

**Lee County Board of County Commissioners
Agenda Item Summary**

Blue Sheet No. 20040343

1. REQUESTED MOTION:

ACTION REQUESTED: Approve and execute a Partial Modification of Restrictions and a Partial Assignment and Assumption of Dedication No. 23255 for the Chamber of Commerce site to be transferred to the City of Cape Coral. This requested action is based upon a Resolution enacted on August 19, 2003, requesting the State of Florida approve the transfer and assignment of submerged lands to the City of Cape Coral.

WHY ACTION IS NECESSARY: To complete the transfer of the submerged lands, the Department of Environmental Protection is requesting the County execute these two documents.

WHAT ACTION ACCOMPLISHES: Transfers the submerged lands not needed for County road and bridge-related purposes to the City of Cape Coral.

**2. DEPARTMENTAL CATEGORY:
COMMISSION DISTRICT #**

A12A

3. MEETING DATE:

04-06-2004

4. AGENDA:

- CONSENT
- ADMINISTRATIVE
- APPEALS
- PUBLIC
- WALK ON
- TIME REQUIRED:

**5. REQUIREMENT/PURPOSE:
(Specify)**

- STATUTE
- ORDINANCE
- ADMIN. CODE
- OTHER Resolution #03-08-47

6. REQUESTOR OF INFORMATION:

- A. COMMISSIONER
- B. DEPARTMENT County Attorney
- C. DIVISION General Services
- BY: Andrea R. Fraser
Assistant County Attorney

7. BACKGROUND: On August 19, 2003, the Board of County Commissioners approved Lee County Resolution No. 03-08-47, requesting the State of Florida approve the transfer and assignment of Submerged Lands Dedication No. 23255 to the City of Cape Coral. The State approved the request of the County, the City and the Chamber of Commerce, and have forwarded the appropriate documents for execution by the Parties. Once the documents are fully executed, they will be returned to the State for further processing and completion of the transfer.

8. MANAGEMENT RECOMMENDATIONS:

9. RECOMMENDED APPROVAL:

A Department Director	B Purchasing or Contracts	C Human Resources	D Other	E County Attorney	F Budget Services				G County Manager	
N/A	N/A	N/A	N/A	<i>Andrea Fraser</i>	<i>APM 3/25/04</i>	OA	OM	RISK	GC	<i>3-25-04</i>
						<i>PKS/24</i>	<i>3/25</i>	<i>3/25/04</i>	<i>3/25/04</i>	

10. COMMISSION ACTION:

- APPROVED
- DENIED
- DEFERRED
- OTHER

RECEIVED BY
COUNTY ADMIN: *PK*
03/24/04
4:10 PM CST
COUNTY ADMIN
FORWARDED TO: *PR*
3-25-04
4 PM

CO. ATTY. *3/24/04*
FORWARDED
TO CO. ADMIN.
3:55 PM

DS

LEE COUNTY RESOLUTION NO. 03-08-47

A RESOLUTION OF THE BOARD OF COUNTY COMMISSIONERS OF LEE COUNTY, FLORIDA, REQUESTING THE STATE OF FLORIDA, BOARD OF TRUSTEES OF INTERNAL IMPROVEMENT TRUST TO APPROVE THE TRANSFER AND ASSIGNMENT TO AND ASSUMPTION OF SOVEREIGN SUBMERGED LAND DEDICATION #2325 BY THE CITY OF CAPE CORAL, FLORIDA WITH ANY REQUIRED AMENDMENTS OR RELEASES OF SAID DEDICATION TO THE CITY.

WHEREAS, on or about January 4, 1963, the State of Florida executed the attached Dedication of Sovereign Submerged Lands, "Exhibit A" hereto; and

WHEREAS, the Submerged Lands as so dedicated, hereinafter called "The Parcel", provided lands for Lee County to use for public road purposes and potentially other public purposes not in conflict with road purposes; and

WHEREAS, the County determined that the Cape Coral Chamber of Commerce was a bonafide not-for-profit corporation which provides a useful service in the common interests of the people of Lee County by supporting and promoting County and City projects in the advertising, welfare, recreation and enhancement of goodwill toward Lee County and Cape Coral, Florida; and

WHEREAS, Lee County in 1976 leased a small portion of "The Parcel" to the Cape Coral Chamber of Commerce in order that said entity could perform a public service in using the parcel as a public Welcome Center and related uses; and

WHEREAS, the County does not presently or in the future need a significant portion of "The Parcel" for road and bridge related purposes; and

WHEREAS, "The Parcel" was by Legislative Act recently included within the municipal boundaries of the City of Cape Coral, Florida; and

WHEREAS, the City of Cape Coral seeks the ability to provide future planning, use and redevelopment of that portion of "The Parcel" that Lee County does not need for road and road related purposes; and

WHEREAS, the City's ability to plan and redevelop "The Parcel" will be for the overall benefit of the citizens of Lee County and Cape Coral; and

WHEREAS, Lee County by Resolutions 1-04-07 and 1-04-08, attached as "Exhibit B", previously supported the City of Cape Coral's assumption of said Submerged Land Dedication and the City's participation in State funding opportunities in order to improve "The Parcel".

NOW, THEREFORE, BE IT RESOLVED BY THE BOARD OF COUNTY COMMISSIONERS OF LEE COUNTY, FLORIDA THAT:

1. The above recitations are hereby found and declared to be true and accurate, and are approved and adopted herein as if set out further at length in this section.
2. Lee County, Florida hereby requests and petitions the State of Florida, Board of Trustees of Internal Improvement Trust and related State Agencies, to assign and transfer Sovereign Submerged Land Dedication #2325 to the City of Cape Coral, Florida, with the City assuming said dedication with any required amendments or releases of said dedication as deemed necessary by the parties.
3. The County continues to support the City of Cape Coral's assumption of Sovereign Submerged Land Dedication #2325, as articulated in Resolution 1-04-07.

4. Said transfer to and assumption by the City of Cape Coral, Florida, is to include "The Parcel", except that portion as reserved by the County for its existing road and bridge related uses and needs. The County will provide a survey thereof as an integral part of the application process.

5. The County respectfully requests the State of Florida, Board of Trustees of Internal Improvement Trust and any affected State Agencies to favorably approve this request and petition and to further favorably resolve any outstanding issues pertaining to the use of "The Parcel".

6. Lee County, its employees, and designees are hereby directed to proceed to take those actions reasonably necessary to accomplish the intent of this resolution request, to include coordination, as necessary, with the City of Cape Coral and Cape Coral Chamber of Commerce to effectuate this requested assignment and assumption.

7. This Resolution shall become effective upon its adoption by a majority vote of the Board of County Commissioners sitting at a regularly scheduled Board meeting.

The foregoing Resolution was adopted by the Lee County Board of County Commissioners upon a motion by Commissioner Coy and seconded by Commissioner Janes, and upon being put to a vote, the result was as follows:

Robert P. Janes	<u>AYE</u>
Douglas R. St. Cerny	<u>AYE</u>
Ray Judah	<u>AYE</u>
Andrew W. Coy	<u>AYE</u>
John E. Albion	<u>AYE</u>

DULY PASSED AND ADOPTED this 19th day of August, 2003.

ATTEST:
CHARLIE GREEN, CLERK

BOARD OF COUNTY COMMISSIONERS
OF LEE COUNTY, FLORIDA

By: Michelle S Cooper
Deputy Clerk

By: Ray Judah
Chairman

APPROVED AS TO FORM:

By: James Gaeger
Lee County Attorney



TRUSTEES OF THE INTERNAL IMPROVEMENT FUND
OF THE STATE OF FLORIDA

DEDICATION

NO. 23255

KNOW ALL MEN BY THESE PRESENTS that the Trustees of the Internal Improvement Fund of the State of Florida, in pursuance of application by the Board of County Commissioners of Lee County, Florida for dedication of the sovereignty lands hereinafter described, for public road purposes, and in pursuance of authorization in meeting of said Trustees November 27, 1962, have dedicated and by these presents do hereby dedicate the following described sovereignty lands, in Lee County, Florida, to-wit:



All of the submerged bottoms and tidal areas in the Caloosahatchee River lying in Sections 8 and 17, Township 45 South, Range 24 East, Lee County, Florida, within 250 feet each side of the centerline of the Caloosahatchee River Bridge and approaches thereto, said centerline being described and located as follows:

For point of reference begin on the West boundary of Section 17, Township 45 South, Range 24 East, at a point which bears South 00° 01' 46" West 140.08 feet from the Northwest corner of said Section 17, run thence South 89° 58' 14" East 2303.81 feet to the beginning of a curve concave to the Southerly, having a radius of 2864.79 feet, run thence Southeasterly along said curve through a central angle of 22° 23' 29", 1119.57 feet to the end of curve; thence South 67° 34' 45" East, 4049.24 feet to a point on the East boundary of said Section 17, at a point which bears North 00° 58' 53" West 1792.28 feet from the Southeast corner of said Section 17. Containing 59.69 acres, more or less;

for (a) public road purposes under supervision and control of the Board of County Commissioners of Lee County, Florida, and (b) for such other public purposes compatible with and not in conflict with said public road purposes, as the Trustees may deem appropriate and formally approve.

This dedication is made subject to the following provisions and conditions, viz:

1. This dedication is given upon the express condition that it shall in no way jeopardize the vested rights of any riparian owner and the Board of County Commissioners named herein, by

acceptance hereof, agrees to initiate appropriate proceedings to indemnify any riparian owner who may suffer damage as a result of the construction of the public works contemplated in the application, upon the area herein dedicated, which riparian owner has not consented in writing to the construction of such public works.

- 2. The rights herein conferred to the Board of County Commissioners of Lee County for use of the above described lands for public road purposes shall extend to and include its officers, engineers, representatives and contractors, and to the State Road Department of Florida and/or the Federal Government as the interest of either in the road thereon may appear.
- 3. In the event the land herein described shall cease to be used for public road purposes and be abandoned three consecutive years by the Board of County Commissioners, the State Road Department of Florida and/or the Federal Government, then the dedication herein made for public road purposes shall become subject to revocation at the option of the Trustees of the Internal Improvement Fund.

IN TESTIMONY WHEREOF, the said Trustees have herunto subscribed their names and affixed their seal and have caused the seal of THE DEPARTMENT OF AGRICULTURE OF THE STATE OF FLORIDA to be hereunto affixed, at the Capitol, in the City of Tallahassee, on this the 4th day of January A. D. 1963

(SEAL)
Trustees I.I. Fund

[Signature] (SEAL)
Governor

[Signature] (SEAL)
Comptroller

[Signature] (SEAL)
Treasurer

[Signature] (SEAL)
Attorney General

(SEAL)
Dept. of Agriculture

[Signature] (SEAL)
Commissioner of Agriculture

As and Constituting the Trustees of the Internal Improvement Fund of the State of Florida.

STATE OF FLORIDA, COUNTY OF LEE

FILED FOR RECORD

This 11th Day of Jan 1963 Filed in 88
Book 170 Page 86 and Filed in 88

D. I. FARMER

**A RESOLUTION OF THE LEE COUNTY BOARD OF
COUNTY COMMISSIONERS SUPPORTING THE CITY
OF CAPE CORAL'S ASSUMPTION OF SOVEREIGN
SUBMERGED LAND DEDICATION #23255**

THIS IS A RESOLUTION of the Board of County Commissioners, Lee County, Florida, a political subdivision of the State of Florida, wherein it supports the City of Cape Coral's request to assume an assignment of the County's Sovereign Submerged Lands Dedication Number 23255.

WHEREAS, Lee County, Florida supports the efforts of the City of Cape Coral to seek certain planning and redevelopment of the eastern Cape Coral Parkway bridge area; and,

WHEREAS, Lee County, Florida currently holds a State of Florida Sovereign Submerged Lands Dedication Number 23255 between the County and the State of Florida, as the Trustees of the Internal Improvement Fund.

NOW THEREFORE, BE IT RESOLVED BY THE BOARD OF COUNTY COMMISSIONERS OF LEE COUNTY, FLORIDA, that:

The Board of County Commissioners supports the efforts of the City of Cape Coral and the Cape Coral Chamber of Commerce to pursue planning and redevelopment of the eastern Cape Coral Parkway bridge area. To pursue this effort, the City must be able to exercise lawful control over the subject land upon which the improvements may be made. To this end the Board supports the assignment of the Sovereign Submerged Lands

Dedication from the State to Lee County, to the City of Cape Coral. The Board of County Commissioners supports the request of the City to assign the County's Sovereign Submerged Lands Dedication Number 23255 to the City, which involves the lands located immediately west of the Cape Coral Bridge (Exhibit "A", hereto).

The foregoing Resolution was offered by Commissioner Coy, who moved its adoption. The motion was seconded by Commissioner Janes and, being put to vote, the vote was as follows:

BOB JANES	<u>Aye</u>
DOUGLAS ST. CERNY	<u>Aye</u>
RAY JUDAH	<u>Aye</u>
ANDREW W. COY	<u>Aye</u>
JOHN E. ALBION	<u>Absent</u>

DULY PASSED AND ADOPTED this 17th day of April, 2001.

ATTEST: CHARLIE GREEN
CLERK OF COURTS

By: Michelle A. Lesmer
Deputy Clerk

BOARD OF COUNTY COMMISSIONERS
OF LEE COUNTY, FLORIDA

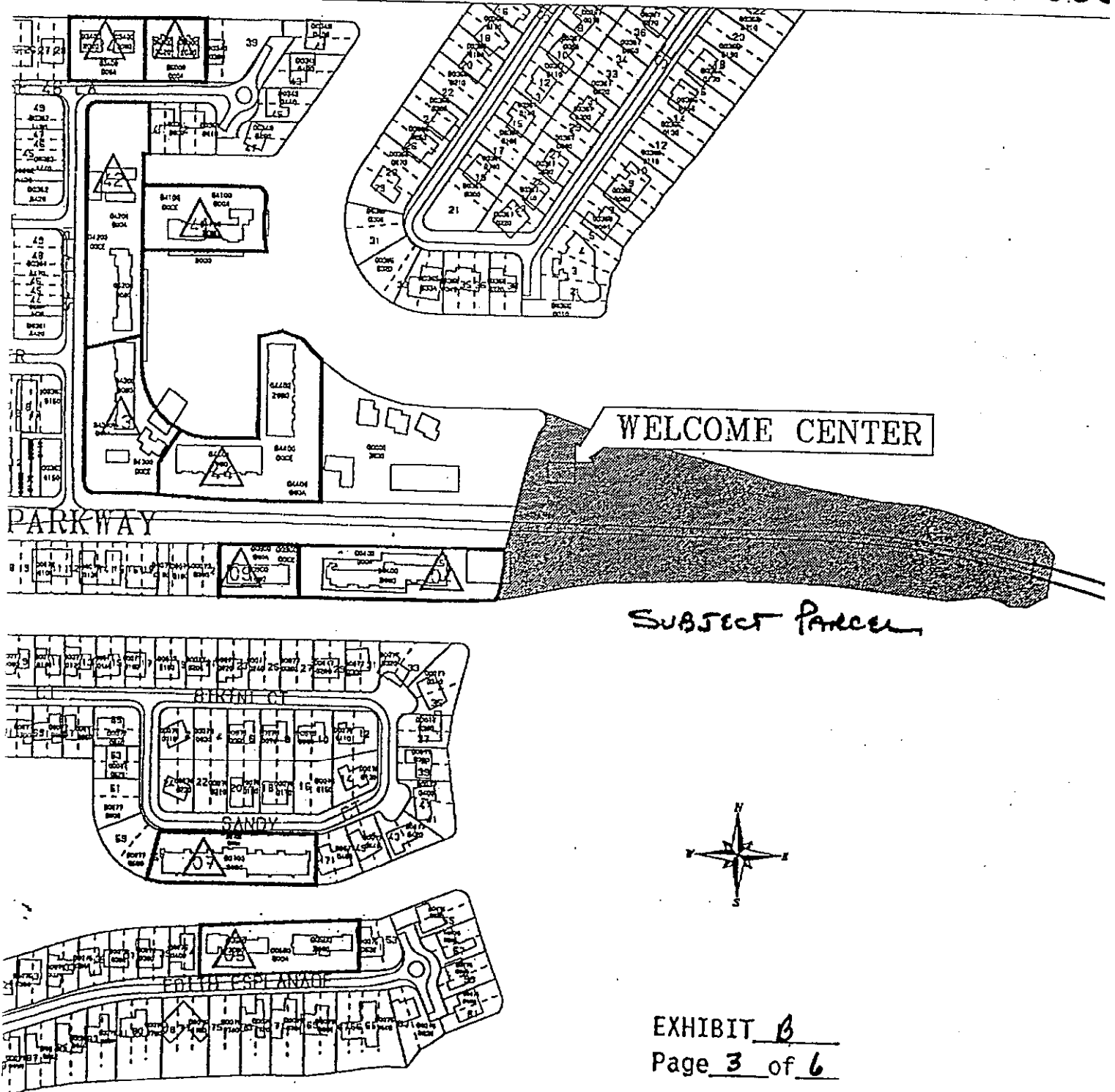
By: [Signature]
Vice-Chairman

APPROVED AS TO FORM:

By: [Signature]
Office of the County Attorney

EXHIBIT "A"

COUNTY OWNED PARCEL: 17-45-24-C1-000



LEE COUNTY RESOLUTION NO. 01-04-48

**A RESOLUTION OF THE LEE COUNTY BOARD OF
COUNTY COMMISSIONERS SUPPORTING THE CITY
OF CAPE CORAL'S PARTICIPATION IN THE STATE
OF FLORIDA WATERFRONT GRANT PROGRAM**

THIS IS A RESOLUTION of the Board of County Commissioners, Lee County, Florida, a political subdivision of the State of Florida, wherein it supports the City of Cape Coral and the Chamber of Cape Coral in their efforts to secure a grant from the State of Florida through the Waterfront Grant Program.

WHEREAS, Lee County, Florida supports the efforts of the City of Cape Coral to seek to make certain improvements on the County's property where the Chamber Building is currently located.

NOW THEREFORE, BE IT RESOLVED BY THE BOARD OF COUNTY COMMISSIONERS OF LEE COUNTY, FLORIDA, that:

The Board of County Commissioners supports the application to the Florida Department of Community Affairs by the City of Cape Coral, in conjunction with the Cape Coral Community Redevelopment Agency and the Chamber of Commerce of Cape Coral, to become a "Florida Waterfront Community" in order to pursue proposed planning and redevelopment of the eastern Cape Coral Parkway bridge approach area (Exhibit "A", hereto). The Board supports their efforts to participate in this Florida initiative managed by the Florida Department of Community Affairs' Coastal Management Division.

The foregoing Resolution was offered by Commissioner Coy, who moved its adoption. The motion was seconded by Commissioner Janes and, being put to vote, the vote was as follows:

BOB JANES	<u>Aye</u>
DOUGLAS ST. CERNY	<u>Aye</u>
RAY JUDAH	<u>Aye</u>
ANDREW W. COY	<u>Aye</u>
JOHN E. ALBION	<u>Absent</u>

DULY PASSED AND ADOPTED this 17th day of April, 2001.

ATTEST: CHARLIE GREEN
CLERK OF COURTS

By: Michelle S. Leisner
Deputy Clerk

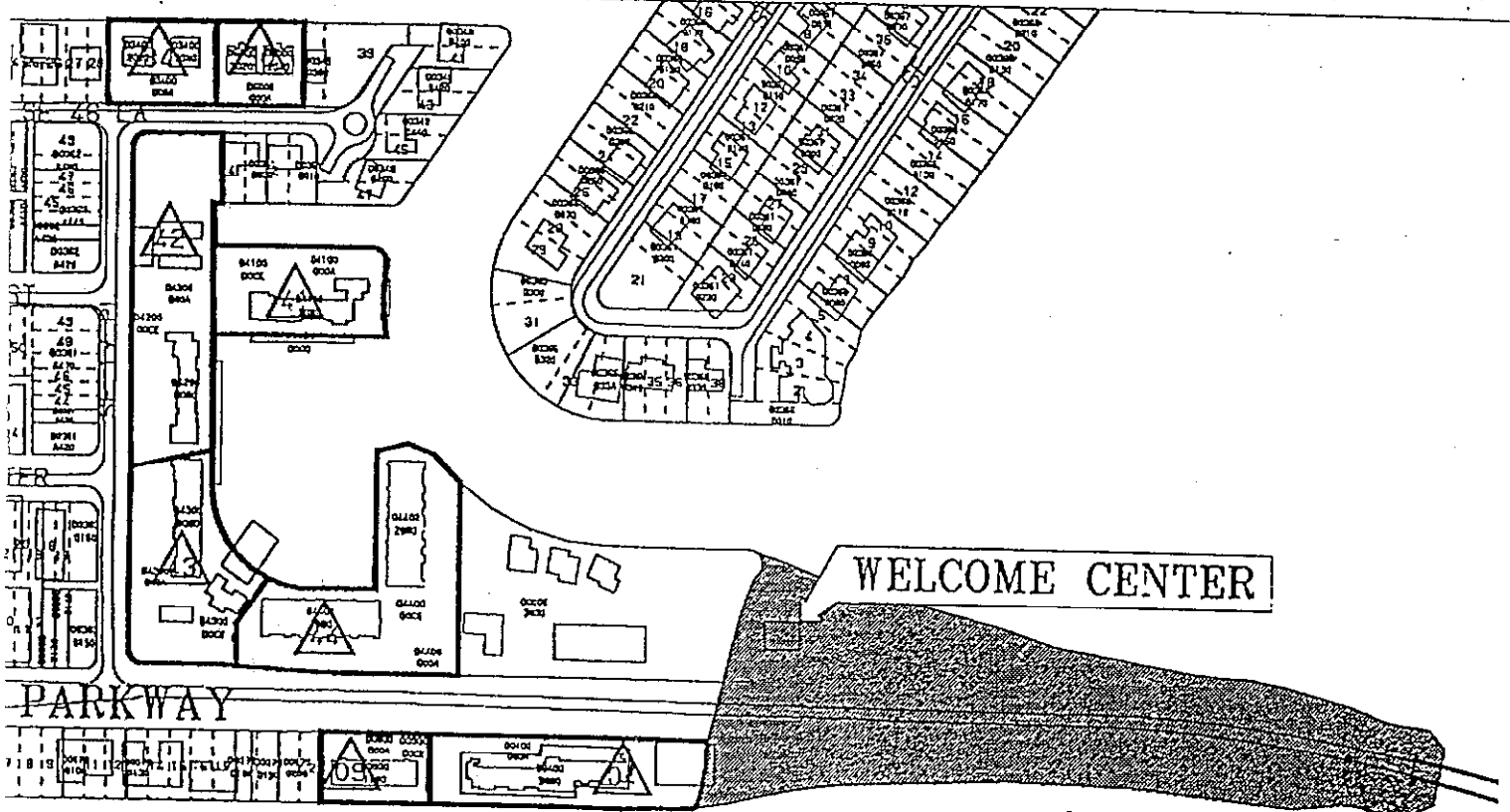
BOARD OF COUNTY COMMISSIONERS
OF LEE COUNTY, FLORIDA

By: [Signature]
Vice Chairman

APPROVED AS TO FORM:

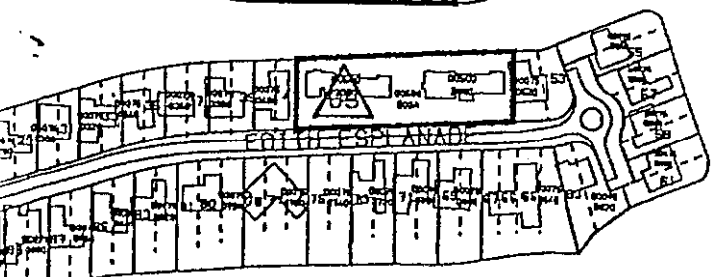
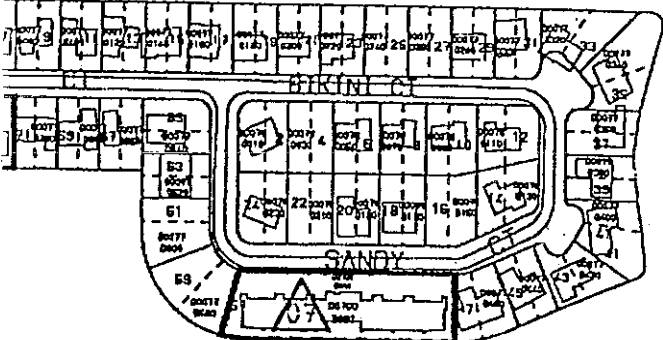
By: [Signature]
Office of the County Attorney

LEE COUNTY OWNED PARCEL: 17-45-24-C1-001



WELCOME CENTER

SUBJECT PARCEL





LEE COUNTY
SOUTHWEST FLORIDA

BOARD OF COUNTY COMMISSIONERS

Writer's Direct Dial Number: (239) 335-2236

Facsimile (239) 335-2606

Bob Janes
District One

Douglas R. St. Cerny
District Two

Ray Judah
District Three

Andrew W. Coy
District Four

John E. Albion
District Five

Donald D. Stilwell
County Manager

James G. Yaeger
County Attorney

Diana M. Parker
County Hearing
Examiner

March 12, 2004

Dolores Menendez, Esq.
City Attorney, City of Cape Coral
Post Office Box 150027
Cape Coral, Florida 33915-0027

**RE: DEDICATION NO. 23255 - LEE COUNTY, CITY OF CAPE CORAL,
FLORIDA AND CAPE CORAL CHAMBER OF COMMERCE**

Dear Ms. Menendez:

Enclosed are the Partial Modification of Restrictions and Partial Assignment and Assumption of Dedication No. 23255 for the Chamber of Commerce site to be transferred to the City of Cape Coral. Please have both documents executed and returned to me so that I may return them to the Department of Environmental Protection, along with the County's portion of the documents.

If you have any questions, please contact me at 335-2236.

Sincerely,

Andrea R. Fraser
Assistant County Attorney

ARF/dm
Enclosures

xc: James G. Yaeger, County Attorney
Robert W. Gray, Deputy County Attorney
David M. Owen, Chief Assistant County Attorney
Paul Wingard, P.E., Deputy Director, DOT
Karen Forsyth, Director, County Lands
Steve Pohlman, Director, Parks & Recreation Dept., City of Cape Coral

BOARD OF COUNTY COMMISSIONERS OF LEE COUNTY, FLORIDA
PARTIAL ASSIGNMENT AND ASSUMPTION OF
DEDICATION NO. 23255

Dedication No. 23255

The Board of County Commissioners of Lee County, Florida ("Assignor"), for value received does, subject to written consent of the Board of Trustees of the Internal Improvement Trust Fund of the State of Florida ("Board of Trustees"), hereby assign, transfer and convey all of its rights, title, and interest in and to the lands described in the attached Exhibit "A", which are a portion of the lands described in the above referenced Dedication No. 23255 made and entered into by and between the Board of Trustees as the dedicator and Assignor, as the dedicatee, to the City of Cape Coral ("Assignee"), subject to the performance by Assignee of all the covenants, conditions, and provisions required to be performed by the dedicatee under the terms of Dedication No. 23255, as amended, as they pertain to the lands hereby assigned to Assignee, and subject to the conditions and provisions therein set forth. Assignor, as dedicatee, shall continue to be responsible to perform all of the covenants, conditions, and provisions contained in Dedication No. 23255 for the lands described in Dedication No. 23255, as amended, except for the lands that are being assigned to Assignee by this Partial Assignment.

LEE COUNTY, FLORIDA
By its Board of County
Commissioners

Witness

Print/Type Witness Name

Witness

Print/Type Witness Name

By: _____ (SEAL)

Print/Type Name

Title: _____

(OFFICIAL SEAL)

Attest: _____

Print/Type Name

Title: _____

"Assignor"

STATE OF FLORIDA
COUNTY OF LEE

The foregoing instrument was acknowledged before me this _____ day of _____, 20____, by _____ and _____, as _____ and _____, respectively, on behalf of the Board of County Commissioners of Lee County, Florida. They are personally known to me.

(SEAL)

Notary Public, State of Florida

Print/Type Notary Name

Commission Number:

Commission Expires:

ACCEPTANCE OF PARTIAL ASSIGNMENT AND ASSUMPTION OF
DEDICATION NO. 23255

The City of Cape Coral, Florida ("Assignee"), in consideration of the foregoing Partial Assignment and Assumption of Dedication No. 23255, subject to written consent of the Board of Trustees, as dedicator, does hereby accept assignment of the lands described in Exhibit "A" which are a portion of the lands described in Dedication No. 23255, and assumes and agrees for the benefit of the Board of Trustees, as dedicator, to perform all covenants, agreements, conditions and provisions of Dedication No. 23255 as they pertain to the lands hereby assigned by the Board of County Commissioners of Lee County, Florida ("Assignor"). Further, with regard to the lands being assigned to the Assignee by this Assignment, Assignee agrees that it, its successors and assigns shall be bound for the due performance herein in the same manner as was the Assignor, as the original dedicatee in Dedication No. 23255.

CITY OF CAPE CORAL, FLORIDA

By: _____ (SEAL)

Witness

Print/Type Witness Name

Title: _____

Witness

"Assignee"

Print/Type Witness Name

STATE OF FLORIDA
COUNTY OF LEE

The foregoing instrument was acknowledged before me this _____ day of _____, 20____, by _____ and _____, as _____ and _____, respectively, on behalf of the City of Cape Coral, Florida. They are personally known to me.

Notary Public, State of Florida

Print/Type Notary Name

Commission Number:

Commission Expires:

CONSENT TO PARTIAL ASSIGNMENT AND ASSUMPTION OF
DEDICATION NO. 23255

The BOARD OF TRUSTEES OF THE INTERNAL IMPROVEMENT TRUST FUND OF THE STATE OF FLORIDA, the dedicator of the property described in Exhibit "A" attached hereto, consents to the foregoing Partial Assignment and Assumption of Dedication No. 23255 this ____ day of _____, 20__.

BOARD OF TRUSTEES OF THE INTERNAL
IMPROVEMENT TRUST FUND OF THE STATE
OF FLORIDA

BY: _____ (SEAL)
_____, ASSISTANT
DIRECTOR, DIVISION OF STATE
LANDS, DEPARTMENT OF
ENVIRONMENTAL PROTECTION

"GRANTOR"

STATE OF FLORIDA
COUNTY OF LEON

The foregoing instrument was acknowledged before me this ____ day of _____, 20__, by _____, Assistant Director, Division of State Lands, Department of Environmental Protection, as agent for and on behalf of the Board of Trustees of the Internal Improvement Trust fund of the State of Florida. She is personally known to me.

(SEAL)

Notary Public, State of Florida

Print/Type Notary Name

Commission Number:

Commission Expires:

Approved as to Form
and Legality

By: _____
DEP Attorney

DESCRIPTION

CITY OF CAPE CORAL AND CAPE CORAL CHAMBER OF COMMERCE

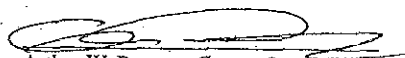
A parcel or tract of land located in Section 8 and 17, Township 45 South, Range 24 East and lying within the City of Cape Coral, Lee County, Florida being described as follows:

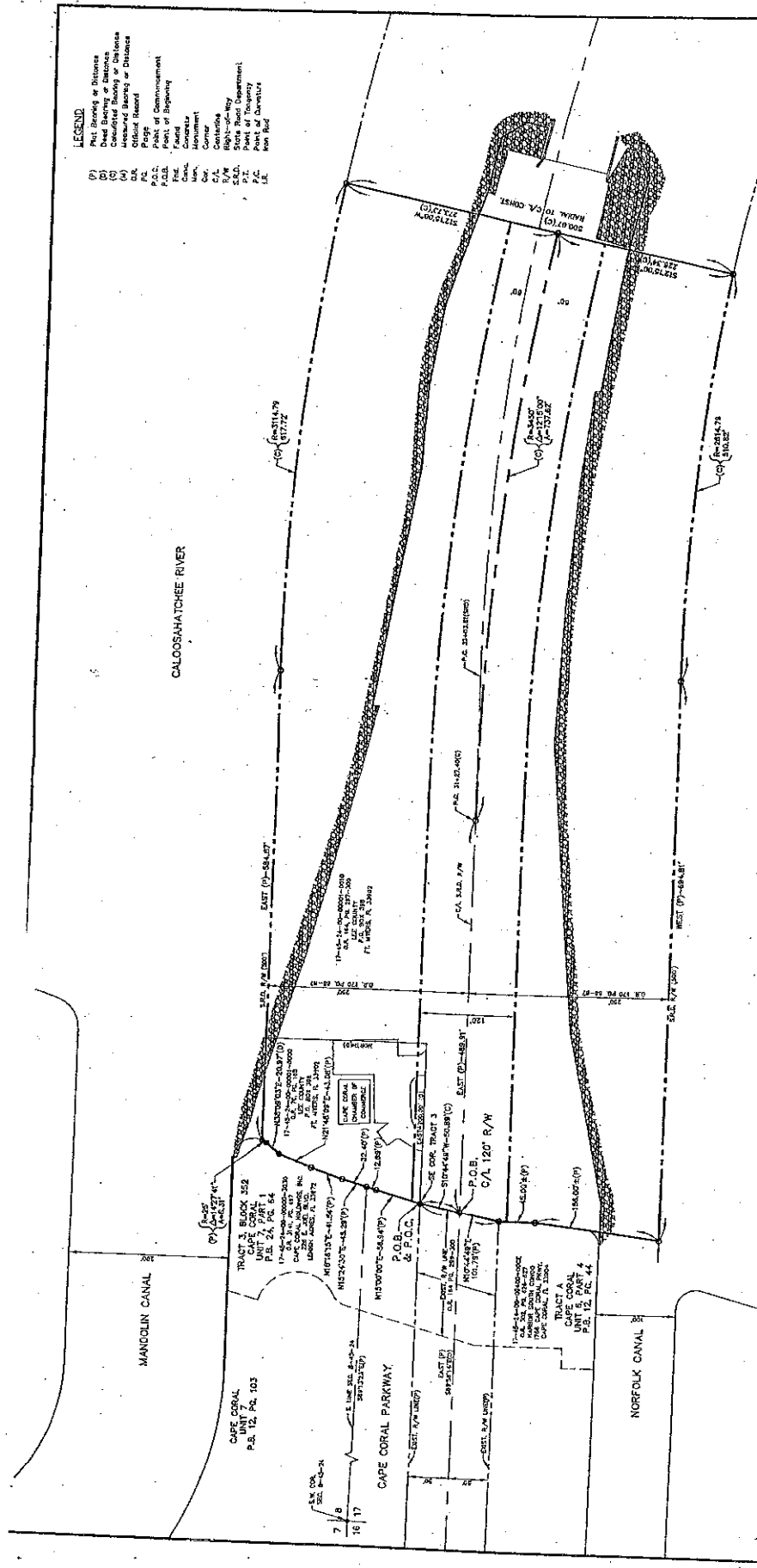
Commencing at the southeast corner of Tract 3, Block 352 according to the Plat of Cape Coral, Unit 7, Part 1 as recorded in Plat Book 24 at Pages 63 and 64 (said Tract 3 lying in Block 352 according to an affidavit recorded in Official Record Book 620 at Pages 126 and 127) in the public records of Lee County, Florida and the Point of Beginning of the parcel or tract described herein; thence run N 15°00'00" E along the easterly line of said tract 3 for a distance of 56.94 feet, thence continuing along the easterly line of said tract 3 and the following courses, run N 15°24'30"E for 45.29 feet; thence run N 18°16'15"E for 41.54 feet; thence run N21°48'09"E for 43.08 feet; thence run N38°09'03"E for 20.97 feet to the beginning of a curve to the left of radius 25.00 feet; thence run northeasterly along the arc of said curve having for its elements, a central angle of 14° 27' 41" for a distance 6.31 feet to a point on the north right of way line of a public road right of way (500 feet in width) as recorded in Official Record 170 at Pages 86 and 87 in aforesaid public records and to which a radial bears S 66° 18' 38" E; thence (departing the east line of said tract 3) run east along said public road right of way for a distance of 584.87 feet to the beginning of a curve to the right of radius 3114.79; thence run easterly along the arc of said public road right of way having for its elements a central angle of 11° 21' 46" , a chord bearing of S 84° 19' 07" E, chord distance of 616.17 feet for a distance of 617.72 to a point to which a radial line bears N 11° 21' 46 E; thence, departing said public road right of way line, run S12°15'0" W along a line that passes through the existing centerline of construction of Cape Coral Parkway at a distance of 273.73 feet for a distance of 500.07 feet to a point on the south line of said public road right of way to which a radial line bears N 11° 11' 35" E; thence run westerly along the arc of said curve to the left of radius 2614.79 feet and southerly line of said public road right of way having for its elements a central angle of 11° 11' 35, a chord bearing of N 84° 24' 13" W, a chord distance of 510.00-feet for a distance of 510.82 feet to a point of tangency; thence run west along said public road right of way line for a distance 694.81 feet (more or less) to a point on the southerly prolongation of the easterly boundary line of Harbor South, a Condominium filed in Condominium Plat Book 1 at page 57 as recorded in Official Record Book 302 at Pages 626 and 627 in said Public Records; Thence run northerly along said prolongation and said easterly boundary of Harbor South for a distance of 156 feet (more or less) to a point on said easterly boundary; thence run north along said easterly boundary for a distance of 45 feet (more or less) to the northeast corner of said Harbor South Condominium ; thence run N 10° 44' 49" E for a distance of 101.79 feet to the Point of Beginning.

Less and except a 120 foot wide strip of land reserved for road right of way for Cape Coral Parkway being described as:

A strip of land 120 feet in width, the centerline of which is described as commencing at the southeast corner of Tract 3, Block 352 of Cape Coral Unit 7, Part 1, said plat recorded in Plat Book 24 at Pages 63 and 64 (said Tract 3 lying in Block 352 according to an affidavit recorded in Official Record Book 620 at Pages 126 and 127) in the public records of Lee County, Florida; thence run S 10° 44' 49" W for a distance of 50.89 feet to the Point of Beginning of the centerline described herein; thence run east along said centerline, 120 feet in width (as measured on a perpendicular) for a distance of 489.91 feet to the beginning of a curve to the right of radius 3450.00 feet; thence run easterly along the arc of said curve, having for its elements a central angle of central angle of 12° 15' 00" for a distance of 737.62 feet to the end of the herein described centerline, the westerly and easterly lines of said 120 foot wide strip of land extending and shortening from a line commencing at the southeast corner of said Tract 3, Block 352 and the northeast corner of Harbor South, a Condominium filed in Condominium Plat Book 1 at page 57 as recorded in Official Record Book 302 at Pages 626 and 627 in said Public Records and a radial line at the end of the herein described centerline.

Bearings mentioned hereinabove are based on the plat of Plat of Cape Coral, Unit 7, Part 1 as recorded in Plat Book 24 at Pages 63 and 64 of the Public Records of Lee County, Florida, showing the north right-of-way line of Cape Coral Parkway as bearing N 90° 00' 00" W.


Arthur W. Parsons, County Surveyor
Professional Surveyor and Mapper
Florida Certificate No. LS-2987



LEGEND

(P) Plat Booking or Distance
 (B) Deed Booking or Distance
 (M) Measured Booking or Distance
 (C) Calculated Booking or Distance
 (S) Surveyed Booking or Distance
 (R) Right-of-Way
 (L) Lock
 (D) Ditch
 (E) Easement
 (F) Fictitious
 (G) Government
 (H) Highway
 (I) Interstate
 (J) Joint
 (K) Key
 (L) Line
 (M) Monument
 (N) Natural
 (O) Other
 (P) Point
 (Q) Quarter
 (R) Road
 (S) Section
 (T) Township
 (U) Utility
 (V) Vertical
 (W) Water
 (X) X
 (Y) Y
 (Z) Z

NOT A SURVEY
 SKETCH IS TO ACCOMPANY
 A LEGAL DESCRIPTION
 OF
 A PARCEL OR TRACT OF LAND
 LYING IN SECTION B & 17, TOWNSHIP 45 S.,
 RANGE 24 E., LEE COUNTY, FLORIDA

LEE COUNTY DEPARTMENT OF TRANSPORTATION
 Designed by: A.W.P. Date: 11/03 Blk 20003
 Drawn by: DOK Date: 11/03 Scale: 1"=120'
 CHK'd: A.W.P. Date: 11/03 030542701

SURVEYOR'S CERTIFICATION
 I HEREBY CERTIFY THAT THIS SKETCH AND DESCRIPTION WAS MADE UNDER MY DIRECTION AND CONTROL AND TO THE BEST OF MY KNOWLEDGE AND BELIEF MEETS THE MINIMUM TECHNICAL STANDARDS IN ACCORDANCE WITH THE FLORIDA ADMINISTRATIVE CODE PURSUANT TO CHAPTER 472.027, OF THE FLORIDA STATUTES.

DATE: 11/03
 Arthur W. Persada, County Surveyor
 Professional Surveyor & Mapper NOT VALID WITHOUT THE SIGNATURE AND THE ORIGINAL RAISED SEAL OF A FLORIDA LICENSED SURVEYOR & MAPPER
 Florida Certificate No. LS-2587

BOARD OF TRUSTEES OF THE INTERNAL IMPROVEMENT
TRUST FUND OF THE STATE OF FLORIDA

PARTIAL MODIFICATION OF RESTRICTIONS

DEDICATION NO. 23255

KNOW ALL MEN BY THESE PRESENTS: That

WHEREAS, the BOARD OF TRUSTEES OF THE INTERNAL IMPROVEMENT FUND OF THE STATE OF FLORIDA ("Grantor") is by Section 253.03, Florida Statutes, authorized and empowered to modify restricted uses for certain lands under the terms and conditions set forth herein; and,

WHEREAS, Grantor dedicated to the BOARD OF COUNTY COMMISSIONERS OF LEE COUNTY, FLORIDA ("Grantee") certain lands more particularly described in Dedication No. 23255, recorded in Official Record Book 170, Page 86, Public Records of Lee County, Florida; and

WHEREAS, said Dedication No. 23255 contains restrictions that limit the use of the lands for (a) public road purposes under supervision and control of the Board of County Commissioners of Lee County, Florida, and (b) for such other public purposes compatible with and not in conflict with said public road purposes, as the Grantor may deem appropriate and formally approve ("Restrictions"); and

WHEREAS, Grantee is desirous of conveying that portion of the lands conveyed to the Grantee by Dedication No. 23255, which is more particularly described in Exhibit "A" attached hereto and made a part hereof, to allow additional public uses, and in order to accomplish the same it is necessary that the Restrictions be modified on the lands described in Exhibit "A"; and

WHEREAS, Grantor did approve this Partial Modification of Restrictions on the ____ day of _____, 20____.

NOW THEREFORE, IT IS HEREBY COVENANTED AND AGREED:

THAT the Restrictions described in Dedication No. 23255 are hereby modified for the lands described in Exhibit "A" to include use of the lands for a Welcome Center/Chamber of Commerce and public park, which may include the leasing of portions of the lands to non-profit organizations and non-profit corporations only for the purposes specified above.

It is understood and agreed by Grantor and Grantee that in each and every respect the Restrictions in Dedication No. 23255 shall remain unchanged and in full force and effect on the lands described in Dedication No. 23255, less and except those lands described in Exhibit "A", and the same are hereby ratified, approved and confirmed by the Grantor and Grantee.

IN WITNESS WHEREOF, the parties have caused this Partial Modification of Restrictions to be executed the day and year first above written.

BOARD OF TRUSTEES OF THE INTERNAL
IMPROVEMENT TRUST FUND OF THE
STATE OF FLORIDA

By: _____ (SEAL)
_____, ASSISTANT
DIRECTOR, DIVISION OF STATE
LANDS, DEPARTMENT OF
ENVIRONMENTAL PROTECTION

Witness

Print/Type Witness Name

Witness

Print/Type Witness Name

STATE OF FLORIDA
COUNTY OF LEON

The foregoing instrument was acknowledged before me this ____ day of _____, 20____, by _____, as Assistant Director, Division of State Lands, Department of Environmental Protection, as agent for and on behalf of the Board of Trustees of the Internal Improvement Trust Fund of the State of Florida, who is personally known to me.

(SEAL)

Notary Public, State of Florida

Approved as to Form and Legality

Print/Type Notary Name

By: _____
DEP Attorney

Commission Number: _____

My Commission Expires:

Grantee hereby consents to all the terms and conditions contained herein.

LEE COUNTY, FLORIDA
By its Board of County
Commissioners

Witness

Print/Type Witness Name

Witness

Print/Type Witness Name

By: _____ (SEAL)

Print/Type Name

Title: _____

(OFFICIAL SEAL)

Attest: _____

Print/Type Name

Title: _____

STATE OF FLORIDA
COUNTY OF LEE

The foregoing instrument was acknowledged before me this ____ day of _____,
20 ____, by _____ and _____, as
_____ and _____, respectively, on
behalf of the Board of County Commissioners of Lee County, Florida. They are personally
known to me.

(SEAL)

Notary Public, State of Florida

Printed/Typed/Stamped Name

Commission Number:

Commission Expires:

DESCRIPTION

CITY OF CAPE CORAL AND CAPE CORAL CHAMBER OF COMMERCE

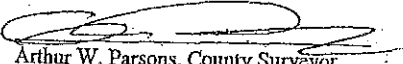
A parcel or tract of land located in Section 8 and 17, Township 45 South, Range 24 East and lying within the City of Cape Coral, Lee County, Florida being described as follows:

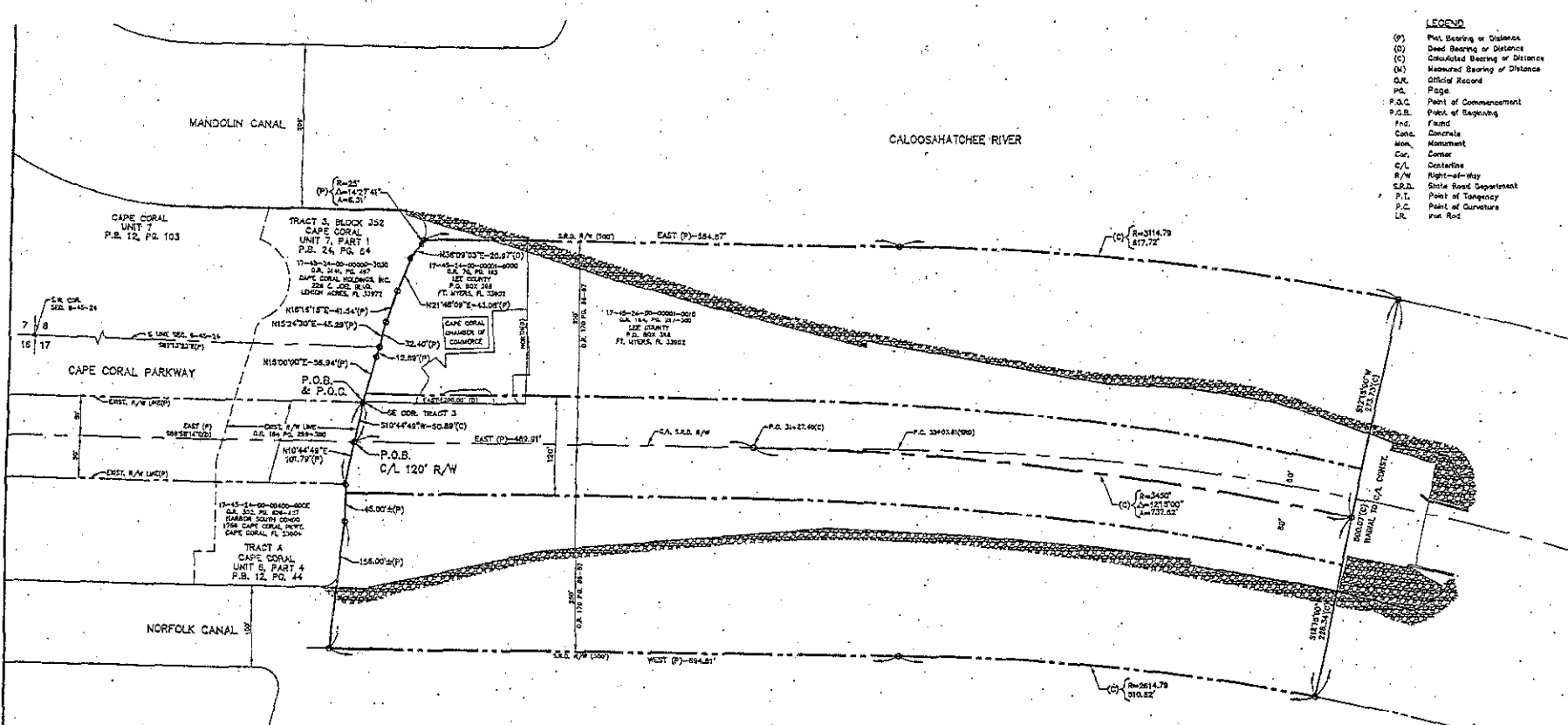
Commencing at the southeast corner of Tract 3, Block 352 according to the Plat of Cape Coral, Unit 7, Part 1 as recorded in Plat Book 24 at Pages 63 and 64 (said Tract 3 lying in Block 352 according to an affidavit recorded in Official Record Book 620 at Pages 126 and 127) in the public records of Lee County, Florida and the Point of Beginning of the parcel or tract described herein; thence run N 15°00'00" E along the easterly line of said tract 3 for a distance of 56.94 feet, thence continuing along the easterly line of said tract 3 and the following courses, run N 15°24'30"E for 45.29 feet; thence run N 18°16'15"E for 41.54 feet; thence run N21°48'09"E for 43.08 feet; thence run N38°09'03"E for 20.97 feet to the beginning of a curve to the left of radius 25.00 feet; thence run northeasterly along the arc of said curve having for its elements, a central angle of 14° 27' 41" for a distance 6.31 feet to a point on the north right of way line of a public road right of way (500 feet in width) as recorded in Official Record 170 at Pages 86 and 87 in aforesaid public records and to which a radial bears S 66° 18' 38" E; thence (departing the east line of said tract 3) run east along said public road right of way for a distance of 584.87 feet to the beginning of a curve to the right of radius 3114.79; thence run easterly along the arc of said public road right of way having for its elements a central angle of 11° 21' 46", a chord bearing of S 84° 19' 07" E, chord distance of 616.17 feet for a distance of 617.72 to a point to which a radial line bears N 11° 21' 46 E; thence, departing said public road right of way line, run S12°15'0" W along a line that passes through the existing centerline of construction of Cape Coral Parkway at a distance of 273.73 feet for a distance of 500.07 feet to a point on the south line of said public road right of way to which a radial line bears N 11° 11' 35" E; thence run westerly along the arc of said curve to the left of radius 2614.79 feet and southerly line of said public road right of way having for its elements a central angle of 11° 11' 35, a chord bearing of N 84° 24' 13" W, a chord distance of 510.00 feet for a distance of 510.82 feet to a point of tangency; thence run west along said public road right of way line for a distance 694.81 feet (more or less) to a point on the southerly prolongation of the easterly boundary line of Harbor South, a Condominium filed in Condominium Plat Book 1 at page 57 as recorded in Official Record Book 302 at Pages 626 and 627 in said Public Records; Thence run northerly along said prolongation and said easterly boundary of Harbor South for a distance of 156 feet (more or less) to a point on said easterly boundary; thence run north along said easterly boundary for a distance of 45 feet (more or less) to the northeast corner of said Harbor South Condominium; thence run N 10° 44' 49" E for a distance of 101.79 feet to the Point of Beginning.

Less and except a 120 foot wide strip of land reserved for road right of way for Cape Coral Parkway being described as:

A strip of land 120 feet in width, the centerline of which is described as commencing at the southeast corner of Tract 3, Block 352 of Cape Coral Unit 7, Part 1, said plat recorded in Plat Book 24 at Pages 63 and 64 (said Tract 3 lying in Block 352 according to an affidavit recorded in Official Record Book 620 at Pages 126 and 127) in the public records of Lee County, Florida; thence run S 10° 44' 49" W for a distance of 50.89 feet to the Point of Beginning of the centerline described herein; thence run east along said centerline, 120 feet in width (as measured on a perpendicular) for a distance of 489.91 feet to the beginning of a curve to the right of radius 3450.00 feet; thence run easterly along the arc of said curve, having for its elements a central angle of central angle of 12° 15' 00" for a distance of 737.62 feet to the end of the herein described centerline, the westerly and easterly lines of said 120 foot wide strip of land extending and shortening from a line commencing at the southeast corner of said Tract 3, Block 352 and the northeast corner of Harbor South, a Condominium filed in Condominium Plat Book 1 at page 57 as recorded in Official Record Book 302 at Pages 626 and 627 in said Public Records and a radial line at the end of the herein described centerline.

Bearings mentioned hereinabove are based on the plat of Plat of Cape Coral, Unit 7, Part 1 as recorded in Plat Book 24 at Pages 63 and 64 of the Public Records of Lee County, Florida, showing the north right-of-way line of Cape Coral Parkway as bearing N 90° 00' 00" W.


Arthur W. Parsons, County Surveyor
Professional Surveyor and Mapper
Florida Certificate No. LS-2987



- LEGEND**
- (P) Plat Bearing or Distance
 - (D) Dead Bearing or Distance
 - (C) Calculated Bearing or Distance
 - (M) Measured Bearing or Distance
 - O.R. Official Record
 - P.P. Page
 - P.O.C. Point of Commencement
 - P.O.B. Point of Beginning
 - Enc. Easement
 - Cont. Contour
 - Mon. Monument
 - Cor. Corner
 - C/L Centerline
 - R/W Right-of-Way
 - S.D. State Road Department
 - P.T. Point of Tangency
 - P.C. Point of Curvature
 - L.R. Lat. Rod

SURVEYOR'S CERTIFICATION

I HEREBY CERTIFY THAT THIS SKETCH AND DESCRIPTION WAS MADE UNDER MY DIRECTION AND CONTROL, AND TO THE BEST OF MY KNOWLEDGE AND BELIEF MEETS THE MINIMUM TECHNICAL STANDARDS IN ACCORDANCE WITH CHAPTER 11017-6 FLORIDA ADMINISTRATIVE CODE PURSUANT TO CHAPTER 472.027 OF THE FLORIDA STATUTES.

DATE: 11/03
 Matthew W. Peterson, County Surveyor
 Professional Surveyor & Mapper
 Florida Certificate No. LS-2367

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

NOT A SURVEY
 SKETCH IS TO ACCOMPANY
 A LEGAL DESCRIPTION
 OF
 A PARCEL OR TRACT OF LAND
 LYING IN SECTION 8 & 17, TOWNSHIP 45 S.,
 RANGE 24 E., LEE COUNTY, FLORIDA

LEE COUNTY DEPARTMENT OF TRANSPORTATION	
Designed by: A.W.P. Date: 11/03	Disk 20003
Drawn by: DOK Date: 11/03	Scale: 1"=120'
Chk'd: A.W.P. Date: 11/03	030542701