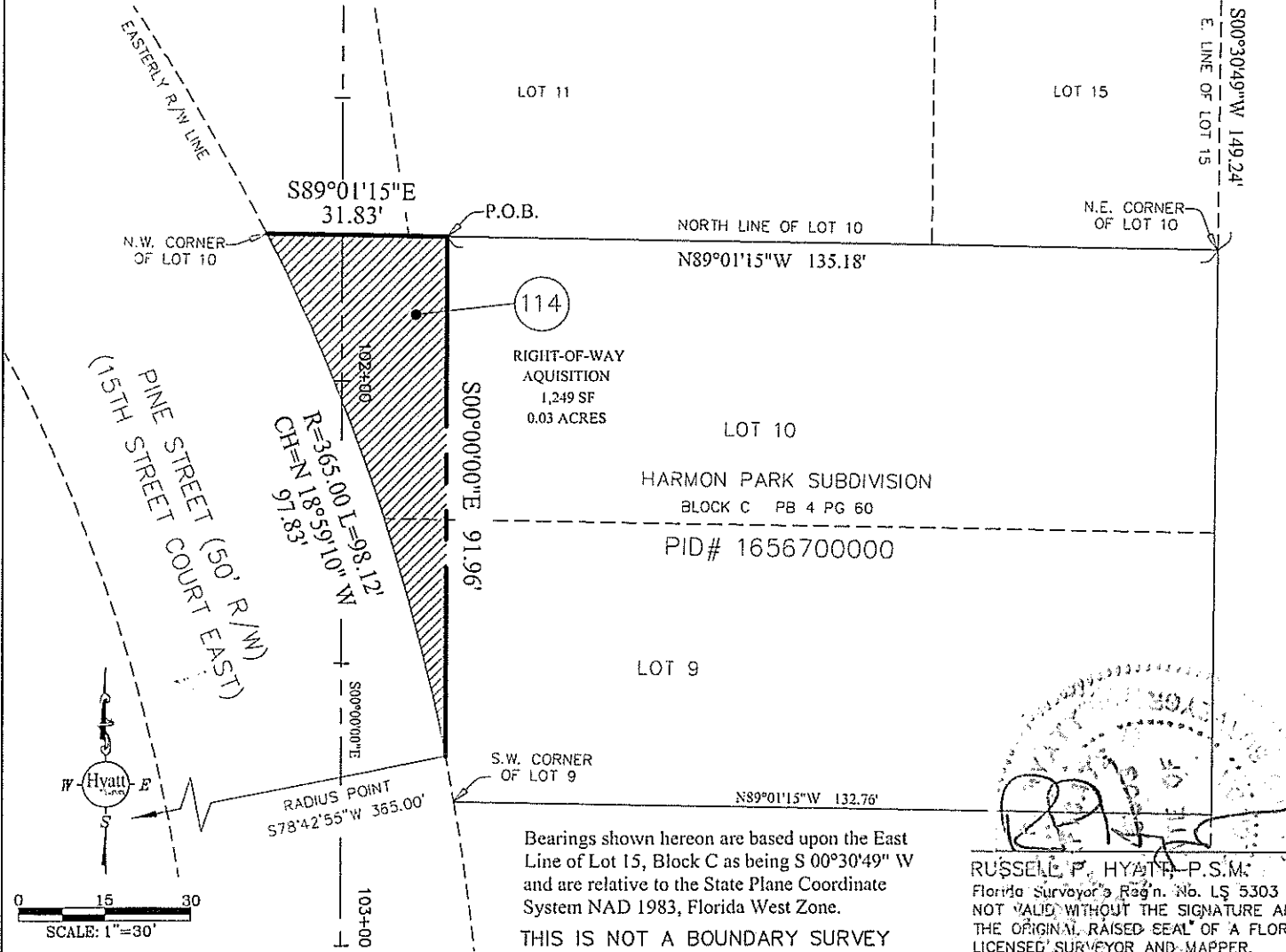
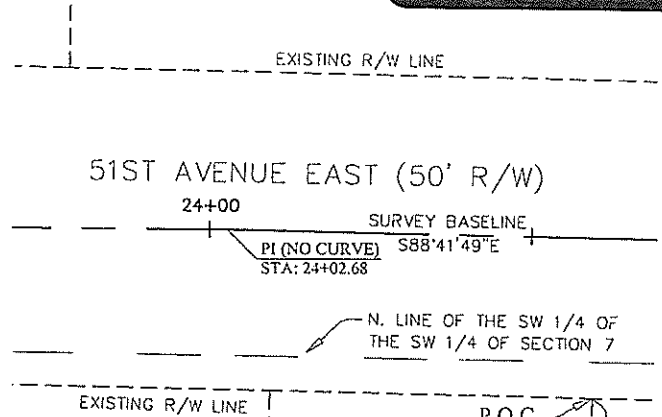
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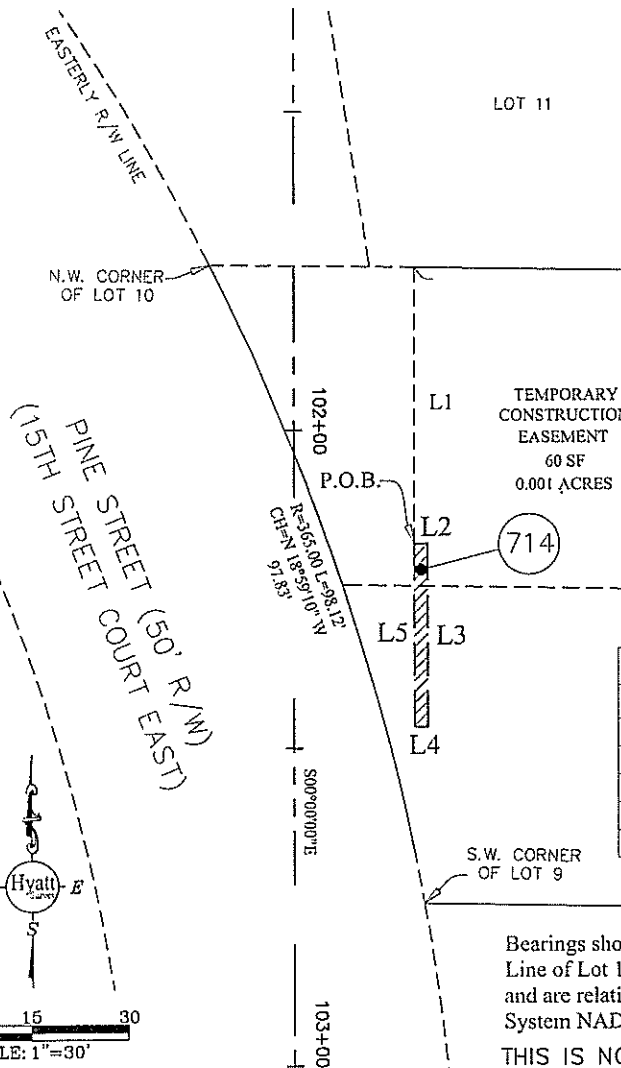
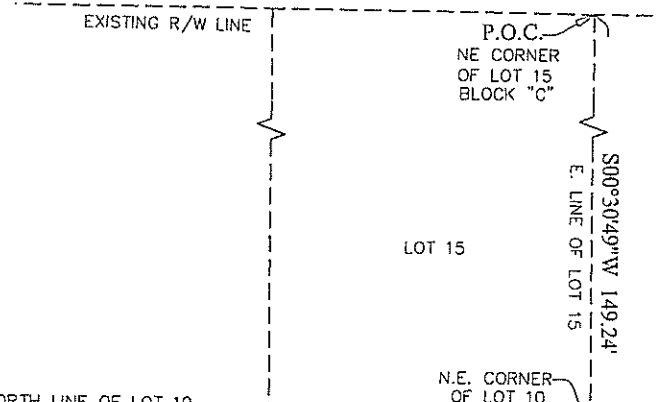
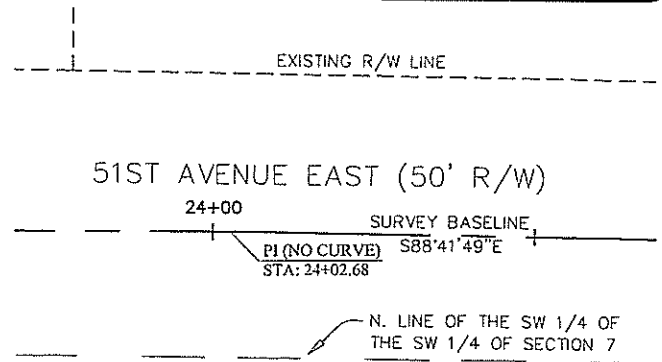
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January 24, 2012

AGENDA ITEM 1.: TIGER II PROJECT BID REQUEST

BACKGROUND:

TIGER II project engineers CH2M Hill, working with Port staff, have developed a bid package for the construction of the Berth 12 extension (approximately 600 feet) and the integral Intermodal Container Terminal. In the development of this bid package, analysis was performed to determine the most efficient methodology to use to achieve the following main objectives:

- Complete the project in the shortest amount of time making the asset available for use by current and future customers,
- Maximize the use of current grant funding and expiration time frames.
- Maximize the use of local contractors.
- Reduce the risks of construction delays by different contractors working on adjacent areas of the project and the related financial costs.
- Maximize the Port Authority's options to accelerate either project phase and for future funding alternatives.

Bid alternatives analyzed included bidding the two phases of the project separately, bidding both phases together and bidding the project with a base bid for the Berth12 phase and the Intermodal Container Phase as a bid alternate. It was determined that separate bidding of the project phases would most likely result in an extension of the completion of the Intermodal Container Terminal by six months to a year if separate contractors won the different phases. This would also put possible pressure on state grant funding time frames.

After considerable discussion of the advantages and disadvantages of the various bidding alternatives, it was determined that one bid package with a base bid and a bid alternative would provide the most flexibility in completing the project, would result in the shortest construction period, reduce the risk of construction delay claims and maximize funding opportunities.

ATTACHMENT: N/A

COST AND FUNDING SOURCE: N/A

CONSEQUENCES IF DEFERRED:

Delay in bidding of project and start of construction. This could put grant funding in jeopardy, allow project permits to expire and potential loss of revenue from potential customers.

LEGAL COUNSEL REVIEW: Yes

RECOMMENDATION:

Move to authorize CH2M Hill and Port staff to proceed to bid with the Berth 12 extension portion of the project as the base bid and the Intermodal Container Terminal phase as a bid alternate in one bid package.