

TOWN OF GOLDEN BEACH, FLORIDA

RESOLUTION NO. 1994.09

A RESOLUTION OF THE TOWN COUNCIL OF THE TOWN OF GOLDEN BEACH, FLORIDA, APPROVING A DRAINAGE EASEMENT AGREEMENT BETWEEN THE TOWN OF GOLDEN BEACH AND ALEX AND ALLA SHCHEGOL OVER CERTAIN PROPERTY LOCATED AT 680 GOLDEN BEACH DRIVE; PROVIDING FOR IMPLEMENTATION; AND PROVIDING FOR AN EFFECTIVE DATE.

**WHEREAS**, the Town of Golden Beach (the "Town") desires to utilize a portion of the property located at 680 Golden Beach Drive, Golden Beach, Florida (the "Property") for the purposes of constructing and maintaining public drainage systems; and

**WHEREAS**, the owners of the Property desire to grant an easement to the Town for such purposes; and

**WHEREAS**, the Town Council finds that approval of the Easement Agreement between the Town and Alex and Alla Shchegol is in the best interest of the Town.

**NOW THEREFORE, BE IT RESOLVED BY THE TOWN COUNCIL OF THE TOWN OF GOLDEN BEACH, FLORIDA, AS FOLLOWS:**

**Section 1. Recitals Adopted.** That each of the above-stated recitals is hereby adopted and confirmed.

**Section 2. Agreement Approved.** That the Easement Agreement, in substantially the form attached hereto as Exhibit "A," between the Town and Alex and Alla Shchegol is hereby approved, and the Mayor is authorized to execute the Agreement on behalf of the Town once approved as to form and legal sufficiency by the Town Attorney.

**Section 3. Implementation.** The Mayor and Town Manager are authorized to

take any and all action which is necessary to implement this Resolution.

**Section 4. Effective Date.** That this resolution shall become effective immediately upon approval of the Town Council.

**Sponsored by Town Administration**

The Motion to adopt the foregoing Resolution was offered by Vice Mayor Lusskin, seconded by Councilmember Rojas and on roll call the following vote ensued:

Mayor Glenn Singer	<u>Aye</u>
Vice Mayor Judy Lusskin	<u>Aye</u>
Councilmember Ben Einstein	<u>Absent</u>
Councilmember Ken Bernstein	<u>Aye</u>
Councilmember Amy Rojas	<u>Aye</u>


PASSED AND ADOPTED by the Town Council of the Town of Golden Beach, Florida, this 21<sup>st</sup> day of April, 2009.

ATTEST:

  
\_\_\_\_\_  
MAYOR GLENN SINGER

  
ELIZABETH SEWELL  
TOWN CLERK

APPROVED AS TO FORM  
AND LEGAL SUFFICIENCY:

  
STEPHEN J. HELFMAN  
TOWN ATTORNEY

Prepared by and return to:

Town of Golden Beach  
1 Golden Beach Drive  
Golden Beach, Fl. 33160

### **GRANT OF DRAINAGE EASEMENT**

THIS DRAINAGE EASEMENT AGREEMENT (this "Easement") is made this 21 day of April, 2009 by and between **ALEX SHCHEGOL** and **ALLA SHCHEGOL** (collectively, "Grantor"), whose address is 680 Golden Beach Drive, Golden Beach, Florida 33160 in favor of **THE TOWN OF GOLDEN BEACH, FLORIDA**, a Florida municipal corporation ("Grantee"), whose address is One Golden Beach Drive, Golden Beach, Florida 33160;

**NOW, THEREFORE**, in consideration of the sum of Ten Dollars (\$10.00) and other good and valuable consideration, the receipt and sufficiency of which is hereby acknowledged, the parties hereto declare and agree as follows:

1. Grantor does hereby grant, bargain, sell, release, convey and confirm unto Grantee, a private non-exclusive perpetual easement to construct, maintain, repair, install, rebuild or replace public drainage systems in, over, under, through, across and upon the following legally described and depicted real property located in Miami-Dade County, Florida (the "Easement Area"):

See Exhibit "A" attached hereto

2. Grantor hereby grants and conveys to Grantee a private non-exclusive perpetual easement for access, ingress and egress over, across, upon and through the real property more particularly described on Exhibit "B" for the purpose of accessing the Easement Area.

3. This Easement and the undertakings of the Grantor herein shall inure to the benefit of the Grantee and its successors in title, PROVIDED that the Grantor makes no warranties as to quality of title being granted at the time of this Easement, and Grantee shall receive only such rights as Grantor is entitled to give based on the rights it holds. Grantor hereby warrants that, to their knowledge, Grantor is the fee simple owner of the Easement Area and that it has full power and authority to enter into and perform its obligations under this Easement and that no further consents are required.

4. This Easement shall be construed and enforced in accordance with the laws of Florida, and the courts of the State of Florida shall have jurisdiction to hear and decide any such disputes. Venue for any action or proceeding arising under this Easement shall be in Miami-Dade County, Florida, where the Easement Area is located. In any action to enforce the obligations of any party to this Easement, or to recover

damages for violation of this Easement, suit may be filed by or against any one or more parties either jointly or severally, and it shall not be a defense to any action hereunder that all other parties have not been joined in the action, as long as all those who are in violation of the Easement or are harmed by such violation are joined. No action shall lie against the Grantor for title defects, as set forth more specifically in the preceding paragraph of this Easement.

5. Grantor does hereby grant unto the Grantee and its successors, full and free right and authority to construct, maintain, repair, install, rebuild or replace public drainage systems (the "Systems") within the Easement Area. Grantor hereby reserves all rights of ownership in and to the Easement Area which are not wholly inconsistent with the easements herein granted.

6. During the course of the Work (as hereinafter defined), Grantee shall maintain the Easement Area in good condition and in a clean and orderly manner. Grantee shall own, maintain and repair the Systems at Grantee's sole cost and expense. Grantee shall be responsible for damage to improvements now or hereafter existing within the Easement Area, including, without limitation, sidewalks, pavement, shrubbery, landscaping or irrigation equipment or other machinery, provided such damage results from the Grantee's installation, access to, or repair or maintenance of the Systems. Grantee agrees that if any construction, maintenance, repair or replacement of the Systems damages or disturbs in any material respect the Grantor's property (as hereinafter defined) or Grantor's neighbor's property (or any improvements located thereon), Grantee shall promptly restore the same to its condition prior to such damage or disturbance. Grantee hereby agrees, subject to any limitations permitted by law, to indemnify, defend and hold harmless the Grantor from any and against and all liabilities, damages, claims, costs or expenses whatsoever, including, without limitation any violations of applicable environmental laws (including all reasonable attorneys' fees and costs whether suite be brought or any appeals be taken therefrom) arising from, growing out of or through or under Grantee's use of the Easement Area pursuant to this Easement. Grantee shall take any and all reasonable steps as may be necessary to ensure that Grantee's use of the Easement Area does not cause any noxious fumes on or about the Easement Area or the balance of Grantor's Property.

7. Grantee shall perform all work in connection with the construction, installation, operation, maintenance, repair and replacement of the Systems (collectively, "Work") within the Easement Area (i) upon the receipt of the Grantor's consent, which consent shall not be unreasonably withheld and which may be given verbally and need not be in writing, upon not less than seventy-two (72) hours notice, on Monday through Friday, between the hours of 8:00a.m. and 5:00p.m., except in the case of emergency repairs, (ii) in a good and workmanlike manner, (iii) in accordance with all applicable governmental requirements, (iv) free and clear of all liens, claims and encumbrances, provided that if any lien or encumbrance is imposed on the Easement Area resulting from the acts or omissions of Grantee or anyone acting by, through or under Grantee, Grantee agrees that it shall, within thirty (30) days of written demand from Grantor, either pay and/or bond off any such lien or encumbrance so it is no longer a lien against the

Easement Area, and (v) in a manner which will reasonably minimize disruption or utilization of the surface of the Easement Area and the balance of Grantor's Property, recognizing that it is intended that all work being performed by Grantee shall be performed in a manner to reasonably minimize disruption to Grantor's Property and its tenants, agents, invitees, guests, successors and/or assigns use and enjoyment of Grantor's residence, the Easement Area and/or any other improvements constructed and/or placed thereon.

8. Grantor specifically reserves the right to continue to use the Easement Area for all lawful purposes, including but not limited to the installation of landscaping, pavers, etc. The non-exclusive easement granted hereby is granted in perpetuity; provided, however, that should Grantee or its successors, ever permanently abandon the use of the Easement Area for the purposes above described, this non-exclusive easement granted hereby shall forthwith terminate and be of no further force and effect. Upon such termination Grantee shall join in an appropriate release of this Easement and such release shall be recorded in the Public Records of Miami-Dade County, Florida.

9. In the event of any breach of this Easement by either party, the non-breaching party shall be entitled to any and all remedies available at law or in equity. In the event of any litigation with respect to this Easement, the prevailing party shall be entitled to recover reasonable attorney's fees and court cost through all trial and appellate levels.

10. The provisions of this Easement shall be binding on the Grantor and its successors and assigns as a covenant running with and binding upon the property more particularly described on Exhibit "B" attached hereto and hereby made a part thereof ("Grantor's Property"). This Easement and the rights and obligations hereunder may not be assigned by the Grantee.

11. This Easement shall not be released or amended without consent of the Grantee as evidenced by a document signed with the same formalities as this document.

12. This instrument contains the entire agreement between the parties relating to the rights granted and the obligations assumed pursuant to this instrument. Any oral representations or modifications concerning this instrument shall be of no force and effect excepting a subsequent modification reduced to writing, signed by the party to be charged herewith. In the event any terms or provision of this Easement would be determined by competent judicial authority to be illegal or otherwise invalid, such provision shall be given its nearest legal meaning or shall be construed or deleted as such authority determines, and the remainder of this Easement shall be construed as being in full force and effect.

13. All notices, demands, approvals, requests and other communication required or permitted herein shall be in writing (except as otherwise expressly provided herein) and sent via hand-delivery, commercial air courier, or certified mail, return receipt requested and shall be deemed to be delivered and received upon actual receipt at

the address set forth below, or at such other address as such addressee may have specified by notice delivered in accordance with this paragraph:

If to Grantor:	Alex and Alla Shchegol 680 Golden Beach Drive Golden Beach, Florida 33160
If to Grantee:	The Town of Golden Beach One Golden Beach Drive Golden Beach, Florida 33160 Attn: Town Manager
With a copy to:	Weiss Serota Helfman Pastoriza Cole & Boniske, P.L. 2525 Ponce de Leon Blvd., Suite 700 Coral Gables, Florida 33134 Attention: Stephen Helfman, Esq.

14. No waiver of any provisions of this Easement shall be effective, unless it is in writing signed by the party against whom it is asserted, and any such waiver shall only be applicable to the specific incident to which it relates and shall not be deemed to be a continuing or future waiver.

15. Both parties to this Easement have had significant and equal input in its drafting and preparation. No presumption shall arise that one or the other party had any greater role in such drafting and that thereby this Easement shall be interpreted against such party.

16. Grantee shall record this document in the Public Records of Miami-Dade County, Florida.

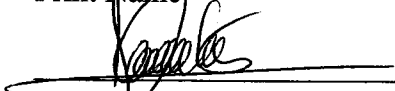
IN WITNESS WHEREOF, the parties hereto have caused this instrument to be executed in their names intending to be fully bound hereby as of the date and year first above written.

WITNESSES:

  
\_\_\_\_\_

ANA SKLAR  
\_\_\_\_\_

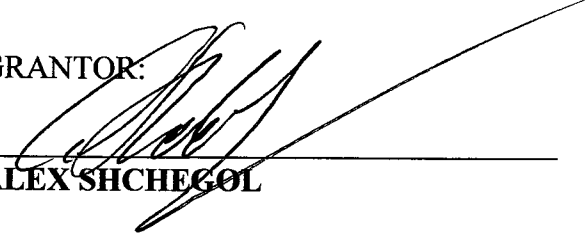
Print Name

  
\_\_\_\_\_

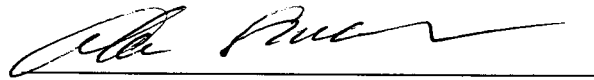
Lacheline Torres  
\_\_\_\_\_

Print Name

GRANTOR:

  
\_\_\_\_\_

ALEX SHCHEGOL

  
\_\_\_\_\_

ALLA SHCHEGOL

WITNESSES:

\_\_\_\_\_

Print Name

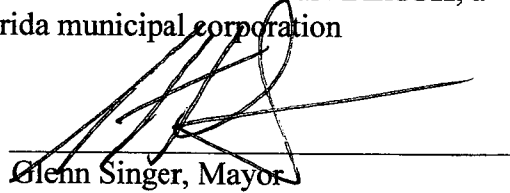
\_\_\_\_\_

Print Name

GRANTEE:

**THE TOWN OF GOLDEN BEACH**, a  
Florida municipal corporation

By: \_\_\_\_\_

  
Glenn Singer, Mayor

STATE OF FLORIDA  
COUNTY OF MIAMI-DADE

The foregoing instrument was acknowledged before me this 1st day of May, 2009,  
by ALEX SHCHEGOL, who is personally known to me , or who has produced \_\_\_\_\_  
\_\_\_\_\_ as identification



Ana Sklar  
Notary Public State of Florida at Large  
Print name: Ana Sklar

My commission expires:

STATE OF FLORIDA  
COUNTY OF MIAMI-DADE

The foregoing instrument was acknowledged before me this 1st day of May, 2009,  
by ALLA SHCHEGOL, who is personally known to me , or who has produced \_\_\_\_\_  
\_\_\_\_\_ as identification



Ana Sklar  
Notary Public State of Florida at Large  
Print name: Ana Sklar

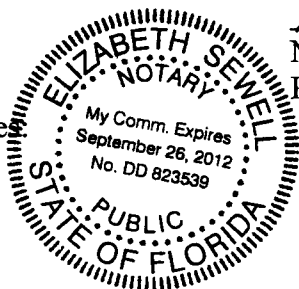
My commission expires:

STATE OF FLORIDA  
COUNTY OF MIAMI-DADE

The foregoing instrument was acknowledged before me this 15 day of MAY, 2008,<sup>9</sup>  
by Glenn Singer, as Mayor of The Town of Golden Beach, a Florida municipal  
corporation, who is personally known to me or who has produced \_\_\_\_\_  
\_\_\_\_\_ as identification

(Notary Seal):

My commission expires:



Elizabeth Sewell  
Notary Public State of Florida at Large  
Print name: ELIZABETH SEWELL



Exhibit "B"

Legal Description of Grantor's Property

Folio No: 19-1235-006-0500 and 19-1235-0510

Lots 17 and 18, Block E, and the Northwesterly half (1/2) of Lot 16, Block E, of Golden Beach Section F, according to the Plat thereof, as recorded in Plat Book 10, Page 11, of the Public Records of Miami-Dade County, Florida.

Exhibit "B"

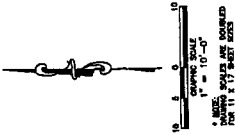
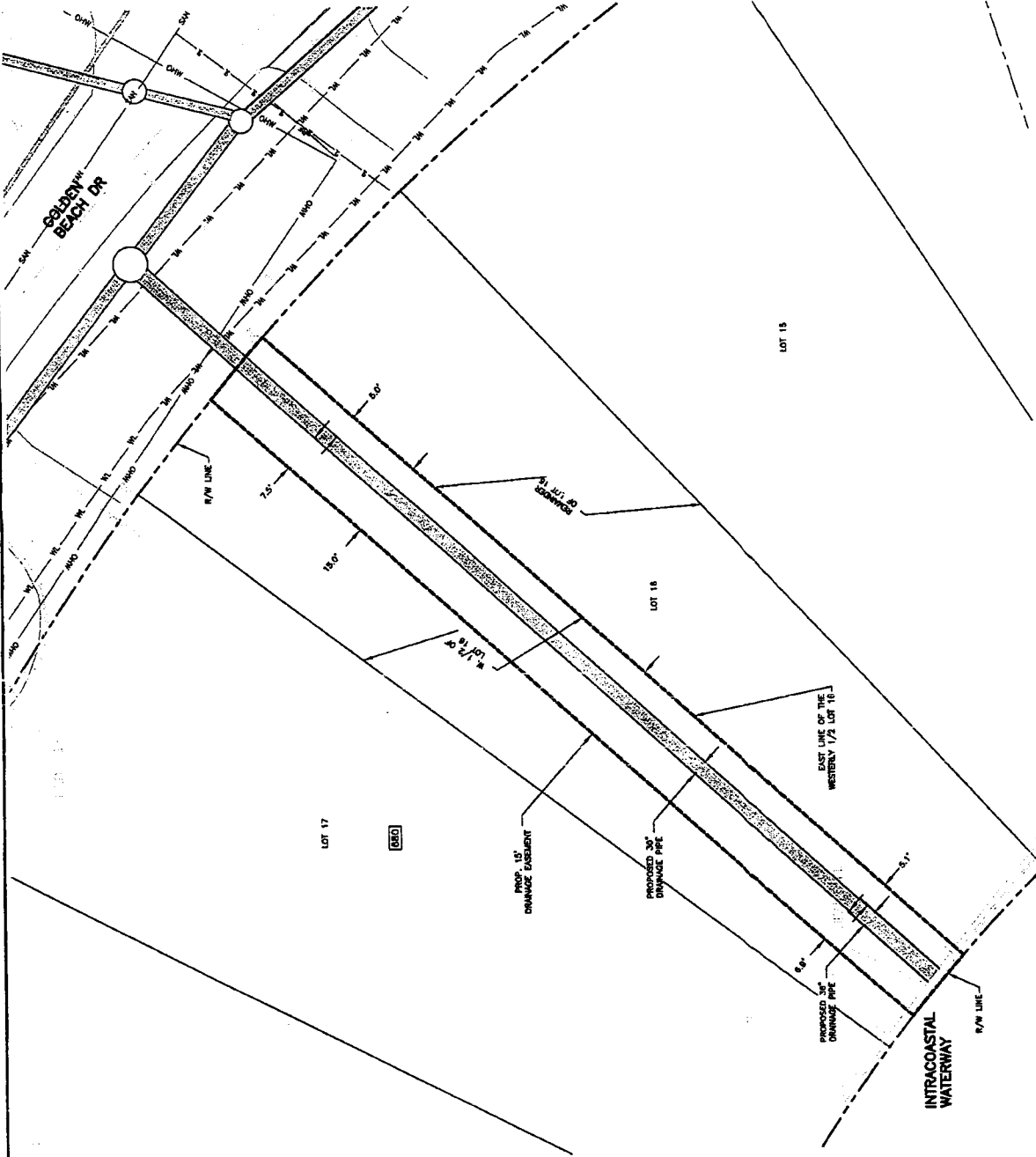
Exhibit "B"

Legal Description of Grantor's Property

Folio No: 19-1235-006-0500 and 19-1235-0510

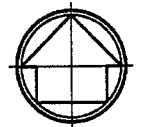
Lots 17 and 18, Block E, and the Northwesterly half (1/2) of Lot 16, Block E, of Golden Beach Section F, according to the Plat thereof, as recorded in Plat Book 10, Page 11, of the Public Records of Miami-Dade County, Florida.

Exhibit "B"

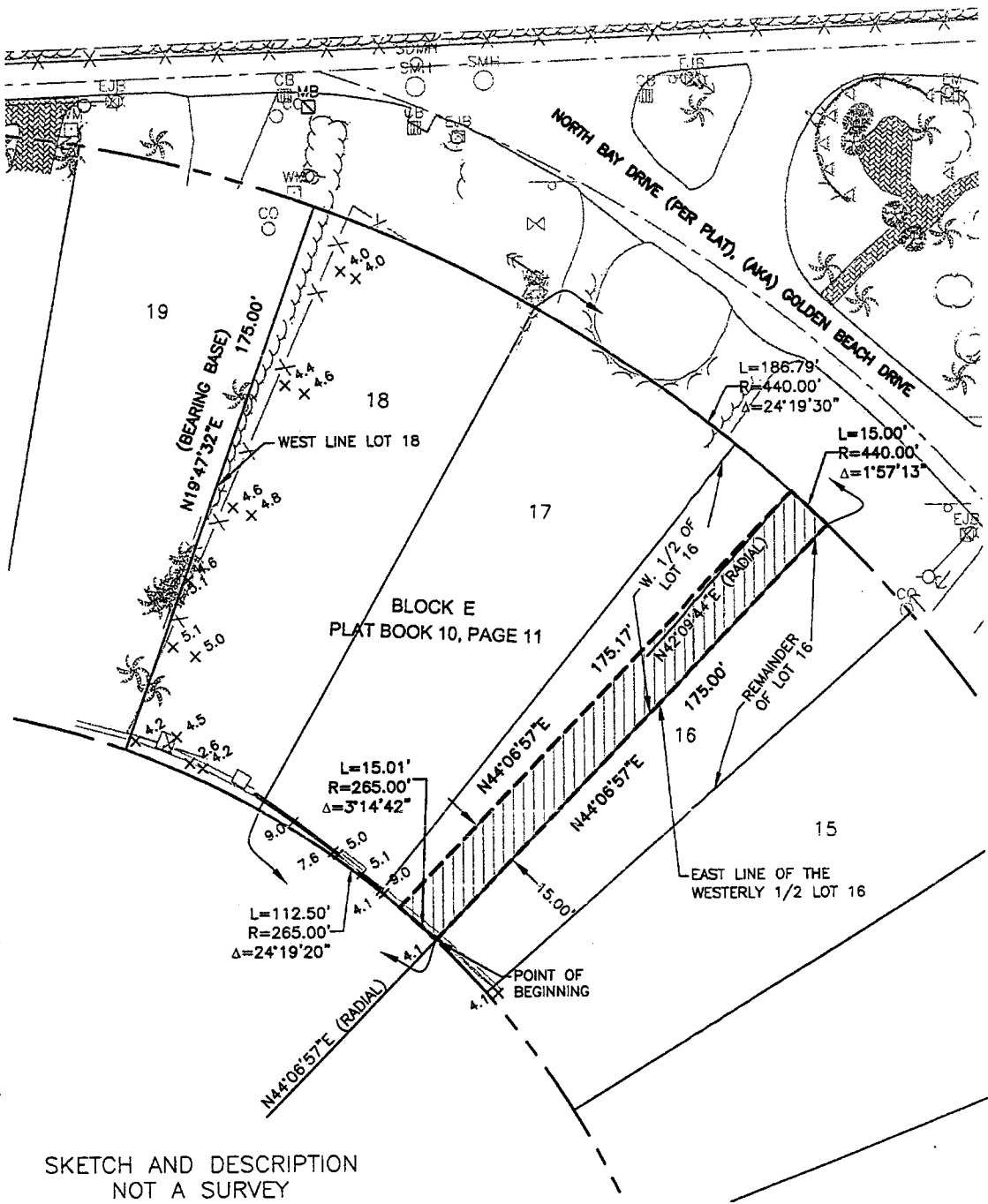


NOTE: THIS SKETCH IS PROVIDED TO INDICATE THE LOCATION OF THE DRAINAGE PIPE WITHIN THE EASEMENT TO AVOID CONFLICTS WITH THE FUTURE CONSTRUCTION.

DATE: 12/08/08	DESIGNED BY: JAL	CHECKED BY: SEC	DATE: 12/08/08	PROJECT NO: 08-1465	SHEET: C-01
APPROVED BY: MATTHEW G. HARGOLD, P.E.	DATE: 12/08/08	FLORIDA PROFESSIONAL ENGINEERING NO: 35889	FILE NAME: 08-1465-C-01 - PIP DWG	LAST SAVE: 12/09/08 - 1:34pm	AS SHOWN
CRAIG A. SMITH & ASSOCIATES CONSULTING ENGINEERS-PLANNERS-SURVEYORS 1000 WEST WASHINGTON ROAD POMONA, CA 91768 CONTACT NO. 951-211-1110			DRAINAGE LOCATION SKETCH LOT 16 880 GOLDEN BEACH DRIVE		
PREPARED FOR: TOWN OF GOLDEN BEACH MIAMI DADE COUNTY, FLORIDA					



SCALE: 1" = 40'



SURVEYOR'S CERTIFICATE				
I HEREBY CERTIFY THAT THIS SKETCH & DESCRIPTION IS ACCURATE TO THE BEST OF MY KNOWLEDGE AND BELIEF AND MEETS THE MINIMUM TECHNICAL STANDARDS AS SET FORTH BY THE FLORIDA BOARD OF PROFESSIONAL SURVEYORS AND MAPPERS IN CHAPTER §1617-5, FLORIDA ADMINISTRATIVE CODE, PURSUANT TO SECTION 472.027, FLORIDA STATUTES.				
12/4/08				
FOR THE FIRM, BY: ROBERT D. KEENER PROFESSIONAL SURVEYOR AND MAPPER FLORIDA REGISTRATION NO. 4846				
<b>CRAIG A. SMITH &amp; ASSOCIATES</b> CONSULTING ENGINEERS—PLANNERS—SURVEYORS				
7777 GLADES ROAD SUITE 410 BOCA RATON, FLORIDA 33434 (561) 791-9280 CERT. NO. LB0003110				
GOLDEN BEACH 15' DRAINAGE EASEMENT TOWN OF GOLDEN BEACH, DADE COUNTY, FLORIDA				
PROJECT NUMBER: 08-1465				
FILE NAME: 01-1465-V01-DRG-EASM.dwg				
SHEET 2 OF 2				

P:\2008\08-1465-CR-PRINCE-LESLIE-LO/20/2008JUL14B-ALL-04

