

RESOLUTION 20-38

A RESOLUTION OF THE TOWN COUNCIL OF THE TOWN OF FORT MYERS BEACH FLORIDA APPROVING WITH APPLICATION VAC20200072, REQUESTING TO VACATE PORTIONS OF TOWN OF FORT MYERS BEACH, FLORIDA RIGHT-OF-WAY OWNED BY THE TOWN OF FORT MYERS BEACH AND PORTIONS OF THE “WINKLER SUBDIVISION” PLAT, AS MORE PARTICULARLY DESCRIBED IN EXHIBIT “A” ATTACHED TO THIS RESOLUTION; AND PROVIDING FOR AN EFFECTIVE DATE

WHEREAS, the Town of Fort Myers Beach (“Applicant”), in accordance with Chapter 177, *Florida Statutes*, the Town of Fort Myers Beach Land Development Code (“LDC”), filed applications with the Town of Fort Myers Beach (“Town”) to vacate portions of Town right-of-way within portions of the Winkler Subdivision legally described in attached Exhibit “A”(“Legal Description of Parcels”); and

WHEREAS, a drainage and utility easement is recorded and legally described in attached Exhibit “A”; and

WHEREAS, Chapter 2 Administration, Article VI of the Fort Myers Beach Code of Ordinances directs the Town Council to consider future likelihood that right-of-way may be needed, that the convenient access of property owners on adjoining street rights-of-way will not be adversely affected, and vacation of the property will not affect ownership or rights of other owners in the subdivision; and

WHEREAS, proper notice of property owners within 500 feet and publication of a notice of public hearing and as required under Article VI, were published notifying the public that the Town Council of Fort Myers Beach will hold a public hearing on September 21, 2020 at 5:01 PM or shortly thereafter to consider and recommend approval, approval with conditions, or deny the Request to Vacate; and

WHEREAS, on September 21st, 2020, the Town Council conducted a properly noticed public hearing to give consideration to the Request to Vacate, staff report, and testimony given at the public hearing; and

NOW, THEREFORE, BE IT HEREBY RESOLVED BY THE TOWN COUNCIL OF THE TOWN OF FORT MYERS BEACH, FLORIDA AS FOLLOWS:

Section 1. The above recitals are true, correct, and incorporated herein by this reference.

Section 2. The Town Council makes the following findings of fact with respect to the Request to Vacate:

- a. The Town owns and is responsible for the maintenance of the right-of-way that is the subject of the Request to Vacate.
- b. The Applicant is the owner of land adjacent to the right-of-way and land sought to be vacated.
- c. The Applicant and the Town are the only affected property owners concerning the intent of the Request to Vacate.
- d. The general public will benefit from the vacation of the Town right-of-way and property, and that such right-of-way and property are no longer required for the public use and convenience.
- e. The Town's interest in the right-of-way, plat or portion of a plat described in Exhibit "A" to this Resolution is hereby vacated.

Section 3. Granting of the Request to Vacate is subject to the following conditions:

- a. All projects shall be completed within a timeframe approved by the Town Manager or the vacated right-of-way and property shall automatically revert to the Town.

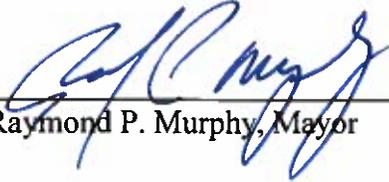
Section 4. This Resolution shall take effect immediately upon its adoption.

The foregoing Resolution was adopted by the Town Council upon a motion by Councilmember Veach and seconded by Vice Mayor Hosafros, and upon being put to a roll call vote, the result was as follows:

Raymond P. Murphy, Mayor	aye
Rexann Hosafros, Vice Mayor	aye
Jim Atterholt, Councilmember	aye
Dan Allers, Councilmember	aye
Bill Veach, Councilmember	aye

ADOPTED this 21st day of September, 2020 by the Town Council of the Town of Fort Myers Beach, Florida.

TOWN OF FORT MYERS BEACH



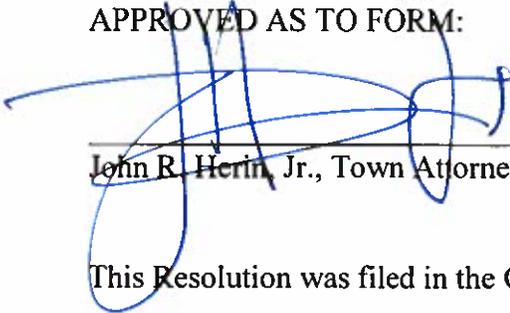
Raymond P. Murphy, Mayor

ATTEST:



Michelle D. Mayher, Town Clerk

APPROVED AS TO FORM:



John R. Herin, Jr., Town Attorney

This Resolution was filed in the Office of the Town Clerk on this 16th day of October 2020.



EXHIBIT A

Engineers ♦ Environmental Scientists ♦ Surveyors

Description of a Parcel of Land
Lying in
Section 19, Township 46 South, Range 24 East
Town of Fort Myers Beach, Lee County, Florida
(Vacation Parcel-Portion of Bay Road and a Portion of an un-named Street)

A parcel of land situated in the State of Florida, County of Lee, Town of Fort Myers Beach, Section 19, Township 46 South, Range 24 East, being a portion of Bay Road and a portion of an un-named street lying contiguous with the northeast line of Lots 38 through 48, Block J, Winkler Subdivision, as recorded in Plat Book 8 at Page 45, Public Records of Lee County, Florida, and further described as follows:

Commencing at the northwesterly most corner of Lot 48 of said Block J of said Winkler Subdivision; thence S64°43'00"E along the northerly line of said Lot 48 for 40.00 feet to the northwest corner of a parcel described in Official Record Book 2599 at Page 784 and to the Point of Beginning; thence continue S64°43'00"E along the northerly line of said Lot 48 for 85.00 feet to the beginning of a tangent curve concave to the southwest having a radius of 25.00 feet; Thence continue southeasterly along the easterly line of said Lot 48 and said curve through a central angle of 90°00'00" for an arc length of 39.27 feet to a point of tangency; thence S25°17'00"W along the easterly line of Lots 47, 46, 45, 44, 43, 42, 41, 40, 39 and 38 for 230.00 feet to the southeast corner of said parcel of land described in Official Record Book 2599 at Page 784, said point lying 5.00 feet southwest from the northeast corner of said Lot 38; thence S64°43'00"E across Bay Road for 50.00 feet to the easterly line of said Winkler Subdivision, also being the easterly line of said Bay Road; thence N25°17'00"E along the easterly line of said subdivision and the easterly line of said Bay Road for 305.00 feet to the northeast corner of said subdivision; thence N64°43'00"W along the northerly line of said subdivision and the northerly line of said un-named street for 160.00 feet to an intersection with the northerly extension of the westerly line of said parcel described in Official Record Book 2599 at Page 784; thence S25°17'00"W along said extended line for 50.00 feet to the Point of Beginning;

Containing 20,884 square feet (0.48 acres), more or less.

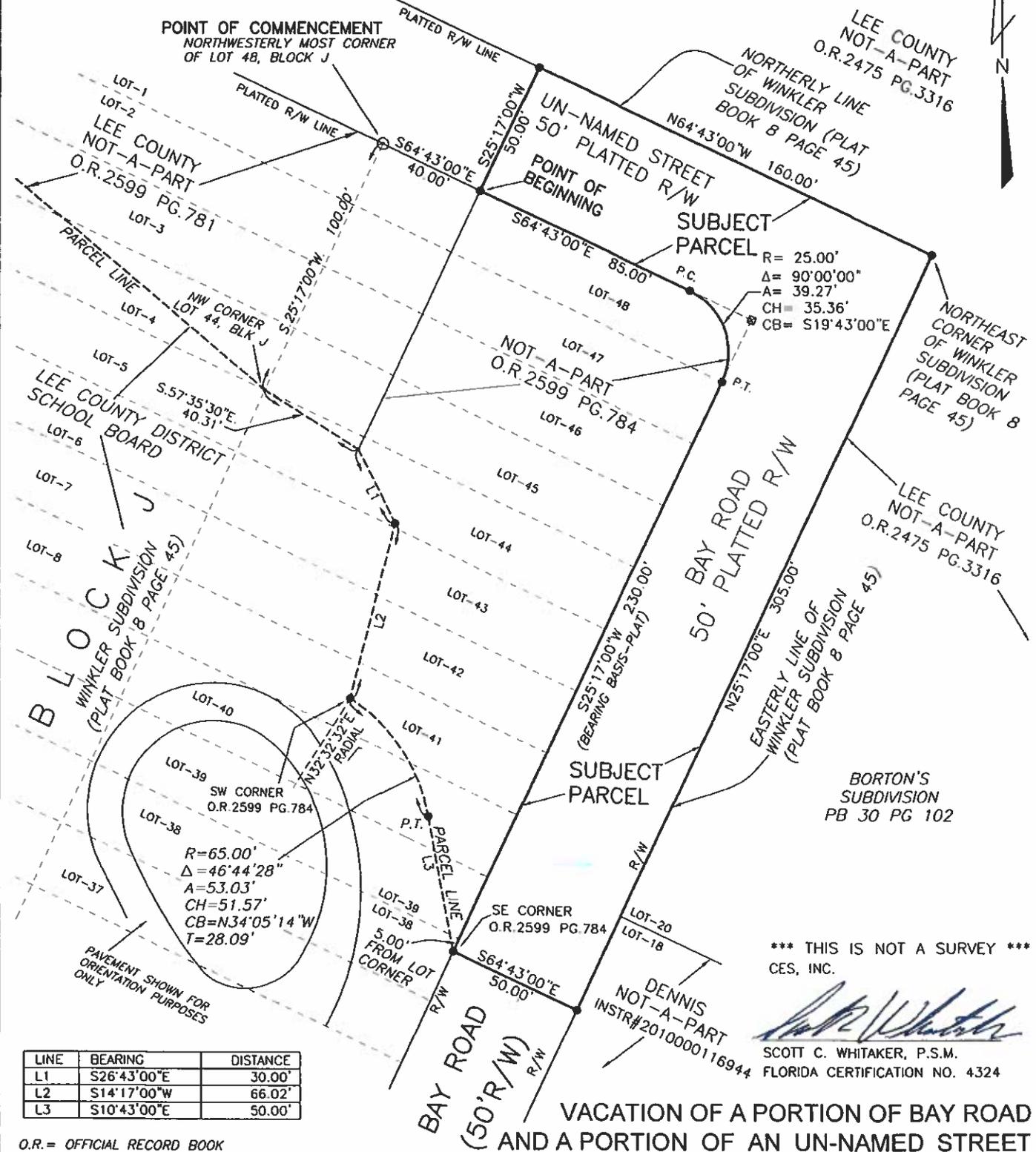
Subject to easements, restrictions, reservations and rights-of-way (recorded and unrecorded, written and unwritten).

Bearings are based on the westerly line of Bay Road (the easterly line of said Block J) as bearing S25°17'00"W.

CES, Inc. (LB8267)

Scott C. Whitaker, P.S.M. 4324
Professional Surveyor and Mapper
State of Florida

SKETCH TO ACCOMPANY DESCRIPTION OF A PARCEL OF LAND LYING IN SECTION 19, TOWNSHIP 46 SOUTH, RANGE 24 EAST, TOWN OF FORT MYERS BEACH, LEE COUNTY, FLORIDA.



LINE	BEARING	DISTANCE
L1	S26°43'00\"E	30.00'
L2	S14°17'00\"W	66.02'
L3	S10°43'00\"E	50.00'

O.R. = OFFICIAL RECORD BOOK
P.B. = PLAT BOOK
PG. = PAGE
R/W = RIGHT-OF-WAY
P.C. = POINT OF CURVE
P.T. = POINT OF TANGENCY

SUBJECT TO EASEMENTS, RESTRICTIONS, RESERVATIONS, AND RIGHTS-OF-WAY (WRITTEN AND UNWRITTEN, RECORDED AND UNRECORDED).

*** THIS IS NOT A SURVEY ***
CES, INC.

Scott C. Whitaker
SCOTT C. WHITAKER, P.S.M.
FLORIDA CERTIFICATION NO. 4324

VACATION OF A PORTION OF BAY ROAD AND A PORTION OF AN UN-NAMED STREET

CESINC

Engineers • Environmental Scientists • Surveyors
13041 MCGREGOR BOULEVARD, FORT MYERS, FLORIDA 33919 PH (239) 481-1331

2010596.002SK_BAY ROAD.dwg		FLORIDA CERTIFICATE OF AUTHORIZATION NUMBERS EB32664 & LB8267			
DATE	PROJECT NO.	DRAWN BY	SCALE	SHEET	FILE NO. (S-T-R)
08-11-20	596.002	SCW	1" = 50'	2 OF 2	19-46-24



EXHIBIT A

Engineers • Environmental Scientists • Surveyors

Description of a Parcel of Land
Lying in

Section 19, Township 46 South, Range 24 East
Town of Fort Myers Beach, Lee County, Florida
(Drainage and Utility Easement across Bay Road)

An easement situated in the State of Florida, County of Lee, Town of Fort Myers Beach, Section 19, Township 46 South, Range 24 East, being a portion of Bay Road lying contiguous with the northeast line of Lots 38 through 43, Block J, Winkler Subdivision, as recorded in Plat Book 8 at Page 45, Public Records of Lee County, Florida, and further described as follows:

Commencing at the northwesterly most corner of Lot 48 of said Block J of said Winkler Subdivision; thence S64°43'00"E along the northerly line of said Lot 48 for 40.00 feet to the northwest corner of a parcel described in Official Record Book 2599 at Page 784; thence continue S64°43'00"E along the northerly line of said Lot 48 for 85.00 feet to the beginning of a tangent curve concave to the southwest having a radius of 25.00 feet; thence continue southeasterly along the easterly line of said Lot 48 and said curve through a central angle of 90°00'00" for an arc length of 39.27 feet to a point of tangency; thence S25°17'00"W along the easterly line of Lots 47, 46, 45 and 44, said Block J, for 100.00 feet to the northeast corner of said Lot 43 and the Point of Beginning; thence continue S25°17'00"W along the easterly line of said Lots 43, 42, 41, 40, 39 and 38 for 130.00 feet to the southeast corner of said parcel of land described in Official Record Book 2599 at Page 784, said point lying 5.00 feet southwest from the northeast corner of said Lot 38; thence S64°43'00"E across Bay Road for 50.00 feet to the easterly line of said Winkler Subdivision, also being the easterly line of said Bay Road; thence N25°17'00"E along the easterly line of said subdivision and the easterly line of said Bay Road for 130.00 feet to an intersection with the easterly extension of the northerly line of said Lot 43; thence N64°43'00"W along said extended line for 50.00 feet to the Point of Beginning;

Containing 6,500 square feet (0.15 acres), more or less.

Subject to easements, restrictions, reservations and rights-of-way (recorded and unrecorded, written and unwritten).

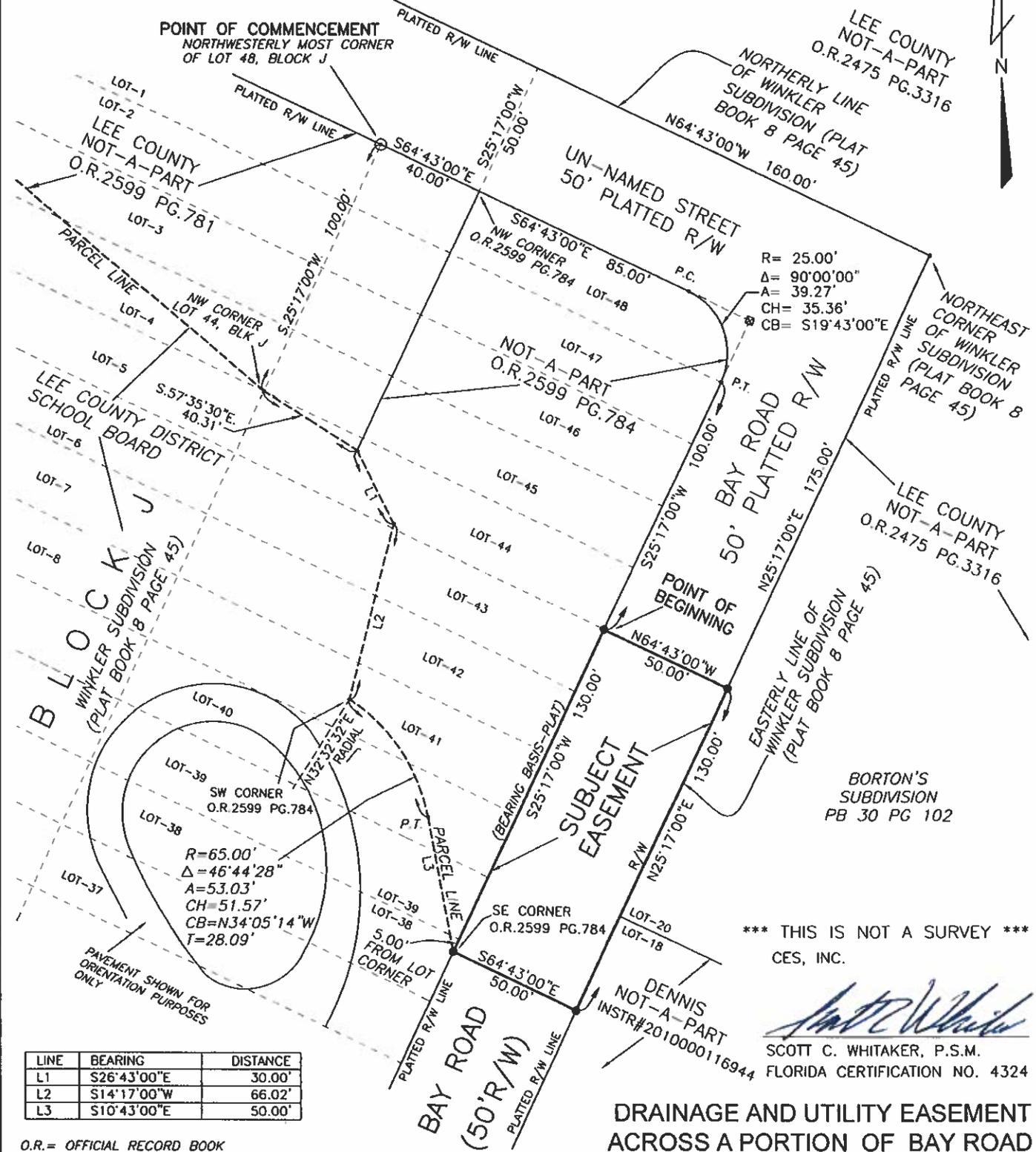
Bearings are based on the westerly line of Bay Road (the easterly line of said Block J) as bearing S25°17'00"W.

CES, Inc. (LB8267)

Scott C. Whitaker, P.S.M. 4324
Professional Surveyor and Mapper
State of Florida



SKETCH TO ACCOMPANY DESCRIPTION OF A PARCEL OF LAND LYING IN SECTION 19, TOWNSHIP 46 SOUTH, RANGE 24 EAST, TOWN OF FORT MYERS BEACH, LEE COUNTY, FLORIDA.



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SUBJECT TO EASEMENTS, RESTRICTIONS, RESERVATIONS, AND RIGHTS-OF-WAY (WRITTEN AND UNWRITTEN, RECORDED AND UNRECORDED).

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Scott C. Whitaker
SCOTT C. WHITAKER, P.S.M.
FLORIDA CERTIFICATION NO. 4324

DRAINAGE AND UTILITY EASEMENT ACROSS A PORTION OF BAY ROAD



Engineers • Environmental Scientists • Surveyors
13041 MCGREGOR BOULEVARD, FORT MYERS, FLORIDA 33919 PH (239) 481-1331

2010586.0025K_DRAINAGE AND UTILITY EASEMENT ACROSS BAY ROAD.dwg FLORIDA CERTIFICATE OF AUTHORIZATION NUMBERS EB32684 & LB8267						
DATE	PROJECT NO.	DRAWN BY	SCALE	SHEET	FILE NO. (S-T-R)	
09-14-20	596.002	SCW	1" = 50'	2 OF 2	19-46-24	