

RESOLUTION R-13-022

A RESOLUTION OF NECESSITY AND FOR EMINENT DOMAIN PROCEEDINGS FOR THE PUBLIC USE AND PUBLIC PURPOSE OF CONSTRUCTION ACTIVITIES, WIDENING, DEEPENING, DREDGING, CLEARING AND SNAGGING OF THE BANKS, OR OTHERWISE IMPROVING THE WARE'S CREEK FLOODWAY AND STORM WATER IMPROVEMENT AREA AS PART OF THE WARE'S CREEK STORM WATER FLOOD CONTROL PUBLIC PROJECT IN MANATEE COUNTY, FLORIDA.

**WARE'S CREEK - CANAL DREDGING
PARCEL W-280.2
PROJECT NO. 6028801**

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 Ware's Creek must be improved to relieve periodic flooding and to safely accommodate the hydrologic flow of surface waters within the flood plain and that land is needed for the construction, reconstruction, widening, deepening, dredging, clearing and snagging, repairing, and maintaining of the creek and surrounding storm water improvement project area, and for other right-of-way purposes, including, but not limited to, construction activities, drainage, retention, construction staging areas, utility facilities, and depositing of spoil; 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 storm water improvement area; 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 property, which property is more particularly described in the Schedule which is attached hereto and made a part hereof.

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 property, hereby finds and determines that the acquisition of the following interests are necessary as to the real property described in the attached Schedule:

<u>Schedule No./Parcel</u>	<u>Interest to be Acquired</u>
1. W-280.2	Permanent Easement

ADOPTED with a quorum present and voting this 12 day of February, 2013.

BOARD OF COUNTY COMMISSIONERS
MANATEE COUNTY, FLORIDA

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

By: Larry Bustle
Chairman

By: Wabi Jessner
Deputy Clerk





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EB 0027476 LS 0006982 LC 0000365

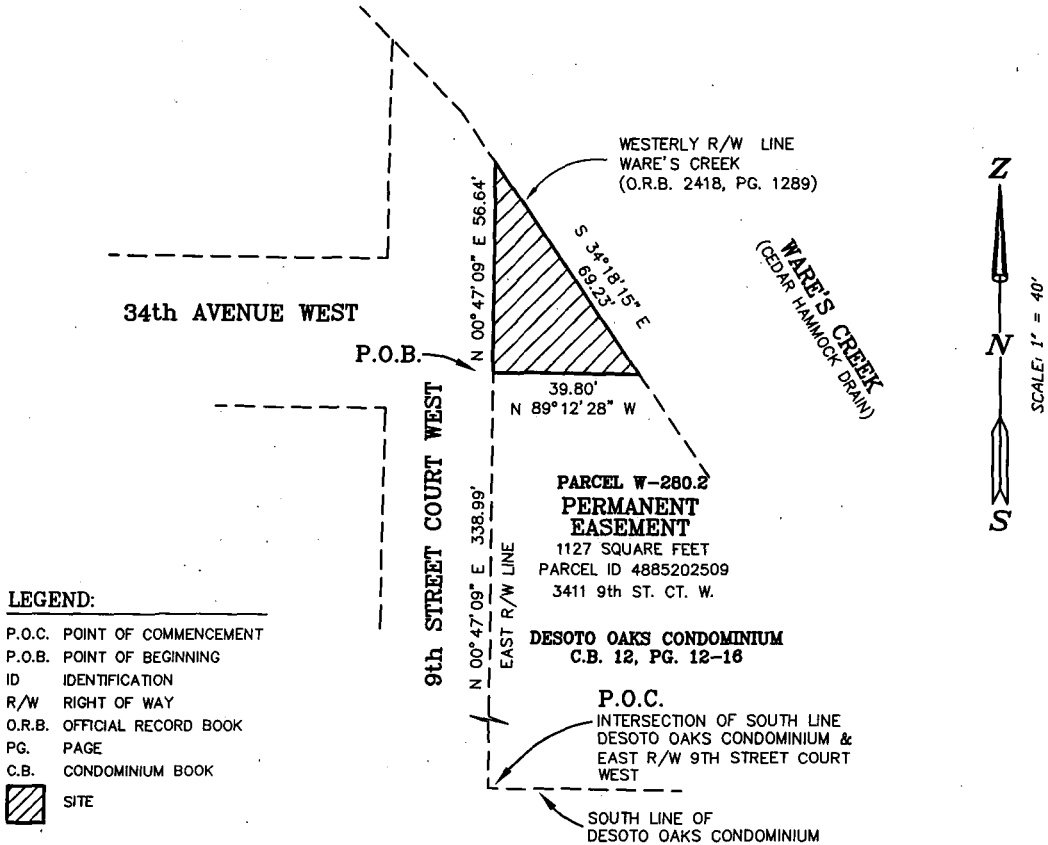
201 5th AVENUE DRIVE EAST
POST OFFICE BOX 9448
BRADENTON, FLORIDA 34206
(941) 748-8080
FAX (941) 748-3747

DESCRIPTION:

A PORTION OF DESOTO OAKS CONDOMINIUM IN SECTION 2, TOWNSHIP 35 SOUTH, RANGE 17 EAST, AS PER PLAT THEREOF RECORDED IN CONDOMINIUM BOOK 12, PAGE 12 OF THE PUBLIC RECORDS OF MANATEE COUNTY, FLORIDA. BEING DESCRIBED AS FOLLOWS:

COMMENCE AT THE INTERSECTION OF THE SOUTH LINE OF SAID DESOTO OAKS CONDOMINIUM AND THE EAST RIGHT OF WAY LINE OF 9TH STREET COURT WEST; THENCE N 00°47'09" E, ALONG SAID EAST RIGHT OF WAY LINE, A DISTANCE OF 338.99 FEET FOR A POINT OF BEGINNING; THENCE CONTINUE, N 00°47'09" E, ALONG SAID EAST RIGHT OF WAY LINE, A DISTANCE OF 56.64 FEET TO AN INTERSECTION WITH THE WESTERLY RIGHT OF WAY LINE FOR WARE'S CREEK AS RECORDED IN OFFICIAL RECORDS BOOK 2418, PAGE 1289 OF SAID PUBLIC RECORDS; THENCE S 34°18'15" E, ALONG SAID WESTERLY RIGHT OF WAY LINE, A DISTANCE OF 69.23 FEET; THENCE N 89°12'28" W, A DISTANCE OF 39.80 FEET TO THE POINT OF BEGINNING.

CONTAINING 1127 SQUARE FEET, MORE OR LESS.



LEGEND:

- P.O.C. POINT OF COMMENCEMENT
- P.O.B. POINT OF BEGINNING
- ID IDENTIFICATION
- R/W RIGHT OF WAY
- O.R.B. OFFICIAL RECORD BOOK
- PG. PAGE
- C.B. CONDOMINIUM BOOK
- SITE

NOTES:

1. BEARINGS ARE BASED ON THE WEST LINE OF DESOTO OAKS CONDOMINIUM, HAVING A BEARING OF N 00°17'09" E, AND DO NOT REFER TO THE TRUE MERIDIAN.
2. THIS DRAWING IS A SKETCH ONLY AND DOES NOT REPRESENT A FIELD SURVEY AS SUCH.

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**PARCEL W-280.2
PERMANENT EASEMENT**

PROJECT No. 465-6028801

PERMANENT EASEMENT LOCATED IN

**SECTION 2, TOWNSHIP 35 SOUTH, RANGE 17 EAST
MANATEE COUNTY, FLORIDA**

NOTE: NOT VALID WITHOUT THE SIGNATURE AND THE ORIGINAL RAISED SEAL OF A FLORIDA LICENSED SURVEYOR AND MAPPER.

WE HEREBY CERTIFY THAT THIS SKETCH AND DESCRIPTION HAVE BEEN PREPARED UNDER OUR DIRECT SUPERVISION, THAT THEY ARE A TRUE REPRESENTATION OF THE LAND AS SHOWN AND DESCRIBED HEREON, THAT THEY ARE CORRECT TO THE BEST OF OUR KNOWLEDGE AND BELIEF, AND THAT THEY MEET THE "MINIMUM TECHNICAL STANDARDS FOR LAND SURVEYING IN THE STATE OF FLORIDA", CHAPTER 5J-17-050, FLORIDA ADMINISTRATIVE CODE.

BY:
JAMES N. GATCH, STATE OF FLORIDA
FLORIDA CERTIFICATE NO. LS 2285
DATE OF CERTIFICATION 08/24/12

SCHEDULE 1

RESOLUTION R-13-023

A RESOLUTION AUTHORIZING USE OF “QUICK TAKING” CONDEMNATION PROCEEDINGS FOR THE PUBLIC USE AND PUBLIC PURPOSE OF CONSTRUCTION ACTIVITIES, WIDENING, DEEPENING, DREDGING, CLEARING AND SNAGGING OF THE BANKS, OR OTHERWISE IMPROVING THE WARE’S CREEK FLOODWAY AND STORM WATER IMPROVEMENT AREA AS PART OF THE WARE’S CREEK STORM WATER FLOOD CONTROL PUBLIC PROJECT IN MANATEE COUNTY, FLORIDA; PROVIDING AN EFFECTIVE DATE.

**WARE’S CREEK - CANAL DREDGING
PARCEL W-280.2
PROJECT NO. 6028801**

WHEREAS, Manatee County, Florida, has made an effort to acquire certain property interests along or within the planned corridor of the Ware’s Creek – Canal Dredging Project by purchase from the owner; and

WHEREAS, the Board of County Commissioners has heretofore authorized the institution of eminent domain proceedings to acquire said property, all as described and set out in Resolution R-13-022; 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 property hereinafter described.

2. Manatee County cannot proceed with the necessary improvements to Ware's Creek – Canal Dredging Project until it acquires title to the hereinafter-described property.

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 property to be taken is more particularly described in Schedule 1 which is attached hereto and made a part hereof.

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

ADOPTED with a quorum present and voting this ____ day of February, 2013.

BOARD OF COUNTY COMMISSIONERS
MANATEE COUNTY, FLORIDA

By: Larry Bustle
Chairman

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

By: Wesley Jessner
Deputy Clerk



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EB 0027476 LS 0006682 LC 0000365

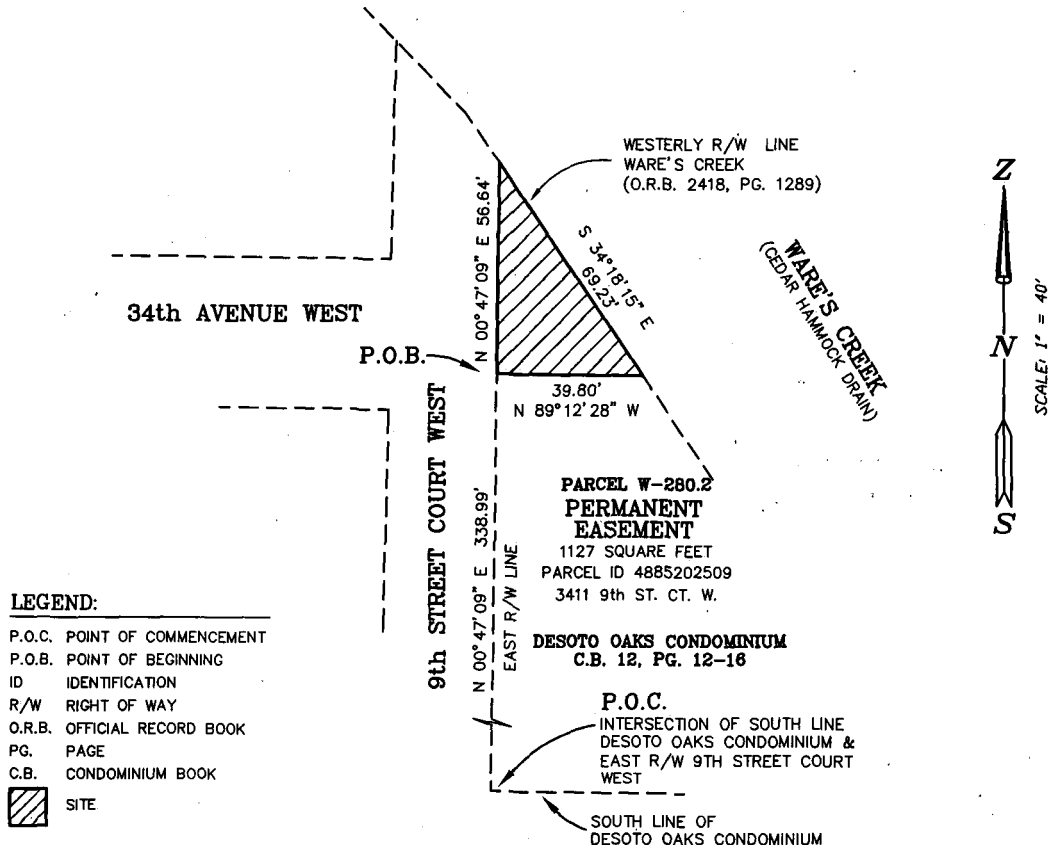
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BY:
JAMES N. GALT, STATE OF FLORIDA
FLORIDA CERTIFICATE NO. 15325
DATE OF CERTIFICATION 08/24/12

PARCEL W-280.2
PERMANENT EASEMENT
PROJECT No. 465-6028801

SCHEDULE 1

Manatee County Government Administrative Center
Commission Chambers, First Floor
9:00 a.m. - February 12, 2013

February 12, 2013, Regular Meeting
Agenda Item #13

APPROVED in Open Session
Manatee County Board of County Commissioners

Subject

Ware's Creek, Phase III, Authorization to commence and to prosecute eminent domain proceedings, Permanent Easement, Parcel W-280.2, DeSoto Oaks Ventures, LLC

Briefings

None

Contact and/or Presenter Information

Rodney C. Wade, Assistant County Attorney / Sandi Murphy
Ext. 3750

Action Requested

Adoption of Resolution R-13-022, determining public purpose and necessity for the acquisition of a certain parcel of privately owned realty, as related to the proposed dredging of Ware's Creek.

Adoption of Resolution R-13-023, authorizing the use of eminent domain "quick take" proceedings in the acquisition of a certain parcel of privately owned realty, as related to the proposed dredging of Ware's Creek.

Enabling/Regulating Authority

Chapters 73, 74, and 127, Florida Statutes

Background Discussion

Manatee County proposes to construct a storm water improvement project within the Ware's Creek flood plain to relieve periodic flooding of properties downstream. The Ware's Creek storm water improvement project area includes that area of land in the 100-year flood plain of the creek beginning at Cortez Road West and 9th Street West proceeding north through the city limits of Bradenton to the Manatee River. This project is a CIP-approved project.

A 1,127 sq. ft. Permanent Easement, Parcel W-280.2, is required on property owned by DeSoto Oaks Ventures, LLC, located on 9th Street Court West. The County's expert appraiser, L. Burl Wilson, MAI, has concluded to an appraised value of \$2,500.

The County has previously notified the fee owner and business owner of their rights and obligations pursuant to Section 73.015, Florida Statutes. 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.

Specific information on the appraised value of the land to be acquired can be provided at the time of presentation of this matter, if the Board so desires.

Copies to:

Ron Schulhofer, Director, Public Works Department
Sia Mollanazar, P.E., Deputy Director, Engineering Services Division
Jeff Streitmatter III, P.E., Manager, Project Management Division
Walter Sowa, Project Manager, 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

County Attorney Review

Other (Requires explanation in field below)

Explanation of Other

This is a County Attorney item.

Reviewing Attorney

N/A

Instructions to Board Records

Forward three (3) certified copies of each Resolution, with attachment, to Assistant County Attorney, Rodney C. Wade. [Sent Via Inner-office 2/14/13 \(vj\)](#)

Forward one (1) approved copy of this Agenda Memo to Assistant County Attorney, Rodney C. Wade (rodney.wade@mymanatee.org). [Sent Via Email 2/14/13 \(vj\)](#)

Cost and Funds Source Account Number and Name

\$2,500.00 / Manatee County Storm Water Capital Improvement 465-6028801-561000/6028801-003

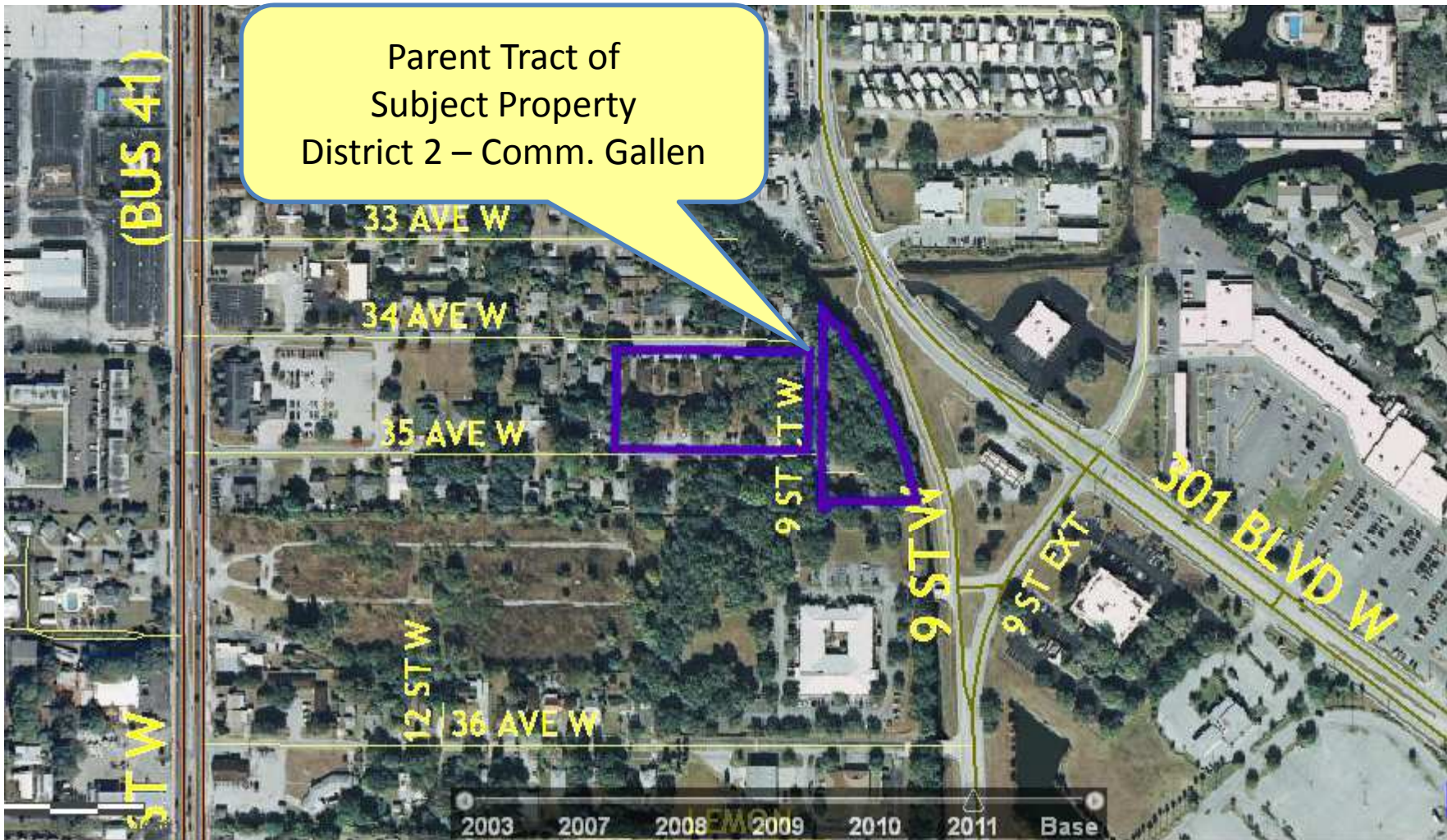
Amount and Frequency of Recurring Costs

N/A

Attachment: [AerialMap Parcel W280.2 PermanentEasement.pdf](#)

Attachment: [Resolution R-13-022.pdf](#)

Attachment: [Resolution R-13-023.pdf](#)



Ware's Creek Project
Parcel W-280.2
(DeSoto Oaks Ventures, LLC)



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Item Author : View Agenda Item

Agenda

February 12, 2013, Regular Meeting

Category

B. CONSENT AGENDA

Sub-Category

Attorney

APPROVED IN OPEN SESSION 2-12-13
BOARD OF COUNTY COMMISSIONERS, MANATEE COUNTY,

Approval Path

CAO (MP)

Subject

Ware's Creek, Phase III, Authorization to commence and to prosecute eminent domain proceedings, Permanent Easement, Parcel W-280.2, DeSoto Oaks Ventures, LLC

Briefings

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Ext. 3750

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County Attorney Review

Other (Requires explanation in field below)

Explanation of Other

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Reviewing Attorney

N/A

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Cost and Funds Source Account Number and Name

\$2,500.00 / Manatee County Storm Water Capital Improvement 465-6028801-561000/6028801-003

Amount and Frequency of Recurring Costs

N/A

Attachments: (list)



[AerialMap Parcel W280.2 PermanentEasement.pdf](#)



[R-13-022.pdf](#)



[R-13-023.pdf](#)

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Sandra Murphy - ()
Role : Item Author

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