

WALK-ON #7

Lee County Board Of County Commissioners

Blue Sheet No. 20060843

Agenda Item Summary

1. ACTION REQUESTED/PURPOSE: Authorize acceptance of donation of Parcels 100 & 101, Easements for the San Carlos Arches, MSBU Project No. GD541170234; payment of costs to close; the Division of County Lands to handle all documentation necessary to complete transaction.

2. WHAT ACTION ACCOMPLISHES: Acquires two easements for reconstruction and maintenance of Constitution Boulevard Arch at entrance to the San Carlos Park community.

3. MANAGEMENT RECOMMENDATION: Approve

4. Departmental Category: 6		5. Meeting Date: 06-27-2006	
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	
<input type="checkbox"/> Appeals	<input type="checkbox"/> Admin. Code	Division _____ County Lands	
<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: Public Resources/MSTBU

Interest to Acquire Easements

Property Details:

Parcel 100 Owner: Colonial Bank, an Alabama corporation, successor by merger to First National Bank of Bonita Springs

Address: 1 Commerce Street, Montgomery, AL 36104

STRAP No. 17-46-25-00-01001.0050

Parcel 101 Owner: H&G Hospitality, LLC, a Florida limited liability company

Address: 18051 S Tamiami Trail, Fort Myers, FL 33908

STRAP No. 17-46-25-00-01001.0060

Purchase Details:

Purchase Price: Donation

Costs to Close: Estimated to be \$200.

Account: Funds are available in Account No. GD5411710234.503190.1201 *[Handwritten initials]*

Attachments: Easements, Title Data, Location Map

10. Review for Scheduling:

Department Director	Purchasing or Contracts	Human Resources	Other	County Attorney	Budget Services			County Manager/P.W. Director
<i>[Signature]</i>			<i>[Signature]</i>	<i>[Signature]</i>	Analyst	Risk	Grants	Director
					6/26/06	6/26/06	6/26/06	6-26-06

11. Commission Action:
 Approved
 Deferred
 Denied
 Other

REC'D
 by CO. ATTY.
 6/26/06
 12:00 pm
 CO. ATTY.
 FORWARDED TO:
 6/26/06
 12:10 pm

RECEIVED BY
 COUNTY ADMIN:
 6-26-06 12:15 PM
 COUNTY ADMIN
 FORWARDED TO:
 6/26/06
 2:30 pm

This instrument prepared by:

LEE COUNTY
Division of County Lands
PO Box 398
Fort Myers, FL 33902

Project: San Carlos Arches, MSBU, Project No. GD541170234
Parcel: 100
STRAP: 17-46-25-00-01001.0050

EASEMENT

THIS EASEMENT made this 23rd day of June, 2006, by Colonial Bank, N.A., a national banking association, hereinafter called GRANTOR, to LEE COUNTY, a Political Subdivision of the State of Florida, whose address is PO Box 398, Fort Myers, FL 33902, hereinafter called GRANTEE:

1. For and in consideration of the sum of One Dollar (\$1.00) and other good and valuable consideration, receipt of which is hereby acknowledged, GRANTOR hereby grants, bargains, sells and transfers to the GRANTEE an easement over, under, and through the property which is described on the attached Exhibit "A", incorporated herein, for the structure known as the Constitution Boulevard Arch. If the arch should be permanently removed, not including the necessary removal for restoration or reconstruction, from the property, the easement granted herein shall automatically revert to the grantor, its successor in interest, heirs, or assigns.

2. GRANTEE is granted the right, privilege and authority to use the easement and reasonable use of the immediate adjoining property to said easement for construction, restoration, repair, maintenance, and removal of the arch, together with the right of ingress and egress, to restore, repair, maintain, or remove said arch.

3. GRANTOR covenants to and with GRANTEE that GRANTOR is lawfully seized and possessed of said lands, has good and lawful right and power to convey them, and that they are clear of all liens, and accordingly, GRANTOR does forever warrant and defend the title and terms to this easement and the quiet possession thereof against the lawful claims and demands of all persons.

IN WITNESS WHEREOF, GRANTOR has caused this document to be signed on the date first written above.

WITNESS:

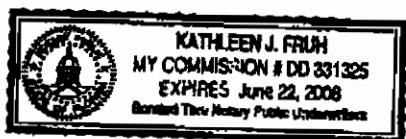
Kathy Godesky
1st Witness Signature
Kathy Godesky
Printed Name
D. Hays
2nd Witness Signature
Aniko Lampe
Printed Name

Michael Esper
Signature
Michael Esper, ERP
Printed Name
Colonial Bank, N.A.,
national banking association

STATE OF FLORIDA
COUNTY OF LEE

I HEREBY CERTIFY that on this day, before me, an officer duly authorized in the State and County aforementioned to take acknowledgements, personally appeared Michael Esper, to me known and known to be the person described in and who executed the foregoing instruments, and he acknowledged before me that he executed the same.

WITNESS my hand and official seal in the County and State last aforesaid this 23rd day of June, 2006.



Kathleen J. Fruh
Notary Public
(Seal)

APPROVED AS TO FORM

By: _____
County Attorney

JUN-26-2006 10:09

COLONIAL BANK EXEC

JOHNSON ENGINEERING, INC.

CIVIL ENGINEERS AND LAND SURVEYORS

1186 JOHNSON STREET
TELEPHONE IS 131-2343
TELECOPIER IS 131-2341
POST OFFICE BOX 1850
FORT MYERS, FLORIDA
33902-1850

May 23, 1989

Exhibit "A"

CARLE JOHNSON
1911-1989

DESCRIPTION
PARCEL A

IN THE NW-1/4 OF THE NW-1/4
SECTION 17, T. 46 S., R. 25 E.
LEE COUNTY, FLORIDA

UNZ086 PG0762

A tract or parcel of land lying in the northwest quarter (NW-1/4) of the northwest quarter (NW-1/4) of Section 17, Township 46 South, Range 25 East, Lee County, Florida which tract or parcel is described as follows:

From the southwest corner of said fraction of a section run N 88° 57' 23" E along the south line of said fraction for 458.34 feet to an intersection with the northeasterly line of U.S. 41 (State Road No. 45, Tamiami Trail) (100 feet from the centerline); thence run N 20° 35' 30" W along said northeasterly line for 920.52 feet; thence run southeasterly along the northerly line of Constitution Boulevard, along the arc of a curve to the left of radius 60.00 feet (delta 55° 54' 00") (chord 56.24 feet) (chord bearing S 48° 32' 30" E) for 58.54 feet to an intersection with a line parallel to and 5.00 feet southwesterly from the centerline of an existing concrete archway and the Point of Beginning of the herein described parcel.

From said Point of Beginning run N 28° 23' 06" W along said parallel line for 16.98 feet; thence run N 61° 36' 54" E for 10.00 feet to an intersection with a line parallel to and 5.00 feet northeasterly from said centerline; thence run S 28° 23' 06" E along said parallel line for 24.24 feet to an intersection with said northerly line of Constitution Boulevard; thence run northwesterly along said northerly line, along the arc of a curve to the right of radius 60.00 feet (delta 11° 49' 19") (chord 12.36 feet) (chord bearing N 82° 24' 10" W) for 12.38 feet to the Point of Beginning.

Bearings hereinabove mentioned are based on the record plat of Fort San Carlos Unit 1-A (Plat Book 21 at Page 98, Lee County Records).

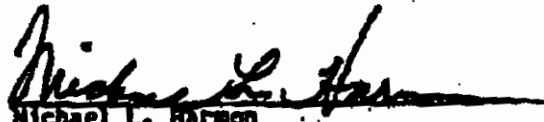
CHAIRMAN
ARCHIE T. GRANT, JR.

PRESIDENT
FORREST H. BANGS

JOSEPH W. ZBNER
STEVEN K. MORRISON
ANDREW D. TILTON
JEFFREY C. COOPER

DAN W. DICKSY
KENTON R. KELING
GEORGE J. KALAL
MICHAEL L. HARMON
THOMAS L. FENDLEY
W. DAVID KEY, JR.
W. BRITT POMEROY
CARL A. BARRACO

MLH/pd
17755


Michael L. Harmon
Professional Land Surveyor
Florida Certificate No. 2904

CONSULTANTS
LEIF E. JOHNSON
LESTER L. BULSON
ROBERT E. O'BRIEN

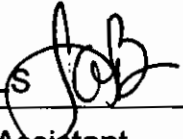
CHARLE GREEN LEE CIV FL
09 JUL 26 PM 3:43

AN EQUAL OPPORTUNITY EMPLOYER

Division of County Lands

Updated In House Title Search
Search No. 17-46-25-00-01001.0050
Date: May 18, 2006
Project: San Carlos Arches MSBU,
Project ARCHES

To: Michael J. O'Hare, SRWA
Property Acquisition Agent

From: Shelia A. Bedwell, CLS 
Property Acquisition Assistant

STRAP: 17-46-25-00-01001.0050

This search covers the period of time from July 18, 2005, at 5:00 p.m. to May 1, 2006 at 5:00 p.m.

Subject Property: See attached Exhibit "A"

Title to the subject property is vested in the following:

Colonial Bank, an Alabama corporation, successor by merger to First National Bank of Bonita Springs

by that certain instrument dated August 20, 1976, recorded August 23, 1976, in Official Record Book 1155, Page 451, Public Records of Lee County, Florida.

Subject to:

1. Title to oil, gas and mineral rights and leases on subject property is specifically omitted from this report.
2. Easement to United Telephone Company of Florida, recorded in Official Record Book 1180, Page 773, Public Records of Lee County, Florida.
3. Easement to Lee County for the existing portion of the Constitution Boulevard arches, recorded in Official Record Book 2086, Page 670, Public Records of Lee County, Florida.

NOTE: Upon review of the title, our office finds the arches overhang the County's right-of-way and the majority of the arches fall within that right-of-way, and by virtue of this, Lee County should own the arches. If the arches are not reconstructed, the easement recorded in Official Record Book 2086, Page 760, would be extinguished, due to a reverter clause. This office recommends that you obtain a legal opinion from the County Attorney's office to confirm this information.

Tax Status: 2005 taxes paid November 29, 2005 in the amount of \$24,263.71.
(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 or warranty as to its accuracy.

Division of County Lands

Updated In House Title Search

Search No. 17-46-25-00-01001.0050

Date: May 18, 2006

Project: San Carlos Arches MSBU,
Project ARCHES

Exhibit "A"

Beginning at the SW corner of the NW 1/4 of the NW 1/4 of Section 17, T46S, R25E, thence run East 328.46 feet to the centerline of S.R. "45", thence run Northwesterly along said centerline, 1030.65 feet, thence Northeasterly perpendicular to said centerline, 132.00 feet to the Northeasterly Right-of-Way of S.R. "45" and the P.O.B., thence run Southeasterly along said R/W, 157.00 feet to the P.C. of a curve to the left having a radius of 60 feet, thence run along the arc of said curve 111.56 feet to the P.O. of a curve to the right having a radius of 1063 feet, thence run along the arc of said curve 175.83 feet to a point on a line parallel to and 249 feet from the Northeasterly R/W of S.R. "45", thence Northwesterly along said line, 178.63 feet to a point perpendicular from the P.O.B., thence Southwesterly 249 feet to the P.O.B.

This instrument prepared by:

LEE COUNTY
Division of County Lands
PO Box 398
Fort Myers, FL 33902

Project: San Carlos Arches, MSBU, Project No. GD541170234
Parcel: 101
STRAP: 17-46-25-00-01001.0060

EASEMENT

THIS EASEMENT made this 2nd day of JUNE, 2006, by H&G HOSPITALITY, LLC, a Florida limited liability company, hereinafter called GRANTOR, to LEE COUNTY, a Political Subdivision of the State of Florida, whose address is PO Box 398, Fort Myers, FL 33902, hereinafter called GRANTEE:

1. For and in consideration of the sum of One Dollar (\$1.00) and other good and valuable consideration, receipt of which is hereby acknowledged, GRANTOR hereby grants, bargains, sells and transfers to the GRANTEE an easement over, under, and through the property which is described on the attached Exhibit "A", incorporated herein, for the structure known as the Constitution Boulevard Arch. If the arch should be permanently removed, not including the necessary removal for restoration or reconstruction, from the property, the easement granted herein shall automatically revert to the grantor, its successor in interest, heirs, or assigns.

2. GRANTEE is granted the right, privilege and authority to use the easement and reasonable use of the immediate adjoining property to said easement for construction, restoration, repair, maintenance, and removal of the arch, together with the right of ingress and egress, to restore, repair, maintain, or remove said arch.

3. GRANTOR covenants to and with GRANTEE that GRANTOR is lawfully seized and possessed of said lands, has good and lawful right and power to convey them, and that they are clear of all liens, and accordingly, GRANTOR does forever warrant and defend the title and terms to this easement and the quiet possession thereof against the lawful claims and demands of all persons.

4. The GRANTEE will be liable for money damages in tort for any injuries to or losses of property, personal injury, or death caused by the negligent or wrongful act(s) or omission(s) of any official or employee of the County while acting within the scope of the official's or employee's office or employment under circumstances in which a private person would be held to be liable in accordance with the general laws of the State of Florida, subject to the limitations as set out in Section 768.28, Florida Statutes, as it may be revised or amended from time to time.

IN WITNESS WHEREOF, GRANTOR has caused this document to be signed on the date first written above.

WITNESS:

Sue Teague
1st Witness Signature
Sue Teague
Printed Name
E. Elizabeth Dunn
2nd Witness Signature
E. Elizabeth Dunn
Printed Name

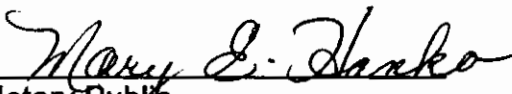
H&G HOSPITALITY, LLC, a
Florida limited liability company

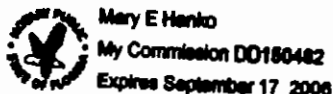
Nap J. Hire
Signature
Nap J. Hire, Managing Member
Printed Name

STATE OF FLORIDA
COUNTY OF LEE

I HEREBY CERTIFY that on this day, before me, an officer duly authorized in the State and County aforementioned to take acknowledgements, personally appeared NAN J. HIRE, to me known and known to be the person described in and who executed the foregoing instruments, and she acknowledged before me that she executed the same.

WITNESS my hand and official seal in the County and State last aforesaid this 2 day of June, 2006.


Notary Public
(Seal)



APPROVED AS TO FORM

By: _____

County Attorney

JOHNSON ENGINEERING, INC.

CIVIL ENGINEERS AND LAND SURVEYORS

2188 JOHNSON STREET
TELEPHONE #813 334-0848
TELECOPIER #813 334-3861
POST OFFICE BOX 1550
FORT MYERS, FLORIDA
33902-1550

May 23, 1989

Exhibit "A"

CARL E. JOHNSON
1911-1988

DESCRIPTION
PARCEL B

IN THE NW-1/4 OF THE NW-1/4
SECTION 17, T. 46 S., R. 25 E.
LEE COUNTY, FLORIDA

OR2086 PG0765

A tract or parcel of land lying in the northwest quarter (NW-1/4) of the northwest quarter (NW-1/4) of Section 17, Township 46 South, Range 25 East, Lee County, Florida which tract or parcel is described as follows:

From the southwest corner of said fraction of a section run N 88° 57' 23" E along the south line of said fraction for 468.34 feet to an intersection with the northeasterly line of U.S. 41 (State Road No. 45, Tamiami Trail) (100 feet from the centerline); thence run N 20° 35' 30" W along said northeasterly line for 705.88 feet; thence run northerly and northeasterly along the southerly line of Constitution Boulevard along the arc of a curve to the right of radius 25.00 feet (delta 67° 38' 31") (chord 27.83 feet) (chord bearing N 13° 13' 46" E) for 29.51 feet to a point of compound curvature; thence run northeasterly along an arc of a curve to the right of radius 957.00 feet (delta 01° 50' 55") (chord 30.88 feet) (chord bearing N 47° 58' 29" E) for 30.88 feet to an intersection with a line parallel to and 5.00 feet southwesterly from the centerline of an existing concrete archway and the Point of Beginning of the herein described parcel.

From said Point of Beginning run S 28° 23' 06" E along said parallel line for 16.89 feet; thence run N 61° 36' 54" E for 10.00 feet to an intersection with a line parallel to and 5.00 feet northwesterly from said centerline; thence run N 28° 23' 06" W along said parallel line for 19.09 feet to an intersection with said southerly line of Constitution Boulevard; thence run southwesterly along said southerly line, along an arc of a curve to the left of radius 957.00 feet (delta 00° 36' 47") (chord 10.24 feet) (chord bearing S 49° 12' 19" W) for 10.24 feet to the Point of Beginning of the herein described parcel.

Bearings hereinabove mentioned are based on the record plat of Fort San Carlos Unit 1-A (Plat Book 21 at Page 98, Lee County Records).

CHAIRMAN
ARCHIE T. GRANT, JR.

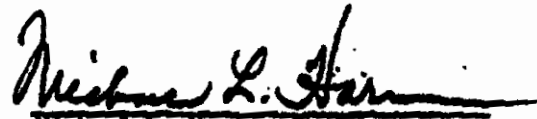
PRESIDENT
FORREST H. BANKS

JOSEPH W. EBNER
STEVEN K. MORRISON
ANDREW D. TILTON
JEFFREY C. COONER

DAN W. DICKEY
KENTON R. KEILING
GEORGE J. KALAL
MICHAEL L. HARMON
THOMAS L. FENDLEY
W. DAVID KEY, JR.
W. BRITT POMEROY
CARL A. BARRACO

CONSULTANTS
LEIF E. JOHNSON
LESTER L. BULSON
ROBERT S. O'BRIEN

MLH/pd
17765a



Michael L. Harmon
Professional Land Surveyor
Florida Certificate No. 2904

CHARLIE GREEN LEE CTY FL
89 JUN 26 PM 3:44

Division of County Lands

Updated In House Title Search
Search No. 17-46-25-00-01001.0060
Date: June 15, 2006
Project: San Carlos Arches MSBU,
Project ARCHES

To: Michael J. O'Hare, SR/WA
Property Acquisition Agent

From: Shelia A. Bedwell, CLS
Property Acquisition Assistant

STRAP: 17-46-25-00-01001.0060

This search covers the period of time from July 18, 2005 to May 1, 2006, at 5:00 p.m.

Subject Property: See attached Exhibit "A"

Title to the subject property is vested in the following:

H & G Hospitality, LLC, a Florida limited liability company

by that certain instrument dated June 29, 2000, recorded July 21, 2000, in Official Record Book 282, Page 3779, Public Records of Lee County, Florida.

Subject to:

1. Title to oil, gas and mineral rights and leases on subject property is specifically omitted from this report.
2. Easement to Lee County for the existing portion of the Arches across Constitution Boulevard, recorded in Official Record Book 2086, Page 763, Public Records of Lee County, Florida.
3. Drainage Easement Agreement between George T. Freeland and Alan C. Freeman, Trustee, recorded in Official Record Book 2743, Page 2607, Public Records of Lee County, Florida.
4. Mortgage and Security Agreement executed by Thakor M. Patel and Bhanu T. Patel, husband and wife, to Florida Community Bank, dated January 2, 1998, recorded January 9, 1998, in Official Record Book 2907, Page 2859; modified by instrument correcting legal description recorded in Official Record Book 2996, Page 2971; as assigned to Citizens Community Bank of Florida by instrument recorded in Official Record Book 3282, Page 3775, amended by Assumption Agreement and Release of Liability recorded in Official Record 3282, Page 3784; Loan Modification Agreement recorded in Official Record Book 3282, Page 3788; Notice of Future Advance and Receipt recorded in Official Record Book 3282, Page 3793; satisfied in error by instrument recorded in Official Record Book 3300, Page 2966; and Agreement reinstating mortgage recorded in Official Record Book 3339, Page 41, Public Records of Lee County, Florida.
5. Assignment of Lease and Rents, Income and Profits between Thakor M. Patel and Bhanu

Division of County Lands

Updated In House Title Search
 Search No. 17-46-25-00-01001.0060
 Date: June 15, 2006
 Project: San Carlos Arches MSBU,
 Project ARCHES

- T. Patel, individually and as Trustee of the Bhanu T. Patel Revocable Trust u/a September 18, 1997, husband and wife and Florida Community Bank, dated January 2, 1998, recorded January 9, 1998, in Official Record Book 2907, Page 2881, as assigned to Citizens Community Bank of Florida by instrument recorded in Official Record Book 3282, Page 3775, Public Records of Lee County, Florida.
6. Mortgage and Security Agreement executed by Thakor M. Patel and Bhanu T. Patel, husband and wife, and Bhanu T. Patel as Trustee of the Bhanu T. Patel Revocable Trust under agreement dated September 18, 1997, to Gulf Coast National Bank, dated January 30, 1998, recorded February 4, 1998, in Official Record Book 2917, Page 1176, as assigned to Citizens Community Bank of Florida by instrument recorded in Official Record Book 3164, Page 2993, Public Records of Lee County, Florida.
 7. Assignment of Leases between Gulf Coast National Bank and Thakor M. Patel and Bhanu T. Patel, husband and wife, and Bhanu T. Patel, Trustee of the Bhanu T. Patel Revocable Trust under Agreement dated September 18, 1987, recorded in Official Record Book 2917, Page 1187, Public Records of Lee County, Florida.
 8. Assignment of Rents, Leases, Profits and Contracts between H & G Hospitality, LLC, a Florida limited liability company and Citizens Community Bank of Florida, recorded in Official Record Book 3282, Page 3796, Public Records of Lee County, Florida.
 9. Financing Statement between H & G Hospitality, LLC, a Florida limited liability company (Debtor) and Citizens Community Bank of Florida, recorded in Official Record Book 3282, Page 3813; assignment recorded in Official Record Book 3490, Page 1070; amendment of Secured Party recorded in Official Record Book 4799, Page 2194, and continuation recorded in Official Record Book 4812, Page 4269, Public Records of Lee County, Florida.
 10. Memorandum of Lease between Allegiant, a Division of Telerent Leasing Corporation, and H & G Hospitality, LLC, recorded in Official Record Book 4276, Page 4260, Public Records of Lee County, Florida.
 11. Notice of Commencement recorded July 28, 2005 in Official Record Book 4818, Page 2455, Public Records of Lee County, Florida.

NOTE: Upon review of the title, our office finds the arches overhang the County's right-of-way and the majority of the arches fall within that right-of-way, and by virtue of this, Lee County should own the arches. If the arches were not reconstructed, the easement recorded in Official Record Book 2086, Page 763, would be extinguished, due to a reverter clause. This office recommends that you obtain a legal opinion from the County Attorney's office to confirm this information.

Tax Status: 2005 taxes were paid November 30, 2005 in the amount of \$38,656.55.
(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 guarantee or warranty as to its accuracy.

San Carlos Arches, US 41 & Constitution Blvd.

