

**A RESOLUTION OF THE UTILITIES COMMISSION, CITY OF NEW SMYRNA BEACH, FLORIDA (UCNSB), AUTHORIZING THE ACQUISITION OF AN EASEMENT PROPERTY RIGHT IN REAL PROPERTY BY EMINENT DOMAIN FOR THE PUBLIC PURPOSE OF INSTALLING A POTABLE 20" TRANSMISSION WATER MAIN, RESCINDING ALL RESOLUTIONS, OR PORTIONS THEREOF, IN CONFLICT HEREWITH, AND PROVIDING FOR AN EFFECTIVE DATE.**

**WHEREAS**, the Utilities Commission, City of New Smyrna Beach, Florida (UCNSB), was duly created and validly existing under and by virtue of Chapters 67-1754 and 85-503, Laws of Florida, as the governing body of the utility system of the City of New Smyrna Beach, Florida; and

**WHEREAS**, the UCNSB has the power, pursuant to Chapter 85-503, Section 11, Laws of Florida, to acquire property by eminent domain for the purpose of obtaining, constructing, and maintaining electric plants, substations and distribution lines, water and gas mains, reservoirs and pumping stations, sewer lines, pumping stations and disposal of processing plants and to acquire all such lands, waters and lands adjacent to waters, which the U.C. judges may be necessary for the full and complete construction, maintenance and operation of any utility; and

**WHEREAS**, the UCNSB deems it in the best interest of the Commission and the rate payers to acquire an easement property right in real property by eminent domain for the construction of a new 20" potable transmission water main that has been designated by a professional engineering study as the number one priority deficiency project to continue and improve the necessary and existing water operations of the UCNSB; and

**WHEREAS**, the proposed easement route selected by the UCNSB is the most direct and least costly for the ratepayers than any other alternative; and

**WHEREAS**, Section 73.015, Florida Statutes, 2008, as amended, require Pre-Suite Negotiations before eminent domain proceedings can be brought which require the UCNSB to attempt to negotiate in good faith with the fee owner; and

**WHEREAS**, the UCNSB determines that it is necessary to acquire an easement property right in parcel number 19-17-34-23-00-0040, containing 0.67 acres, more or less, of real property for the public purpose and necessity of providing potable water services.

**NOW, THEREFORE, BE IT RESOLVED BY THE UTILITIES COMMISSION, CITY OF NEW SMYRNA BEACH, FLORIDA, AS FOLLOWS:**

**SECTION 1:** The Utilities Commission, City of New Smyrna Beach, Florida, authorizes the General Manager/CEO, and/or his authorized delegate(s), and the U.C.'s Legal Counsel, Mr. William Preston, to conduct Pre-Suit Negotiations in good faith with the fee owner and, if not resolved, to take all legal action, and any and all other acts necessary, to acquire an easement property right in the real property parcel number 19-17-34-23-00-0040, containing 0.67 acres, more or less, as more specifically set forth in Exhibit "A" (sketch of description only, pending boundary surveys and final legal determination), attached hereto, by condemnation or otherwise.

**SECTION 2:** If any section, subsection, sentence, clause, phrase, or portion of this Resolution is for any reason held invalid or unconstitutional by any court of competent jurisdiction, such portion shall be deemed a separate, distinct and independent provision and such holding shall not affect the validity of the remaining portions thereof.

**SECTION 3:** All Resolutions, or portions thereof, in conflict herewith are hereby rescinded and superseded.

**SECTION 4:** This resolution was approved by the Utilities Commission during a Regular U.C. Meeting held May 18, 2009 and shall take effect immediately upon passage.

THE ABOVE AND FOREGOING RESOLUTION was introduced at a regular meeting of the Utilities Commission, City of New Smyrna Beach, Florida, held on May 18, 2009, by Commissioner Diesen, who moved its adoption, which motion was seconded by Commissioner Hall, and upon roll call vote of the Commission was as follows:

CHAIRMAN	<u>Matt Allen III</u>	<u>yes</u>
VICE CHAIRMAN	<u>William E. Hall</u>	<u>yes</u>
SECY.-TREAS.	<u>Wm. Reynolds</u>	<u>yes</u>
ASST. SECY.-TREAS.	<u>Carroll</u>	<u>yes</u>
COMMISSIONER	<u>James H. Klein</u>	<u>yes</u>

APPROVED:

Matt Allen III  
CHAIRMAN

ATTEST:

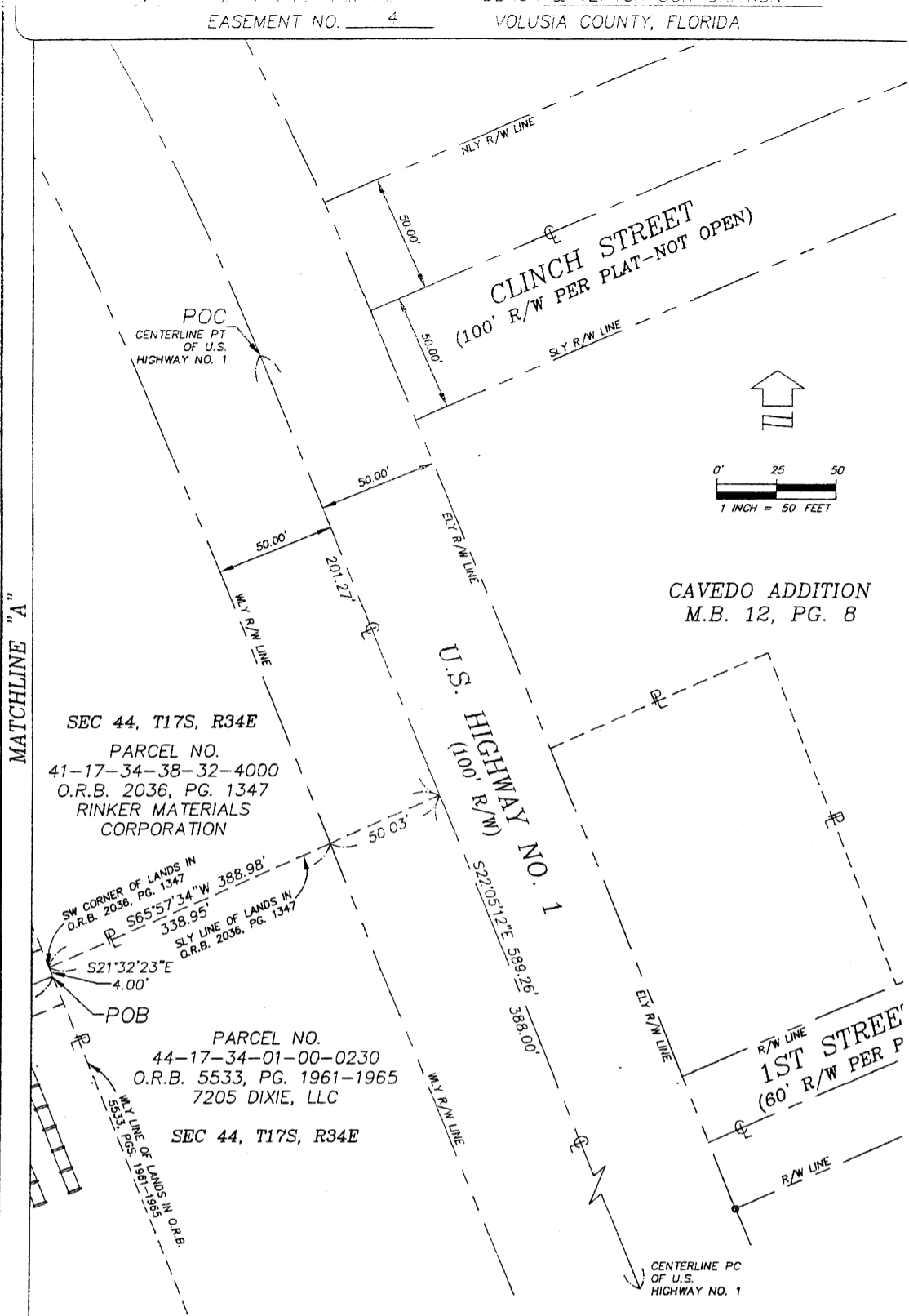
Wm. Reynolds  
SECRETARY-TREASURER



APPROVED AS TO FORM AND CORRECTNESS:

Mike P. L.  
Utilities Commission Attorney





CAVEDO ADDITION  
M.B. 12, PG. 8

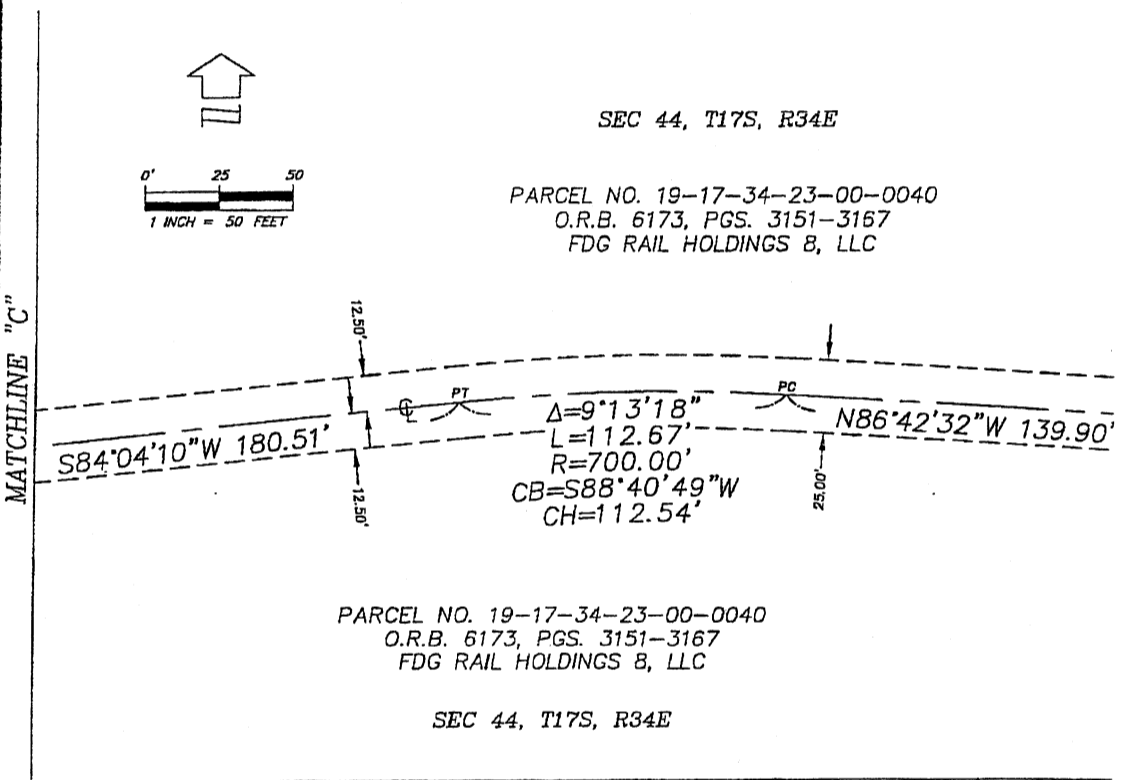
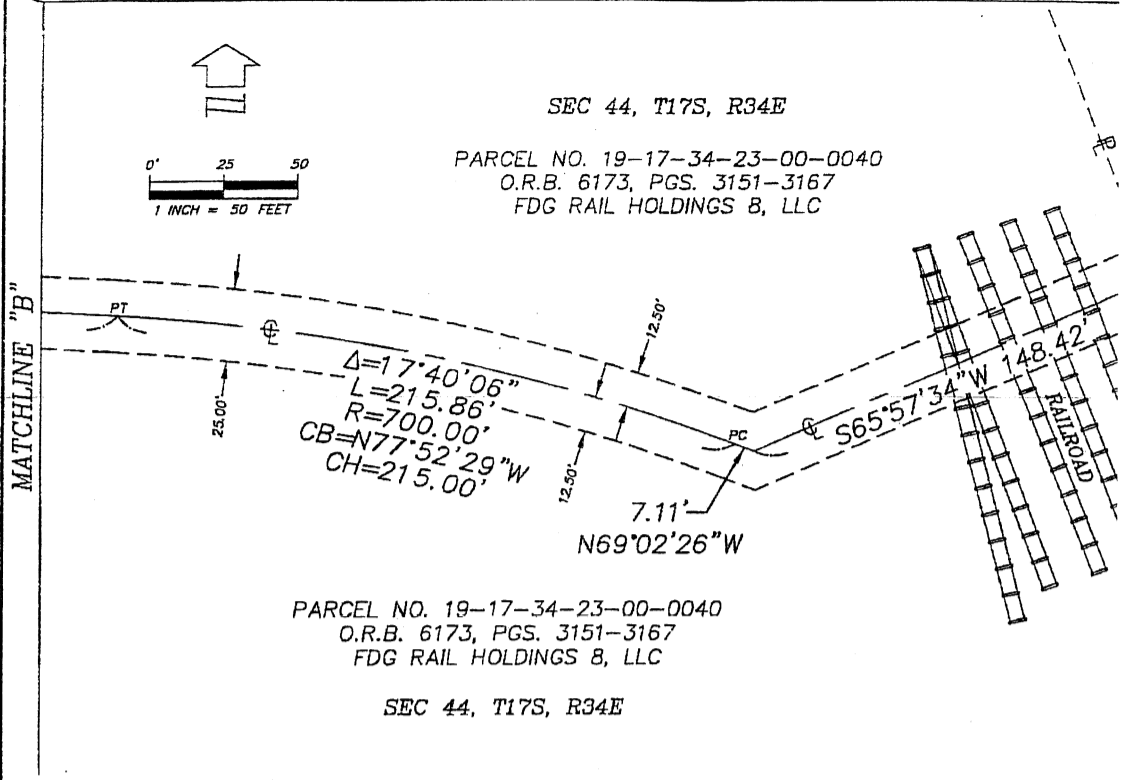
**BOWYER SINGLETON & ASSOCIATES, INCORPORATED**  
ENGINEERING • PLANNING • SURVEYING • ENVIRONMENTAL  
110 W. INDIANA AVENUE  
DELAND, FLORIDA 32720  
386-785-0468 FAX 386-785-0715  
CERTIFICATE OF AUTHORIZATION LB 1221

SEE SHEET 1 OF 4 FOR DESCRIPTION, NOTES, AND LEGEND AND ABBREVIATIONS.

THIS IS NOT A BOUNDARY SURVEY.

REVISION	DATE	FB/A
FIELD DATE N/A	FB/PG N/A	
DRAWING DATE 01/29/09	BY LAT	APPRO JB
BSA PROJECT: 2BV-J1	SHEET 2 OF 4	

V:\2BV-J1\Survey\LDD\dwg\2BV-J1\_EASE4.dwg



**BOWYER SINGLETON & ASSOCIATES, INCORPORATED**  
 ENGINEERING • PLANNING • SURVEYING • ENVIRONMENTAL

110 W. INDIANA AVENUE  
 DELAND, FLORIDA 32720  
 386-785-0468 FAX 386-785-0715  
 CERTIFICATE OF AUTHORIZATION LB 1221

SEE SHEET 1 OF 4 FOR DESCRIPTION, NOTES, AND LEGEND AND ABBREVIATIONS.

THIS IS NOT A BOUNDARY SURVEY.

REVISION	DATE	FB/P
FIELD DATE N/A	FB/PC N/A	
DRAWING DATE 01/29/09	BY LAT	APPROV JB
BSA PROJECT: 2BV-J1	SHEET 3 OF 4	

