

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

Blue Sheet No. 20031033

1. REQUESTED MOTION:

ACTION REQUESTED: Execute Sovereign Submerged Lands Easement No. 40022 with Board of Trustees of the Internal Improvement Trust Fund of the State of Florida. Use of the property is for a borrow site relative to the Bonita Beach Renourishment Project.

WHY ACTION IS NECESSARY: Easement required as part of Joint Coastal Permit No. 0200803-001-JC for Bonita Beach Renourishment Project.

WHAT ACTION ACCOMPLISHES: Identifies borrow site and provides use of site for completion of renourishment project.

2. DEPARTMENTAL CATEGORY:
COMMISSION DISTRICT #:

C8A

3. MEETING DATE:

09-16-2003

4. AGENDA:

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

5. REQUIREMENT/PURPOSE:
(Specify)

- STATUTE
- ORDINANCE
- ADMIN. CODE
- OTHER Agreement

6. REQUESTOR OF INFORMATION:

- A. COMMISSIONER
- B. DEPARTMENT Public Works
- C. DIVISION Natural Resources
- BY: Roland E. Ottolini, P.E.

[Signature]

7. BACKGROUND:

As a requirement of Joint Coastal Permit No. 0200803-001-JC for the Bonita Beach Renourishment Project, a sovereign submerged lands easement must be executed and recorded for the area agreed upon for a borrow site. The instrument was prepared by staff of the Bureau of Land Administration for the State of Florida with location maps and legal description provided by Lee County consultant, Applied Technology and Management. Upon execution by both Lee County and the Board of Trustees of the Internal Improvement Trust Fund of the State of Florida, the easement will be recorded. Funds are available for these nominal costs.

Attachments: Three (3) original easement documents.

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
					OA	OM	Risk	GC	
<i>[Signature]</i> 8/28/03	N/A	N/A	N/A	<i>[Signature]</i> 8/28/03	<i>[Signature]</i> 8/29/03	<i>[Signature]</i> 9/02/03	<i>[Signature]</i> 8/29/03	<i>[Signature]</i> 8/29/03	<i>[Signature]</i> 8/28/03

10. COMMISSION ACTION:

- APPROVED
- DENIED
- DEFERRED
- OTHER

Rec. by CoAtty
Date: 8/28/03
Time: 4:08pm
Forwarded To:
[Signature]
8/28/03 4:07pm

RECEIVED BY
COUNTY ADMIN:
8-28-03
4:30
COUNTY ADMIN
FORWARDED TO:
[Signature]

This Instrument Prepared By:
James E. C. Reynolds
Recurring Revenue Section
Bureau of Public Land Administration
3900 Commonwealth Boulevard
Mail Station No. 125
Tallahassee, Florida 32399

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

SOVEREIGN SUBMERGED LANDS EASEMENT

NO. 40022
BOT FILE NO. 360225555
PA NO. 0200803-001-JC

THIS EASEMENT is hereby granted by the Board of Trustees of the Internal Improvement Trust Fund of the State of Florida, hereinafter referred to as the Grantor.

WITNESSETH: That for the faithful and timely performance of and compliance with the terms and conditions stated herein, the Grantor does hereby grant to Lee County, Florida, hereinafter referred to as the Grantee, a nonexclusive easement on, under and across the sovereign lands, if any, contained in the following legal description:

A parcel of submerged land adjacent to Sections 03 & 10, Township 47 South, Range 24 East, in the Gulf of Mexico, Lee County as is more particularly described and shown on Attachment A, dated August 7, 2002.

TO HAVE THE USE OF the hereinabove described premises from July 14, 2003, the effective date of this easement. The terms and conditions of and for which this easement is granted are as follows:

1. USE OF PROPERTY: The above described parcel of land shall be used solely for a borrow site and Grantee shall not engage in any activity except as described in the Department of Environmental Protection, Consolidated Joint Coastal Permit No. 0200803-001-JC, dated July 14, 2003, incorporated herein and made a part of this easement by reference. All of the foregoing subject to the remaining conditions of this Easement.
2. EASEMENT CONSIDERATION: In the event the Grantor amends its rules related to fees and the amended rules provide the Grantee will be charged a fee or an increased fee for this activity, the Grantee agrees to pay all charges required by such amended rules within 90 days of the date the amended rules become effective or by a date provided by an invoice from the Department, whichever is later. All fees charged under this provision shall be prospective in nature; i.e. they shall begin to accrue on the date that the amended rules become effective.
3. WARRANTY OF TITLE/GUARANTEE OF SUITABILITY OF USE OF LAND: Grantor neither warrants title to the lands described herein nor guarantees the suitability of any of the lands for any particular use.
4. RIGHTS GRANTED: The rights hereby granted shall be subject to any and all prior rights of the United States and any and all prior grants by the Grantor in and to the submerged lands situated within the limits of this easement.
5. DAMAGE TO EASEMENT PROPERTY AND INTERFERENCE WITH PUBLIC AND PRIVATE RIGHTS: Grantee shall not damage the easement lands or unduly interfere with public or private rights therein.
6. GRANTOR'S RIGHT TO GRANT COMPATIBLE USES OF THE EASEMENT PROPERTY: This easement is nonexclusive, and the Grantor, or its duly authorized agent, shall retain the right to enter the property or to engage in management activities not inconsistent with the use herein provided for and shall retain the right to grant compatible uses of the property to third parties during the term of this easement.
7. RIGHT TO INSPECT: Grantor, or its duly authorized agent, shall have the right at any time to inspect the works and operations of the Grantee in any matter pertaining to this easement.

8. INDEMNIFICATION/INVESTIGATION OF ALL CLAIMS: The Grantee shall investigate all claims of every nature at its expense. Each party is responsible for all personal injury and property damage attributable to the negligent acts or omissions of that party and the officers, employees and agents thereof. Nothing herein shall be construed as an indemnity or a waiver of sovereign immunity enjoyed by any party hereto, as provided in Section 768.28, Florida Statutes, as amended from time to time, or any other law providing limitations on claims.

9. VENUE: Grantee waives venue as to any litigation arising from matters relating to this easement and any such litigation between Grantor and Grantee shall be initiated and maintained only in Leon County, Florida.

10. ASSIGNMENT OF EASEMENT: This easement shall not be assigned or otherwise transferred without prior written consent of the Grantor or its duly authorized agent. Any assignment or other transfer without prior written consent of the Grantor shall be null and void and without legal effect.

11. TERMINATION: The Grantee, by acceptance of this easement, binds itself, its successors and assigns, to abide by the provisions and conditions herein set forth, and said provisions and conditions shall be deemed covenants of the Grantee, its successors and assigns. In the event the Grantee fails or refuses to comply with the provisions and conditions herein set forth or in the event the Grantee violates any of the provisions and conditions herein, this easement may be terminated by the Grantor upon 30 days written notice to Grantee. If terminated, all of the above-described parcel of land shall revert to the Grantor. All costs, including attorneys' fees, incurred by the Grantor to enforce the provisions of this easement shall be paid by the Grantee. All notices required to be given to Grantee by this easement or applicable law or administrative rules shall be sufficient if sent by U.S. Mail to the following address:

Lee County Natural Resources Division
c/o Michael Barnett, P.E.
Applied Technology and Management, Inc.
400 South Australian Ave., Suite 855
West Palm Beach, FL 33401

The Grantee agrees to notify the Grantor by certified mail of any changes to this address at least ten (10) days before the change is effective.

12. TAXES AND ASSESSMENTS: The Grantee shall assume all responsibility for liabilities that accrue to the subject property or to the improvements thereon, including any and all drainage or special assessments or taxes of every kind and description which are now or may be hereafter lawfully assessed and levied against the subject property during the effective period of this easement which result from the grant of this easement or the activities of Grantee hereunder.

13. REMOVAL OF STRUCTURES/ADMINISTRATIVE FINES: If the Grantee does not remove said structures and equipment occupying and erected upon the premises after expiration or cancellation of this easement, such structures and equipment will be deemed forfeited to the Grantor, and the Grantor may authorize removal and may sell such forfeited structures and equipment after ten (10) days written notice by certified mail addressed to the Grantee at the address specified in Item 11 or at such address on record as provided to the Grantor by the Grantee. However, such remedy shall be in addition to all other remedies available to Grantor under applicable laws, rules and regulations including the right to compel removal of all structures and the right to impose administrative fines.

14. ENFORCEMENT OF PROVISIONS: No failure, or successive failures, on the part of the Grantor to enforce any provision, nor any waiver or successive waivers on its part of any provision herein, shall operate as a discharge thereof or render the same inoperative or impair the right of the Grantor to enforce the same upon any renewal thereof or in the event of subsequent breach or breaches.

15. RECORDATION OF EASEMENT: The Grantee, at its own expense, shall record this fully executed easement in its entirety in the public records of the county within which the easement site is located within fourteen (14) days after receipt, and shall provide to the Grantor within ten (10) days following the recordation a copy of the recorded easement in its entirety which contains the O.R. Book and pages at which the easement is recorded.

16. AMENDMENTS/MODIFICATIONS: This easement is the entire and only agreement between the parties. Its provisions are not severable. Any amendment or modification to this easement must be in writing and must be accepted, acknowledged and executed by the Grantee and Grantor.

17. ACOE AUTHORIZATION: Prior to commencement of construction and/or activities authorized herein, the Grantee shall obtain the U.S. Army Corps of Engineers (COE) permit if it is required by the COE. Any modifications to the construction and/or activities authorized herein that may be required by the COE shall require consideration by and the prior written approval of the Grantor prior to the commencement of construction and/or any activities on sovereign, submerged lands.

18. ADDITIONAL STRUCTURES OR ACTIVITIES/EMERGENCY STRUCTURAL REPAIRS: No additional structures shall be erected and/or activities undertaken, including but not limited to, dredging, relocation/realignment or major repairs or renovations made to authorized structures, on, in or over sovereignty, submerged lands without the prior written consent of the Grantor, with the exception of emergency repairs. Unless specifically authorized in writing by the Grantor, such activities or structures shall be considered unauthorized and a violation of Chapter 253, Florida Statutes, and shall subject the Grantee to administrative fines under Chapter 18-14, Florida Administrative Code. If emergency repairs are required to be undertaken in the interests of public health, safety or welfare, the Grantee shall notify the Grantor of such repairs as quickly as is practicable; provided, however, that such emergency activities shall not exceed the activities authorized by this easement.

19. UPLAND RIPARIAN PROPERTY INTEREST: During the term of this easement, Grantee must have satisfactory evidence of sufficient upland interest as defined in subsection 18-21.003(49), Florida Administrative Code, to the extent required by paragraph 18-21.004(3)(b), Florida Administrative Code, in order to conduct the activity described in this easement. If at any time during the term of this easement, Grantee fails to comply with this requirement, use of sovereignty, submerged lands described in this easement shall immediately cease and this easement shall terminate and title to this easement shall revert to and vest in the Grantor immediately and automatically.

20. ACCRETION INTEREST: In further consideration of the issuance of this easement by the Grantor, Grantee consents to the construction and maintenance of the structures authorized hereunder and expressly waives any right, title or interest in and to any accretions or additions to Grantee's shoreline resulting from any activity approved herein.

WITNESSES:

Original Signature _____

Print/Type Name of Witness _____

Original Signature _____

Print/Type Name of Witness _____

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

(SEAL)

BY: _____
Ralph M. Perkins, Operations and Management Consultant
Manager, Bureau of Public Land Administration,
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

"GRANTOR"

STATE OF FLORIDA
COUNTY OF LEON

The foregoing instrument was acknowledged before me this _____ day of _____, 20____
by Ralph M. Perkins, Operations and Management Consultant Manager, Bureau of Public Land Administration, 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. He is personally known to me.

APPROVED AS TO FORM AND LEGALITY:

DEP Attorney _____

Notary Public, State of Florida _____

Printed, Typed or Stamped Name _____

My Commission Expires: _____

Commission/Serial No. _____

WITNESSES:

Original Signature _____

Typed/Printed Name of Witness _____

Original Signature _____

Typed/Printed Name of Witness _____

Lee County, Florida
By its Board of County Commissioners (SEAL)

BY: _____
Original Signature of Executing Authority

Ray Judah
Typed/Printed Name of Executing Authority

Chairman
Title of Executing Authority

"GRANTEE"

STATE OF _____

COUNTY OF _____

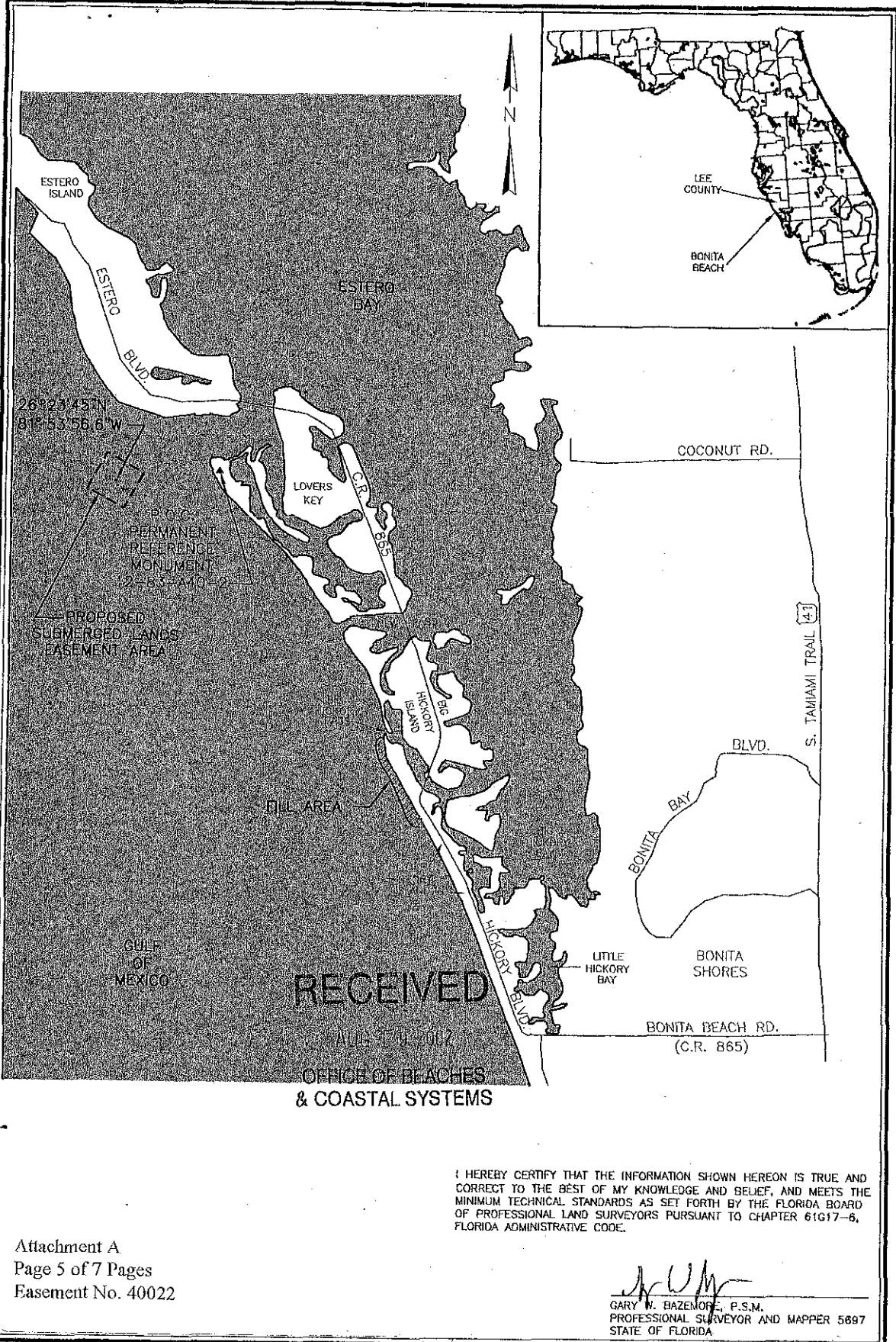
The foregoing instrument was acknowledged before me this _____ day of _____, 20____
by Ray Judah as Chairman, for and on behalf of Lee County Board of County Commissioners. He is personally known to
me or has produced _____ as identification.

My Commission Expires: _____

Commission/Serial No. _____

Notary Public, State of _____

Printed, Typed or Stamped Name _____



I HEREBY CERTIFY THAT THE INFORMATION SHOWN HEREON IS TRUE AND CORRECT TO THE BEST OF MY KNOWLEDGE AND BELIEF, AND MEETS THE MINIMUM TECHNICAL STANDARDS AS SET FORTH BY THE FLORIDA BOARD OF PROFESSIONAL LAND SURVEYORS PURSUANT TO CHAPTER 61G17-6, FLORIDA ADMINISTRATIVE CODE.

Attachment A
Page 5 of 7 Pages
Easement No. 40022

[Signature]
GARY W. BAZEMORE, P.S.M.
PROFESSIONAL SURVEYOR AND MAPPER 5897
STATE OF FLORIDA

ATM
APPLIED TECHNOLOGY & MANAGEMENT, INC.
ATM
400 S. Australian Ave., Suite 855
West Palm Beach, Florida 33401
(561) 699-0041

Bonita Beach Renourishment
Proposed Submerged Lands Easement
Location Map
Lee County, Florida

For: Joint Coastal Permit #0200803-001-JC
DEP - RAI Response #1

REVISIONS

JOB NO: 01-530	CHECKED BY: GWB
DATE: 08/07/02	DRAWN BY: MKM
SCALE: 1"=5000'	SHEET: 1 of 3

LEGAL DESCRIPTION FOR SUBMERGED LANDS EASEMENT

A PARCEL OF SOVEREIGN SUBMERGED LANDS OF THE STATE OF FLORIDA, LYING ADJACENT TO SECTIONS 3 AND 10, TOWNSHIP 47 SOUTH, RANGE 24 EAST, LEE COUNTY, FLORIDA; BEING MORE PARTICULARLY DESCRIBED AS FOLLOWS:

COMMENCING AT FLORIDA DEPARTMENT OF ENVIRONMENTAL PROTECTION PERMANENT REFERENCE MONUMENT "12-83-A40-2" HAVING COORDINATES OF NORTHING 750033.74 FEET, AND EASTING 693741.56 FEET, REFERENCED TO THE FLORIDA STATE PLANE COORDINATE SYSTEM, WEST ZONE, NORTH AMERICAN DATUM OF 1983; PROCEED SOUTH 88°03'19" WEST, INTO THE WATERS OF THE GULF OF MEXICO, A DISTANCE OF 3,311.92 FEET TO THE POINT OF BEGINNING, SAID POINT HAVING COORDINATES OF NORTHING 749,921.35 FEET AND EASTING 690,431.55 FEET (NAD 83); THENCE NORTH 61°17'26" WEST, A DISTANCE OF 1,823.50 FEET TO A POINT; THENCE SOUTH 28°42'34" WEST, A DISTANCE OF 1,780.00 FEET TO A POINT; THENCE SOUTH 61°17'26" EAST, A DISTANCE OF 1,823.50 FEET TO A POINT, SAID POINT BEING 4,798.84 FEET DISTANT FROM FLORIDA DEPARTMENT OF ENVIRONMENTAL PROTECTION PERMANENT REFERENCE MONUMENT "12-83-A39" (HAVING COORDINATES OF NORTHING 752685.84 FEET, AND EASTING 693243.83 FEET, REFERENCED TO THE FLORIDA STATE PLANE COORDINATE SYSTEM, WEST ZONE, NORTH AMERICAN DATUM OF 1983), ALONG A LINE BEARING SOUTH 66°49'30" WEST; THENCE NORTH 28°42'34" EAST, A DISTANCE OF 1,780.00 FEET TO THE POINT OF BEGINNING.

CONTAINING 74.5 ACRES, MORE OR LESS.

SUBJECT TO ANY AND ALL EASEMENTS, RESERVATIONS, RESTRICTIONS AND RIGHTS-OF-WAY OF RECORD.

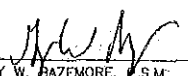
RECEIVED

AUG 19 2002

OFFICE OF BEACHES
& COASTAL SYSTEMS

I HEREBY CERTIFY THAT THE INFORMATION SHOWN HEREON IS TRUE AND CORRECT TO THE BEST OF MY KNOWLEDGE AND BELIEF, AND MEETS THE MINIMUM TECHNICAL STANDARDS AS SET FORTH BY THE FLORIDA BOARD OF PROFESSIONAL LAND SURVEYORS PURSUANT TO CHAPTER 61G17-6, FLORIDA ADMINISTRATIVE CODE.

Attachment A
Page 6 of 7 Pages
Easement No. 40022

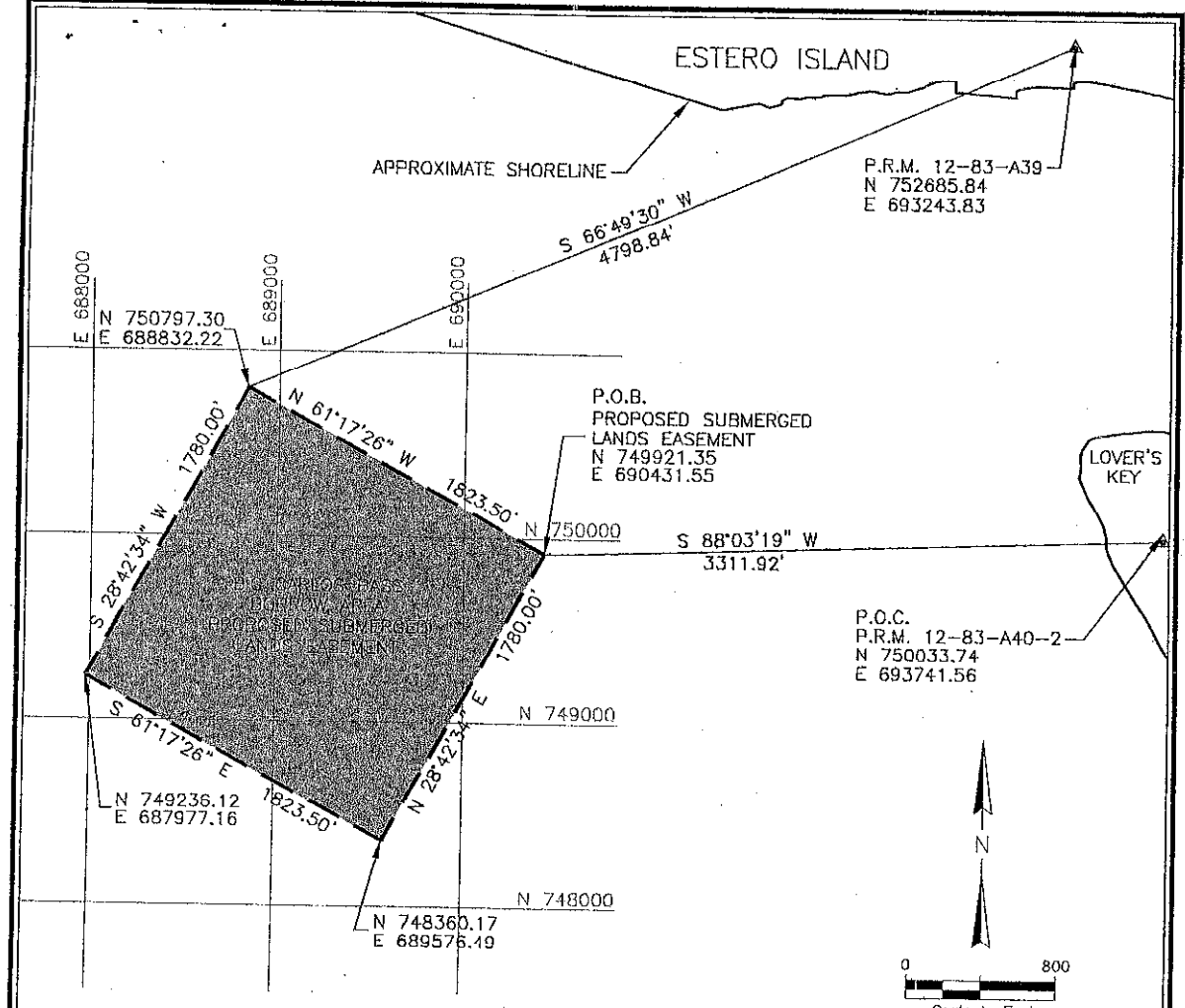

GARY W. BAZEMORE, P.S.M.
PROFESSIONAL SURVEYOR AND MAPPER 5697
STATE OF FLORIDA

ATM
APPLIED TECHNOLOGY & MANAGEMENT, INC.
ATM
400 S. Australian Ave., Suite 855
West Palm Beach, Florida 33409
(561) 659-0041

Bonita Beach Renourishment
Proposed Submerged Lands Easement
Legal Description
Lee County, Florida
For: Joint Coastal Permit #0200803-001-JC
DEP - RAI Response #1

REVISIONS

JOB NO: 01-530	CHECKED BY: GWD
DATE: 08/07/02	DRAWN BY: MKM
SCALE: None	SHEET: 3 of 3



LEGEND

- PROPOSED SUBMERGED LANDS EASEMENT
- P.R.M. PERMANENT REFERENCE MONUMENT
- P.O.C. POINT OF COMMENCEMENT
- P.O.B. POINT OF BEGINNING

NOTES:

1. THIS IS NOT A FIELD SURVEY.
2. ALL HORIZONTAL VALUES ARE REFERENCED TO NORTH AMERICAN DATUM OF 1983, FLORIDA STATE PLANE, WEST ZONE.
3. NOT VALID WITHOUT THE SIGNATURE AND THE ORIGINAL RAISED SEAL OF A FLORIDA LICENSED SURVEYOR AND MAPPER.
4. SHORELINE POSITIONS SHOWN ARE APPROXIMATE AND ARE BASED ON RECTIFIED AERIAL PHOTOGRAPHY FURNISHED BY FLORIDA DEPARTMENT OF ENVIRONMENTAL PROTECTION BUREAU OF BEACHES AND WETLAND SYSTEMS.

I HEREBY CERTIFY THAT THE INFORMATION SHOWN HEREON IS TRUE AND CORRECT TO THE BEST OF MY KNOWLEDGE AND BELIEF, AND MEETS THE MINIMUM TECHNICAL STANDARDS AS SET FORTH BY THE FLORIDA BOARD OF PROFESSIONAL LAND SURVEYORS PURSUANT TO CHAPTER 61G17-6, FLORIDA ADMINISTRATIVE CODE.

GARY W. BAZEMORE, P.S.M.
PROFESSIONAL SURVEYOR AND MAPPER 5697
STATE OF FLORIDA

Attachment A
Page 7 of 7 Pages
Easement No. 40022

400 S. Australian Ave., Suite 855
West Palm Beach, Florida 33401
(561) 655-0041

Bonita Beach Renourishment
Proposed Submerged Lands Easement
Big Carlos Pass Borrow Area
Lee County, Florida

For: Joint Coastal Permit #0200803-001-JC
DEP - RAI Response #1

REVISIONS

JOB NO: 01-530	CHECKED BY: GWB
DATE: 08/07/02	DRAWN BY: MKM
SCALE: 1"=800'	SHEET: 2 of 3