Regular Workshop – November 13, 2013
Agenda Item 12

Agenda Item:	Authorization for Mayor to Execute Sovereignty Submerged Lands Easement #41558 for the Town's Subaqueous Water Main
Presenter:	Town Manager and Staff
Summary:	Authorization of the Mayor's execution of Florida Department of Environmental Protection Easement #41558, Permit Exemption 41-0316192-001, is a requirement of the permit application process for the Town's upcoming subaqueous water main crossing at Longboat Pass. This is part of the ongoing rehabilitation and renovation of the Town's water distribution system. Staff recommends the execution of this easement.
Attachments:	11-04-13 Memo, Public Works Director to Manager; 07-11-13 Letter, FDEP to Juan Florensa; Board of Trustees of the Internal Improvement Trust Fund of the State of Florida Sovereignty Submerged Lands Easement No. 41558, BOT File No. 410237243, PA No. 41-0316192-001.
Recommended Action:	Pending discussion, forward to November 13, 2013 Special Meeting for formal action.

MEMORANDUM

Date: November 04, 2013

TO: Dave Bullock, Town Manager

FROM: Juan J Florensa, Public Works Director

SUBJECT: Authorization for Mayor to Execute Sovereignty Submerged Lands Easement #41558 for the Town's Subaqueous Water Main

Authorization for, and the Mayor's execution of Florida Department of Environmental Protection Easement No. 41558, Permit Exemption 41-0316192-001, is part of the permit application process for the Town's upcoming replacement of the Subaqueous Water Main Crossing at Longboat Pass. This project is part of ongoing rehabilitation and renovation of the Town's water distribution system. The subaqueous water main includes the installation of a 16-inch water main by open-cut excavation within an existing shell drive way and by horizontal directional drilling method.

Easement #41558 is placed on the November 13, 2013 Regular Workshop Agenda for Commission consideration. Pending approval at the Regular Workshop Meeting, please forward to the November 13, 2013 Special Meeting for formal action.

Please do not hesitate to contact me if you need further information.

Attachments

FLORIDA DEPARTMENT OF
ENVIRONMENTAL PROTECTION
MARJORY STONEMAN DOUGLAS BUILDING
3900 COMMONWEALTH BOULEVARD
TALLAHASSEE, FLORIDA 32399-3000

RICK SCOTT
GOVERNOR

HERSCHEL T. VINYARD JR.
SECRETARY

July 11, 2013

Town of Longboat Key, Florida
Attention: Mr. Juan Florensa
501 Bay Isles Road
Longboat Key, Florida 34228

RE:
BOT File No.: 410237243, Easement No. 41558
Lessee: Town of Longboat Key, Florida

Dear Mr. Florensa:

Enclosed is an easement instrument, which requires acceptance by the **notarized signature of James L. Brown as the Mayor of the Town of Longboat Key, Florida** (two witnesses required). Pursuant to Chapter 695, Florida Statutes, the names of the person executing the instrument, the two witnesses, and the notary public must be legibly printed or typewritten directly below that person's signature.

Please execute and return the enclosed instrument and any additional information requested within 30 days after receipt of this letter. Upon receipt and acceptance, we will transmit the easement instrument for final departmental execution. A fully executed instrument will be provided to you for recording in the county records where the facility is located.

Your cooperation and assistance are appreciated. If you have any questions regarding this matter, please feel free to contact me at the letterhead address above (Mail Station No. 125) or at (850) 245-2720.

Sincerely,

Tiana Brown
Government Operations Consultant II
Bureau of Public Land Administration
Division of State Lands

msj/tb
Enclosure (Easement)
By E-Mail

This Instrument Prepared By:
Tiana Brown
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

SOVEREIGNTY SUBMERGED LANDS EASEMENT

NO. 41558
BOT FILE NO. 410237243
PA NO. 41-0316192-001

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 Town of Longboat Key, Florida, hereinafter referred to as the Grantee, a nonexclusive easement on, under and across the sovereignty lands, if any, contained in the following legal description:

A parcel of sovereignty submerged land in Sections 10 and 15,
Township 35 South, Range 16 East, in Longboat Pass,
Manatee County, as is more particularly described
and shown on Attachment A, dated February 18, 2013.

TO HAVE THE USE OF the hereinabove described premises for a period of 50 years from June 4, 2013, the effective date of this easement. The terms and conditions on 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 subaqueous water main and Grantee shall not engage in any activity except as described in the State of Florida Department of Environmental Protection Environmental Resource Permit Exemption No. 41-0316192-001, dated February 19, 2013, 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. ASSIGNMENT OF EASEMENT: This easement shall not be assigned or otherwise transferred without prior written consent of the Grantor or its duly authorized agent and which consent shall not be unreasonably withheld. Any assignment or other transfer without prior written consent of the Grantor shall be null and void and without legal effect.

10. 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 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:

Town of Longboat Key, Florida
Attention: Mr. Juan Florensa
501 Bay Isles Road
Longboat Key, Florida 34228

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.

11. 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.

12. 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 10 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.

13. 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.

14. 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.

15. AMENDMENT/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.

16. USACE AUTHORIZATION: Prior to commencement of construction and/or activities authorized herein, the Grantee shall obtain the U.S. Army Corps of Engineers (USACE) permit if it is required by the USACE. Any modifications to the construction and/or activities authorized herein that may be required by the USACE 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.

17. 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 from 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.

18. 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(60), 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.

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: _____
Cheryl C. McCall, Chief, Bureau of Public Land Administration, Division of State Lands, State of Florida 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 Cheryl C. McCall, Chief, Bureau of Public Land Administration, Division of State Lands, State of Florida 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.

APPROVED AS SUBJECT TO PROPER EXECUTION:

7/2/13
DEP Attorney Date

_____
Notary Public, State of Florida

_____
Printed, Typed or Stamped Name

My Commission Expires:

_____
Commission/Serial No._____

ATTEST:

_____
Original Signature

_____
Typed/Printed Name of Witness

AGENCY
Approved as to Form and Correctness:

_____
Maggie Mooney-Portale, Town Attorney

Town of Longboat Key, Florida (SEAL)

BY:_____
Original Signature of Executing Authority

James L. Brown
Typed/Printed Name of Executing Authority

Mayor
Title of Executing Authority

"GRANTEE"

STATE OF_____

COUNTY OF_____

The foregoing instrument was acknowledged before me this _____ day of _____, 20____, by James L. Brown as Mayor, for and on behalf of Town of Longboat Key, Florida. He is personally known to me or who has produced _____, as identification.

My Commission Expires:

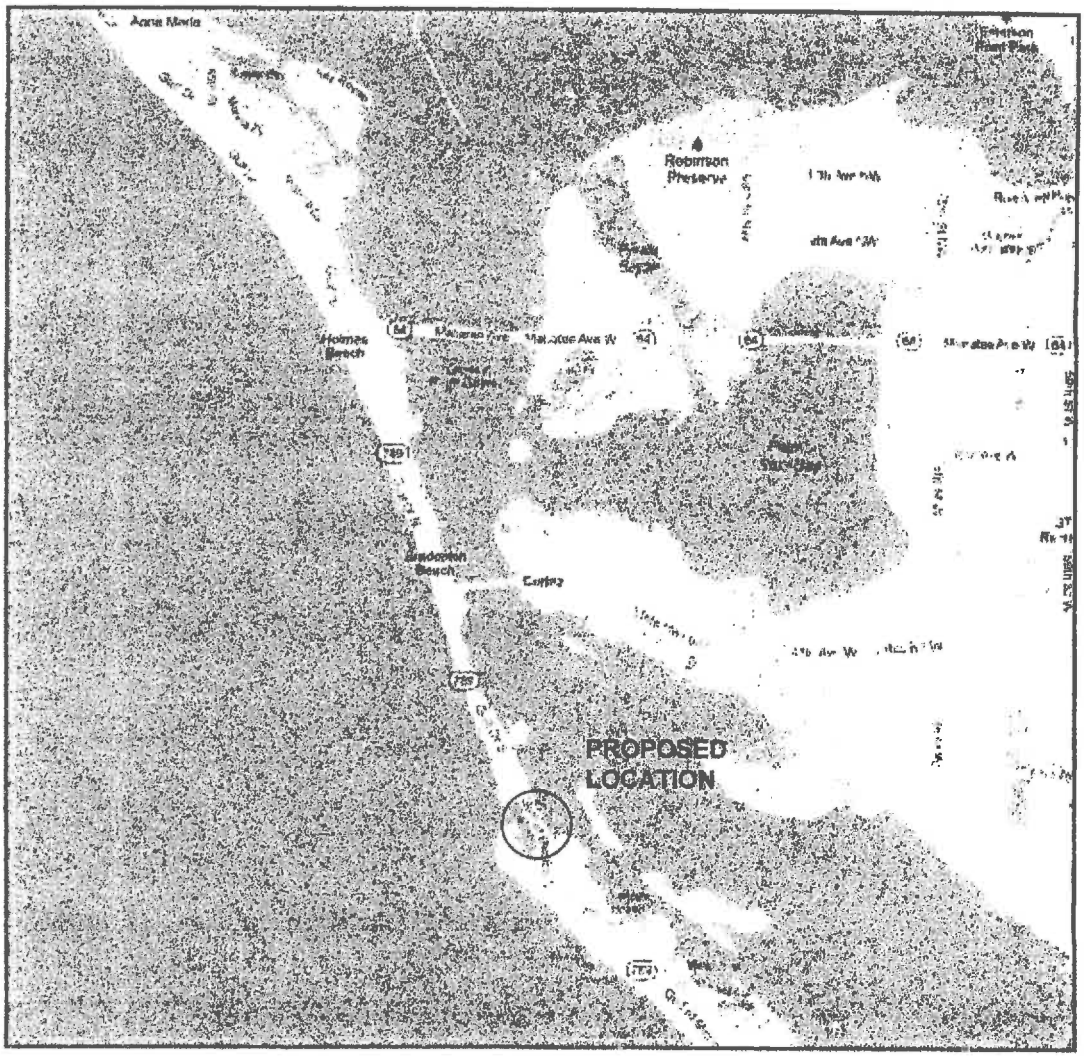
_____

Commission/Serial No._____

_____
Notary Public, State of_____

_____
Printed, Typed or Stamped Name

SOVEREIGN SUBMERGED LAND EASEMENT



PREPARED FOR:	LONGBOAT PASS	REVISED	BY	DATE	DESCRIPTION
Town of Longboat Key 501 Bay Isles Road Longboat Key, FL 34228	SUBMERGED LAND EASEMENT SECTION 10 & 15, TOWNSHIP 35 S., RANGE 16 E.				

W. Andrew McLaughlin PSM LS 6512

DATE 2/18/13

George F. Young, Inc.
Since 1919
299 DR. MARTIN LUTHER KING JR. STREET, N. ST. PETERSBURG, FLORIDA 33701
PHONE (727) 822-4317 FAX (727) 822-2019
BUSINESS ENTITY LB21
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JOB NO. 11017700SU

SHEET NO. 1 OF 3

Attachment A
Page 4 of 6 Pages
Easement No. 41558

SOVEREIGN SUBMERGED LAND EASEMENT

That part of the sovereign lands of the State of Florida that lie within a 20 foot wide strip, crossing Longboat Pass and being situated in Sections 10 and 15, Township 35 South, Range 16 East, Manatee County, Florida, more particularly described as follows:

Commence at the intersection of the easterly right-of-way line of State Road 789 as depicted in Florida Department of Transportation Right-of-Way Map Section 1308-176, with the southerly line of Lot 1, Block 22, Longbeach of Longboat Key, as recorded in Plat Book 6, Page 66, Public Records of Manatee County, Florida; thence proceed along said easterly right-of-way line, North 21° 14' 21" West, a distance of 153.30 feet to the Mean High Water Line (elevation 0.21 feet NAVD88, May 30, 2012) and the **POINT OF BEGINNING**; thence departing said easterly right-of-way line, proceed along the Mean High Water Line the following two courses: South 35° 56' 23" West, a distance of 12.60 feet; South 18° 03' 42" West, a distance of 10.12 feet; thence departing said Mean High Water Line, proceed North 19° 37' 43" West, a distance of 2023.90 feet, to the face of seawall and aforementioned Mean High Water Line elevation on the north side of Longboat Pass; thence along said seawall and Mean High Water Line, North 21° 56' 53" East, a distance of 30.14 feet; thence departing said seawall and Mean High Water Line, proceed South 19° 37' 43" East a distance of 2028.75 feet to the Mean High Water Line on south side of Longboat Pass; thence along said Mean High Water Line, South 33° 32' 37" West, a distance of 4.27 feet to the **POINT OF BEGINNING**.

LESS any lands lying upland of the Mean High Water Line.

Contains 4,443 square feet or 0.102 acres more or less, LESS any acreage lying upland of the Mean High Water Line.

NOTES:

1. Bearings shown hereon are referenced to Grid North, based on the Florida State Plane Coordinate System, West Zone (Transverse Mercator Projection), North American Datum of 1983, 2007 Adjustment; the easterly right of way line from Point of Commencement to Point of Beginning being N 21° 14' 21" W.
2. This is not a survey.
3. This sketch and description is designed to encompass a proposed subaqueous water main crossing Longboat Pass.
4. The Mean High Water Line is based on a 0.21 foot elevation contour line per Tide Interpolation Point #395, North American Vertical Datum of 1988 (NAVD88) as of May 30, 2012..
5. This is not a Mean High Water Line Survey. Mean High Water elevation was taken from published data provided by the Land Boundary Information System Internet website (www.labins.org). Mean High Water elevation is based upon extending published datum from Mean High Water Tide Interpolation Point Number 395, Manatee County, Quad Map Bradenton Beach, having a Mean High Water Elevation of 0.21 feet NAVD 88 and Mean Low Water of (-)1.10 feet NAVD 88.
6. Coordinates and elevations are based on National Geodetic Survey (NGS) Control Point "GIS-106" (NGS PID AG9211) having an elevation of 4.15 feet (NAVD88), Northing of 1132620.94 and Easting of 432524.81.
7. Existing right-of-way lines shown herein were calculated with the benefit of FDOT Right of Way Map Section 1308-176, dated October 15, 1956.
8. No Title Opinion or Abstract to the subject property has been provided. It is possible that there are Deeds, Easements, or other instruments (recorded or unrecorded) which may affect the subject property.
9. This sketch of description (sketch of easement/lease area) is in compliance with the Minimum Technical Standards pursuant to Chapter 5J-17, Florida Administrative Code.
10. Not valid without the signature and original raised seal of a Florida licensed Surveyor and Mapper.

LEGEND:

FDOT	Florida Department of Transportation
LB	Licensed Business
LS	Licensed Surveyor
MHWL	Mean High Water Line
NAVD88	North American Vertical Datum of 1988
P.O.B.	Point of Beginning
P.O.C.	Point of Commencement
PSM	Professional Surveyor and Mapper

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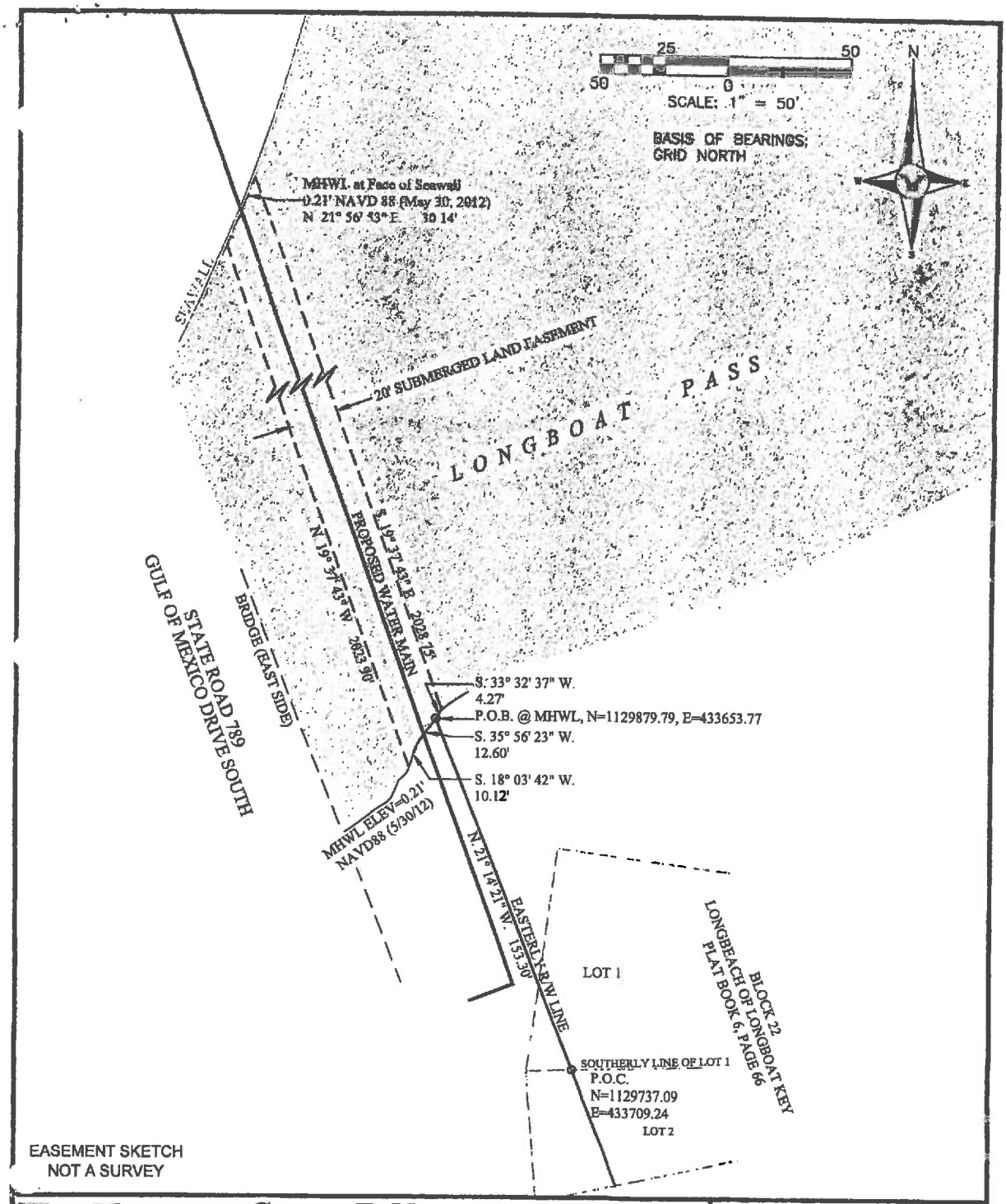
SUBMERGED LAND EASEMENT SKETCH AND DESCRIPTION

SHEET 2 OF 3



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SUBMERGED LAND EASEMENT SKETCH AND DESCRIPTION

SHEET 3 OF 3

End of Agenda Item