

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

Blue Sheet No. 20051506

1. ACTION REQUESTED/PURPOSE:

Authorize (1) approval of the acquisition of Parcel 101, by accepting donation of a Perpetual Non-exclusive Right of Way Easement for Bikepath/Sidewalk, for the Taylor Lane/Homestead Road Sidewalk, Project No. 4683; (2) pay necessary costs and fees to close; (3) authorize the Division of County Lands to handle and accept all documentation necessary to complete this transaction.

2. WHAT ACTION ACCOMPLISHES: Acquires the easement during the voluntary phase of the project, thereby the Board avoids the need to exercise its power of Eminent Domain at a future date.

3. MANAGEMENT RECOMMENDATION: Management recommends Board approve the Action Requested.

4. Departmental Category: 6 **CGH** 5. Meeting Date: **11-01-2005**

6. Agenda:		7. Requirement/Purpose: (specify)		8. Request Initiated:	
<input checked="" type="checkbox"/> Consent		<input checked="" type="checkbox"/> Statute	125	Commissioner	
<input type="checkbox"/> Administrative		<input type="checkbox"/> Ordinance		Department	Independent <i>[Signature]</i>
<input type="checkbox"/> Appeals		<input type="checkbox"/> Admin. Code		Division	County Lands <i>[Signature]</i>
<input type="checkbox"/> Public		<input type="checkbox"/> Other		By:	Karen L.W. Forsyth, Director <i>[Signature]</i>
<input type="checkbox"/> Walk-On					

9. Background:
Negotiated for: Department of Transportation

Interest to Acquire: Perpetual Bikepath/Sidewalk Easement

Property Details:
Owner: Colonial Bank, N.A., a National Association
Address: 1190 Homestead Road, Lehigh Acres, FL 33936
STRAP No.: 31-44-27-05-00001.0150

Purchase Details:
Purchase Price: Donation
Costs to Close: Estimated at \$50
The property owner is granting this interest to the County without requiring compensation for the real estate value.

Staff Recommendation: Staff recommends the Board approve the action requested.

Account: 40468330700.503490

Attachments: Bikepath/Sidewalk Easement, Title Search, Colonial Bank Letter of 10/4/05 and Signature Authorization

10. Review for Scheduling:

Department Director	Purchasing or Contracts	Human Resources	Other	County Attorney	Budget Services				County Manager/P.W. Director
					Analyst	Risk	Grants	Mgr.	
<i>[Signature]</i>				<i>[Signature]</i>	<i>[Signature]</i>	<i>[Signature]</i>	<i>[Signature]</i>	<i>[Signature]</i>	<i>[Signature]</i> 11/20/05

11. Commission Action:
 Approved
 Deferred
 Denied
 Other

RECEIVED BY COUNTY ADMIN: *[Signature]*
 10-30-05
 3:25
 COUNTY ADMIN FORWARDED TO: *[Signature]*
 10/30
[Signature]

Rec. by CoAtty
 Date: 11/19/05
 Time: 11:50am
 Forwarded To: *[Signature]*

THIS INSTRUMENT PREPARED BY:

Lee County
Division of County Lands
Post Office Box 398
Fort Myers, Florida 33902

Parcel: 101
Project: Taylor Lane/Homestead Road
Sidewalk Project No. 4683
Strap No.:31-44-27-05-00001.0150

ORIGINAL DOCUMENTS RETAINED IN
COUNTY LANDS FILES FOR HANDLING
UPON BOARD ACCEPTANCE.

**GRANT OF PERPETUAL
NON EXCLUSIVE RIGHT-OF-WAY EASEMENT
FOR BIKEPATH/SIDEWALK**

This INDENTURE, made and entered into this 4th day of October 2005, between COLONIAL BANK, N.A., a National Association, whose address is One Commerce St., Montgomery, AL 36104, hereinafter referred to as "Grantor", and LEE COUNTY, a political subdivision of the State of Florida, whose address is Post Office Box 398, Fort Myers, Florida 33902-0398, hereinafter referred to as "County":

WITNESSETH:

1. For good and valuable consideration, which is hereby acknowledged, Grantor hereby transfers to the County a perpetual non-exclusive public right-of-way easement for a bikepath/sidewalk situated in Lee County, Florida, located and described as set forth in Exhibit "A" attached hereto.

2. The County is hereby granted the right to construct, replace, renew, extend and maintain a public bikepath/sidewalk and appurtenant drainage system.

3. This right-of-way easement does not limit the construction of the bikepath/sidewalk or drainage system to a particular type, style, material or design.

4. Title to the improvements constructed hereunder will remain in the County.

5. The County will be responsible for maintenance of the bikepath/sidewalk facility.

6. Grantors covenant that they are lawfully seized and possessed of the property described in Exhibit "A", and have lawful right to convey this non-exclusive easement subject to existing easements for public highways or roads, railroads, laterals, ditches, pipelines and electrical transmission or distribution lines and telephone and cable television lines. Grantor will not place any interfering landscape material in the easement. Also, the Grantor will prevent the creation of obstructions or conditions which are or may become dangerous to the public within the easement.

7. The County will have a reasonable right of access for the purposes of reaching the described easement on either paved or unpaved surfaces. Any damage to Grantor's property or permitted improvements thereon as the result of such access to the described easement or the construction, maintenance, or repairs located within that easement will be restored by the County to the condition in which it existed prior to the damage.

8. **THIS AGREEMENT** shall be binding upon the parties hereto, their successors and assigns.

9. Grantor, by signing this easement grant, and Grantee, by accepting this easement grant, agree to abide by the terms and conditions contained herein.

IN WITNESS WHEREOF, Colonial Bank, N.A., a National Association, Grantor has caused this document to be signed on the date first above written.

TWO SEPARATE WITNESSES:

Martha B Hika
1st Witness Signature

Martha B Hika
Printed name of 1st Witness

A. Lampe
2nd Witness Signature

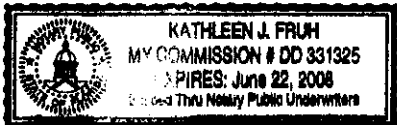
A. Lampe
Printed name of 2nd Witness

STATE OF Florida)
COUNTY OF Lee)

SWORN TO AND SUBSCRIBED before me this 4th day of October, 2005 by
Michael Esper of Colonial Bank, a
name of officer or agent, title of officer or agent) (name of corporation acknowledged)

National Organization corporation, on behalf of the corporation.
(state or place of incorporation)

He/She is personally known to me or has produced _____ as
identification. (type of identification)



Kathleen J. Fruh
(Signature of Notary Public)
Kathleen J. Fruh
(Name typed, printed or stamped)
(Title or Rank)
(Serial Number, if any)

DESCRIPTION

OF

Exhibit "A"

A parcel or tract of land being the southwesterly 10.00 feet of a parcel of land described and recorded in Official Record Book 4395 at Pages 188-189, Lee County Public Records, said parcel or tract lying in Section 31, Township 44 South, Range 27 East, Lee County, Florida, being more particularly described as follows:

Commencing at the southeast corner of Section 31, Township 44 South, Range 27 East, Lee County, Florida, thence run N 00° 52' 08" E along the east line of said section 31 for a distance of 1618.87 feet to a point on the northeasterly right of way line of Homestead Road (80 feet in Width); thence run N 45° 11' 33" W along said northeasterly right of way line for a distance of 1408.50 feet to a point at the northwesterly right of way line of Taylor Lane (Former Ashlar Avenue Vacated Per Official Record Book 2434, Pages 412-413 (60.00 foot right of way) as shown on the plat of Sunshine Shopping Plaza, recorded in Official Record Book 364, Pages 884-885, Lee County Public records and the Point of Beginning; thence continue N 45° 11' 33" W along the northeasterly right of way line of Homestead Road for a distance of 274.20 feet; thence (departing said northeasterly right of way line) run N 44° 48' 27" E along the northwesterly boundary line of the parcel of land described and recorded in Official Record Book 4395 at Pages 188-189, said public records for a distance of 10.00 feet; thence (departing said northwesterly line) run S 45° 11' 33" E along a line 10.00 northeasterly of (as measured on a perpendicular) the northeasterly line of said Homestead Road for a distance of 274.38 feet to a point on the northwesterly right of way line of said Taylor Lane and to which point a radial line bears N 43° 08' 45" W; thence run southwesterly along the arc of a non-tangential curve to the left of radius 280.00 feet having for its elements a central angle of 02° 02' 48", chord distance of 10.00 feet , chord bearing of S 45° 49' 51" W for a distance of 10.00 feet to the Point of Beginning containing 2742.61 square feet (0.0630 acres) more or less.

Bearings mentioned hereinabove are based on a parcel or tract of land recorded in Official Record Book 4395, Pages 188-189, Public Records of Lee County, Florida showing the east line of Section 31, Township 44 South, Range 27 East, Lee County, Florida as bearing N 00° 52' 08" E.



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

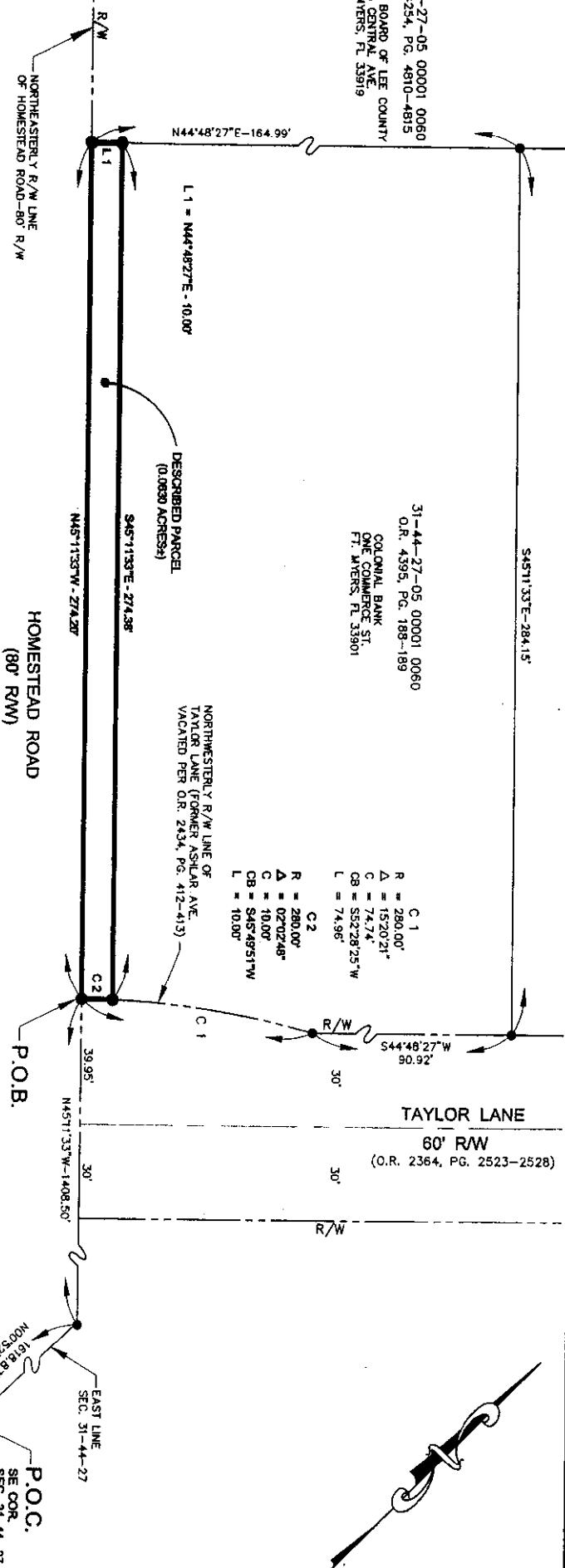
Exhibit "A"

31-44-27-05 00001 0060
 O.R. 4254, PG. 4810-4815
 SCHOOL BOARD OF LEE COUNTY
 2095 CENTRAL AVE
 FT. MYERS, FL 33919

31-44-27-05 00001 0060
 O.R. 4395, PG. 188-189
 COLONIAL BANK
 ONE COMMERCIAL ST.
 FT. MYERS, FL 33901

C 1
 R = 280.00'
 Δ = 1520.21'
 C = 74.74'
 CB = S82°28'25"W
 L = 74.96'

C 2
 R = 280.00'
 Δ = 02°02'48"
 C = 10.00'
 CB = S45°49'51"W
 L = 10.00'



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 61G17-6 FLORIDA ADMINISTRATIVE CODE PURSUANT TO CHAPTER 472.027 OF THE FLORIDA STATUTES.

W. Purston, County Surveyor
 Professional Surveyor & Mapper
 Florida Certificate No. LS-2987
 DATE: 09/05
 NOT VALID WITHOUT THE SIGNATURE AND THE ORIGINAL RAISED SEAL OF A FLORIDA LICENSED SURVEYOR & MAPPER.

NOTE:
 1. BEARINGS SHOWN HEREON ARE BASED ON O.R. 4395, PG. 188-189 SHOWING THE EAST LINE OF SECTION 31, TOWNSHIP 44 SOUTH, RANGE 27 EAST, LEE COUNTY, FLORIDA AS BEARING N0052°08'E.

- LEGEND**
- P.O.C. = POINT OF COMMENCEMENT
 - P.O.B. = POINT OF BEGINNING
 - O.R. = OFFICIAL RECORD BOOK
 - P.B. = PLAT BOOK
 - P.G. = PAGE
 - SEC. = SECTION
 - COR. = CORNER
 - (D) = DEED DISTANCE OR BEARING
 - (C) = CALCULATED DISTANCE OR BEARING
 - (P) = PLAT DISTANCE OR BEARING
 - (R/W) = RIGHT OF WAY
 - ESMT. = EASEMENT
 - CB = CHORD BEARING
 - C = CHORD DISTANCE
 - R = RADIUS
 - L = ARC LENGTH
 - Δ = DELTA

NOT A SURVEY
 SKETCH IS TO ACCOMPANY
 A LEGAL DESCRIPTION
 OF
 A PARCEL OR TRACT OF LAND
 LYING IN SECTION 31, TOWNSHIP 44 S.,
 RANGE 27 E., LEE COUNTY, FLORIDA

DESIGNED BY A.W.P. DATE: 09/05		DRAWN BY D.O.K. DATE: 09/05	
CHECKED BY A.W.P. DATE: 09/05		SCALE: 1"=40'	
DESIGNED BY A.W.P. DATE: 09/05		DRAWN BY D.O.K. DATE: 09/05	
CHECKED BY A.W.P. DATE: 09/05		SCALE: 1"=40'	
DESIGNED BY A.W.P. DATE: 09/05		DRAWN BY D.O.K. DATE: 09/05	
CHECKED BY A.W.P. DATE: 09/05		SCALE: 1"=40'	

Division of County Lands**Ownership and Easement Search**

Search No. 31-44-27-05-00001.0150

Date: September 19, 2005

Parcel:

Project: Taylor Lane/Homestead Road
Sidewalk, Project #4683To: Karen Forsyth SRWA
DirectorFrom: Kenneth Pitt *K.M.P.*
Real Estate Title Examiner

STRAP: 31-44-27-05-00001.0150

Effective Date: July 20, 2005, at 5:00 p.m.**Subject Property:** See Attached Schedule.

Title to the subject property is vested in the following:

Colonial Bank, N.A.By that certain instrument dated July 2, 2004, recorded August 9, 2004, in Official Record Book 4395 Page 188, Public Records of Lee County, Florida.**Easements: 1): Subject to Sewer and Water Covenants and Restrictions, recorded in Official Record Book 10 Page 695 and was amended by Official Record Book 41 Page 264, Public Records of Lee County, Florida.****2): Subject to an Order Extending the Boundaries of the East County Water Control District, recorded in Official Record Book 67 Page 673, Public Records of Lee County, Florida.****3): Subject to an Easement 6 feet in width granted to Lehigh Utilities, recorded in Official Record Book 327 Page 95, Public Records of Lee County, Florida.****4): Subject to and Easement 6 feet in width granted to Lehigh Utilities, recorded in Official Record Book 379 Page 281, Public Records of Lee County, Florida****5): Subject to an Easement granted to the Lee County Electric Co-operative, Inc., recorded in Official Record Book 3690 Page 1991, Public Records of Lee County, Florida.****6): Subject to an Assignment of Easements Florida Water Services Corporation (successor in interest to Lehigh Utilities in providing water and sewer service) assigned all of their easement rights to Florida Governmental Utility Authority, recorded in Official Record Book 4150 Page 900, Public Records of Lee County, Florida.****Note 1): Subject property is not encumbered by a mortgage found of record.**

Division of County Lands

Ownership and Easement Search

Search No. 31-44-27-05-00001.0150

Date: September 19, 2005

Parcel:

Project: Taylor Lane/Homestead Road
Sidewalk, Project #4683

Note 2): Subject to Lee County Ordinance No. 86-14, relating to garbage and solid waste collection, recorded in Official Record Book 2189 Page 3281 and amended in Official Record Book 2189 Page 3334, Public Records of Lee County, Florida.

Note 3): Subject to a Notice of Development Order Approval, recorded in Official Record Book 3587 Page 1892, Public Records of Lee County, Florida.

Tax Status: Taxes for Tax Year 2004 due & owing in the sum of \$13,346.63, Tax Certificate issued.

(The end user of this report is responsible for verifying tax and/or assessment information.)

The Division of County Lands has made a diligent search of the Public Record. However, this report contains no guarantees nor warranty as to its accuracy.

Division of County Lands**Ownership and Easement Search**

Search No. 31-44-27-05-00001.0150

Date: September 19, 2005

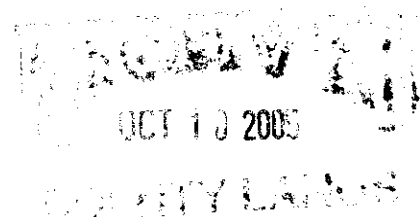
Parcel:

Project: Taylor Lane/Homestead Road
Sidewalk, Project #4683**Schedule A**

A Tract of Land lying in Section 31, Township 44 South, Range 27 East, Lee County, Florida, being more particularly described as follows:

Commencing at the SE Section corner of Section 31; thence run N 00° 52' 08" E, along the East line of Section 31 for 1618.87 feet to the NELY right of way line of Homestead Road (80 foot right of way); thence N 45° 11' 33" W, along said right of way line for 1408.50 feet to a point at the NWLY right of way line of Taylor Lane (formerly Ashlar Ave, vacated per O.R. Book 2424 Page 413) as shown on the plat of Sunshine Shopping Plaza, recorded in Official Record Book 364 Page 884-886, Lee County, Public Records, and the Point of Beginning;

- 1) thence continue N 45° 11' 33" W along the right of way of Homestead Road for 274.20 feet;
- 2) thence N 44° 48' 27" E for 164.99 feet
- 3) thence S 45° 11' 33" E for 284.15 feet, to a point on the NWLY right of way line of Taylor Lane Extension a 60 foot wide County Road right of way, recorded in O.R. Book 2364 Page 2523-2528;
- 4) thence along said right of way line, S 44° 48' 27" W for 90.92 feet;
- 5) thence SWLY along said right of way being a curve, concave to the SE and having a central angle of 15° 20' 21", a radius of 280 feet, a chord distance of 74.74 feet and an arc distance of 74.96 feet to the Point of Beginning.



"Financial Strength in Local Hands"

October 4, 2005

Mr. Michael J. O'Hare, SR/WA
Property Acquisition Agent
Lee County Department of Transportation
Division of County Lands
P.O. Box 398
Fort Myers, Florida 33902-0398

RE: Sidewalk/Bikepath Easement, Taylor Lane/Homestead Road Sidewalk,
Project No. 4683, 190 Homestead Road, Lehigh Acres

Dear Mr. O'Hare:

Attached is the signed Easement granting the authorization to transfer the Sidewalk/Bikepath Easement from Colonial Bank to donate this section to Lee County, as per the agreement on Exhibit "A" also attached.

Colonial Bank's Board of Directors do not act on these types of actions; they have given the bank's officers the authorization to sign on their behalf. I have attached a letter from our President and CEO that gives Michael Esper the authorization to sign on the Bank's behalf.

Please call if you have any questions.

Sincerely,

Kathleen J. Fruh
Executive Assistant

Copy: Michael Esper, Executive Vice President



COLONIAL BANK.

Member FDIC

"Financial Strength in Local Hands"

September 27, 2004

TO WHOM IT MAY CONCERN:

This letter will serve as authorization that **Michael Esper**, Executive Vice President, as an Officer of Colonial Bank, N.A. is hereby authorized and directed to make, execute, and deliver, or cause to be made, executed and delivered, all real estate and/or construction agreements, schedules, documents, warranty deeds, instruments and other papers and to pay such fees and expenses on behalf of Colonial Bank, N.A. as deemed necessary, appropriate or desirable.

Authorized by:

Harlan C. Parrish
President and Chief Executive Officer
Colonial Bank
Southwest Florida Region

An Affiliate of The Colonial BancGroup, Inc.
27200 Riverview Center Blvd., P.O. Drawer 2648, Bonita Springs, Florida 34134
Telephone 239/992-2201
www.colonialbank.com

AN EQUAL OPPORTUNITY EMPLOYER