



FLORIDA DEPARTMENT OF Environmental Protection

South District
PO Box 2549
Fort Myers FL 33902-2549
SouthDistrict@FloridaDEP.gov

Ron DeSantis
Governor

Jeanette Nuñez
Lt. Governor

Shawn Hamilton
Secretary

May 7, 2024

Troy A. Chaffee 2011 Irrevocable Trust
c/o Phillip Chaffee
1029A W. State Blvd
Fort Wayne, IN 46808
chaffepr@gmail.com

Re: Consent Order
OGC Case No. 24-0389
Site No. 174725 / Project No. 392336
Unnamed Wetlands, Class III Outstanding Florida Waters
Parcel No. 74440000052 – 61 Southport Cove, Bonita Springs, FL
Collier County – SLERC

Dear Phillip Chaffee:

Enclosed is the final copy of Consent Order OGC Case No. 24-0389 to resolve the regulatory violations observed at your site.

Please sign the Consent Order and return it to this office within **twenty (20) calendar days** of receipt. After the Consent Order has been executed by the department, your copy will be returned to you.

If you have any questions, please contact Jacob Poirier by email at Jacob.Poirier@Floridadep.gov or by phone at 239-344-5680. Your cooperation in resolving this case is appreciated. Your cooperation in resolving this case is appreciated.

Sincerely,

A handwritten signature in blue ink that reads "Elizabeth Sweigert".

Elizabeth "Liz" Sweigert
Director of District Management
South District Office
Florida Department of Environmental Protection

ES/jp

Enclosures: Consent Order, Attachment I, Exhibit A, Exhibit B, Exhibit C
cc: Nick Pearson nick@bayshoremarineconsulting.com

BEFORE THE STATE OF FLORIDA
DEPARTMENT OF ENVIRONMENTAL PROTECTION

STATE OF FLORIDA DEPARTMENT OF ENVIRONMENTAL PROTECTION,)	IN THE OFFICE OF THE SOUTH DISTRICT
)	
Complainant,)	OGC FILE NO. 24-0389
)	
vs.)	
)	
PHILLIP CHAFFEE, AS TRUSTEE OF THE TROY A. CHAFFEE 2011 IRREVOCABLE TRUST, DATED MARCH 28, 2011,)	
)	
Respondent.)	
_____)	

CONSENT ORDER

This Consent Order (“Order”) is entered into between the State of Florida Department of Environmental Protection ("Department"), and Phillip Chaffee, as trustee of the Troy A. Chaffee 2011 Irrevocable Trust, dated March 28, 2011 ("Respondent") to reach settlement of certain matters at issue between the Department and Respondent.

The Department finds and the Respondent admits the following:

1. The Department is the administrative agency of the State of Florida having the power and duty to protect Florida's air and water resources and to administer and enforce Chapter 373, Part IV, and Chapter 403, Florida Statutes (“F.S.”), and the rules promulgated and authorized thereunder, Title 62, Florida Administrative Code (“F.A.C.”). The Department has jurisdiction over the matters addressed in this Consent Order.

2. Respondent is a person within the meaning of Sections 373.019(15) and 403.031(5), F.S.

3. Respondent is the owner of property located at 61 Southport Cove, Bonita Springs, Parcel ID No. 74440000052, Section 06, Township 48, Range 25, Collier County, Florida 34134 (“Property”).

4. On November 28, 1990, Southport Venture Associates conveyed to the Department a non-exclusive Conservation Easement (“Conservation Easement”) in accordance with Section 704.06, F.S. (1985), in and over real property located in Collier County. The

conditions of the Conservation Easement are described in “Exhibit A”, attached. The boundaries of the Conservation Easement at the Property are depicted in “Exhibit B”, attached.

5. The Department finds that Respondent violated Sections 373.430, 403.9328, 403.171, and 704.06, F.S., and Rule 62-330.020, F.A.C. An inspection conducted by Department personnel on September 22, 2022, revealed the following activities were conducted without a permit from the Department and in violation of the Conservation Easement:

- i. The illegal dredging and filling of approximately 1,838 square feet of mangrove wetlands protected under the Conservation Easement.
- ii. The illegal alteration of a mangrove fringe consisting of red, white, and black mangroves protected under the Conservation Easement.

These activities were conducted on the above-described Property within the landward extent of wetlands, Class III Outstanding Florida Waters of the State, as defined by Florida Law.

Having reached a resolution of the matter the Respondents and the Department mutually agree and it is,

ORDERED:

6. **Within 30 days of the effective date of this Consent Order, Respondent shall pay the Department \$6,000.00 in settlement of the matters addressed in this Consent Order.** This amount includes \$4,500.00 in civil penalties and \$1,500.00 for costs and expenses incurred by the Department during the investigation of this matter and the preparation and tracking of this Consent Order. The penalty in this case includes 2 violations of \$1,500.00 or more. Respondent shall make all payments required by this Consent Order by cashier's check, money order or on-line payment. Cashier's check or money order shall be made payable to the Department of Environmental Protection, mailed to Florida Department of Environmental Protection, South District Office, P.O. Box 2549, Fort Myers, FL 33902-2549, and shall include both the OGC number assigned to this Consent Order, which is 24-0389, and the notation “Ecosystem Management and Restoration Trust Fund.” Online payments by e-check can be made by going to the DEP Business Portal at <http://www.fldepportal.com/go/pay/>. It will take a number of days after this order becomes final and effective filed with the Clerk of the Department before ability to make online payment is available.

7. Respondent shall implement the Corrective Actions, attached hereto and incorporated herein as **Attachment I**, in the manner and within the time frames specified therein.

8. With the exception of the activities described in paragraph 7 of this Consent Order, effective immediately and henceforth, Respondent shall not conduct any dredging, filling, or construction activities on or within the landward extend of waters of the state without first obtaining a valid Department permit or written notification from the Department that the activities appear to be exempt as proposed from the Departments permitting requirements; nor shall Respondent conduct any activities on state-owned lands below the ordinary or mean high water lines without first obtaining a lease, easement, or other consent of use from the Department.

9. Respondent agrees to pay the Department stipulated penalties in the amount of \$100.00 per day for each and every day Respondent fails to timely comply with any of the requirements of paragraph 7 of this Consent Order. A separate stipulated penalty shall be assessed for each violation of this Consent Order. Within 30 days of written demand from the Department, Respondent shall make payment of the appropriate stipulated penalties to the "The Department of Environmental Protection" by cashier's check or money order and shall include thereon the OGC number assigned to this Consent Order and the notation "Water Quality Assurance Trust Fund." The Department may make demands for payment at any time after violations occur. Nothing in this paragraph shall prevent the Department from filing suit to specifically enforce any of the terms of this Consent Order. Any penalties assessed under this paragraph shall be in addition to the settlement sum agreed to in paragraph 6 of this Consent Order. If the Department is required to file a lawsuit to recover stipulated penalties under this paragraph, the Department will not be foreclosed from seeking civil penalties for violations of this Consent Order in an amount greater than the stipulated penalties due under this paragraph.

10. If any event, including administrative or judicial challenges by third parties unrelated to Respondent, occurs which causes delay or the reasonable likelihood of delay, in complying with the requirements of this Consent Order, Respondent shall have the burden of proving the delay was or will be caused by circumstances beyond the reasonable control of the Respondent and could not have been or cannot be overcome by Respondents' due diligence. Economic circumstances shall not be considered circumstances beyond the control of Respondent, nor shall the failure of a contractor, subcontractor, materialman or other agent (collectively referred to as "contractor") to whom responsibility for performance is delegated to meet contractually imposed deadlines be a cause beyond the control of Respondent, unless the

cause of the contractor's late performance was also beyond the contractor's control. Upon occurrence of an event causing delay, or upon becoming aware of a potential for delay, Respondent shall notify the Department orally within 24 hours or by the next working day and shall, within seven calendar days of oral notification to the Department, notify the Department in writing of the anticipated length and cause of the delay, the measures taken or to be taken to prevent or minimize the delay and the timetable by which Respondent intends to implement these measures. If the parties can agree that the delay or anticipated delay has been or will be caused by circumstances beyond the reasonable control of Respondent, the time for performance hereunder shall be extended for a period equal to the agreed delay resulting from such circumstances. Such agreement shall adopt all reasonable measures necessary to avoid or minimize delay. Failure of Respondent to comply with the notice requirements of this Paragraph in a timely manner shall constitute a waiver of Respondent's right to request an extension of time for compliance with the requirements of this Consent Order.

11. Respondent shall allow all authorized representatives of the Department access to the Property at reasonable times for the purpose of determining compliance with the terms of this Consent Order and the rules and statutes of the Department.

12. Entry of this Consent Order does not relieve Respondent of the need to comply with applicable federal, state or local laws, regulations or ordinances.

13. The terms and conditions set forth in this Consent Order may be enforced in a court of competent jurisdiction pursuant to Sections 120.69 and 373.129, Florida Statutes. Failure to comply with the terms of this Consent Order shall constitute a violation of Section 373.430, Florida Statutes.

14. Respondent is fully aware that a violation of the terms of this Consent Order may subject Respondent to judicial imposition of damages, civil penalties of up to \$10,000 per day per violation and criminal penalties.

15. Persons who are not parties to this Consent Order but whose substantial interests are affected by this Consent Order have a right, pursuant to Sections 120.569 and 120.57, Florida Statutes, to petition for an administrative hearing on it. The Petition must contain the information set forth below and must be filed (received) at the Department's Office of General Counsel, 3900 Commonwealth Boulevard, MS-35, Tallahassee, Florida 32399-3000, within 21 days of receipt of this notice. A copy of the Petition must also be mailed at the time of filing to

the District Office named above at the address indicated. Failure to file a petition within the 21 days constitutes a waiver of any right such person has to an administrative hearing pursuant to Sections 120.569 and 120.57, Florida Statutes.

The petition shall contain the following information:

- (a) The Department's Consent Order identification number and the county in which the subject matter or activity is located;
- (b) The name, address, and telephone number of each petitioner; the name, address, and telephone number of the petitioner's representative, if any, which shall be the address for service purposes during the course of the proceeding;
- (c) An explanation of how the petitioner's substantial interests will be affected by the Consent Order;
- (d) A statement of when and how the petitioner received notice of the Consent Order;
- (e) A statement of all material facts disputed by petitioner, if any;
- (f) A statement of the specific facts the petitioner contends warrant reversal or modification of the Consent Order;
- (g) A statement of which rules or statutes the petitioner contends require reversal or modification of the Consent Order; and
- (h) A statement of the relief sought by the petitioner, stating precisely the action petitioner wishes the Department to take with respect to the Consent Order.

If a petition is filed, the administrative hearing process is designed to formulate agency action. Accordingly, the Department's final action may be different from the position taken by it in this Notice. Persons whose substantial interests will be affected by any decision of the Department with regard to the subject Consent Order have the right to petition to become a party to the proceeding. The petition must conform to the requirements specified above and be filed (received) within 21 days of receipt of this notice in the Office of General Counsel at the above address of the Department. Failure to petition within the allowed time frame constitutes a waiver of any right such person has to request a hearing under Sections 120.569 and 120.57, Florida Statutes, and to participate as a party to this proceeding. Any subsequent intervention will only be at the approval of the presiding officer upon motion filed pursuant to Rule 28-106.205, Florida Administrative Code.

A person whose substantial interests are affected by the Consent Order may file a timely petition for an administrative hearing under Sections 120.569 and 120.57, Florida Statutes, or may choose to pursue mediation as an alternative remedy under Section 120.573, Florida Statutes, before the deadline for filing a petition. Choosing mediation will not adversely affect the right to a hearing if mediation does not result in a settlement. The procedures for pursuing mediation are set forth below.

Mediation may only take place if the Department and all the parties to the proceeding agree that mediation is appropriate. A person may pursue mediation by reaching a mediation agreement with all parties to the proceeding (which include the Respondent, the Department, and any person who has filed a timely and sufficient petition for a hearing) and by showing how the substantial interests of each mediating party are affected by the Consent Order. The agreement must be filed in (received by) the Office of General Counsel of the Department at 3900 Commonwealth Boulevard, Mail Station 35, Tallahassee, Florida 32399-3000, within 10 days after the deadline as set forth above for the filing of a petition.

The agreement to mediate must include the following:

- (a) The names, addresses, and telephone numbers of any persons who may attend the mediation;
- (b) The name, address, and telephone number of the mediator selected by the parties, or a provision for selecting a mediator within a specified time;
- (c) The agreed allocation of the costs and fees associated with the mediation;
- (d) The agreement of the parties on the confidentiality of discussions and documents introduced during mediation;
- (e) The date, time, and place of the first mediation session, or a deadline for holding the first session, if no mediator has yet been chosen;
- (f) The name of each party's representative who shall have authority to settle or recommend settlement; and
- (g) Either an explanation of how the substantial interests of each mediating party will be affected by the action or proposed action addressed in this notice of intent or a statement clearly identifying the petition for hearing that each party has already filed, and incorporating it by reference.
- (h) The signatures of all parties or their authorized representatives.

As provided in Section 120.573, Florida Statutes, the timely agreement of all parties to mediate will toll the time limitations imposed by Sections 120.569 and 120.57, Florida Statutes, for requesting and holding an administrative hearing. Unless otherwise agreed by the parties, the mediation must be concluded within sixty days of the execution of the agreement. If mediation results in settlement of the administrative dispute, the Department must enter a final order incorporating the agreement of the parties. Persons whose substantial interests will be affected by such a modified final decision of the Department have a right to petition for a hearing only in accordance with the requirements for such petitions set forth above, and must therefore file their petitions within 21 days of receipt of this notice. If mediation terminates without settlement of the dispute, the Department shall notify all parties in writing that the administrative hearing processes under Sections 120.569 and 120.57, Florida Statutes, remain available for disposition of the dispute, and the notice will specify the deadlines that then will apply for challenging the agency action and electing remedies under those two statutes.

16. The Department hereby expressly reserves the right to initiate appropriate legal action to prevent or prohibit any violations of applicable statutes, or the rules promulgated thereunder that are not specifically addressed by the terms of this Consent Order.

17. The Department, for and in consideration of the complete and timely performance by Respondent of the obligations agreed to in this Consent Order, hereby waives its right to seek judicial imposition of damages or civil penalties for alleged violations addressed in this Consent Order.

18. Respondent acknowledges and waives their right to an administrative hearing pursuant to Sections 120.569 and 120.57, Florida Statutes, on the terms of this Consent Order. Respondent acknowledge their right to appeal the terms of this Consent Order pursuant to Section 120.68, Florida Statutes, and waive that right upon signing this Consent Order.

19. Electronic signatures or other versions of the parties' signatures, such as .pdf or facsimile, shall be valid and have the same force and effect as originals. No modifications of the terms of this Consent Order shall be effective until reduced to writing and executed by both the Respondent and the Department.

20. All submittals and payments required by this Consent Order to be submitted to the Department shall be sent to the Florida Department of Environmental Protection, South District

Office, P.O. Box 2549, Fort Myers, FL 33902-2549. Online e-check payment can be made by going to the DEP Business Portal at <http://www.fldepportal.com/go/pay/>.

21. In the event of a sale or conveyance of the property, if all of the requirements of this Consent Order have not been fully satisfied, Respondent shall, at least 30 days prior to the sale or conveyance of the property, (1) notify the Department of such sale or conveyance and (2) provide a copy of this Consent Order with all attachments to the new owner. The sale or conveyance of the property shall not relieve the Respondent of the obligations imposed in this Consent Order.

22. This Consent Order is a settlement of the Department's civil and administrative authority arising under Florida law to resolve the matters addressed herein. This Consent Order is not a settlement of any criminal liabilities which may arise under Florida law, nor is it a settlement of any violation which may be prosecuted criminally or civilly under federal law.

23. This Consent Order is a final order of the Department pursuant to Section 120.52(7), Florida Statutes, and it is final and effective on the date filed with the Clerk of the Department unless a Petition for Administrative Hearing is filed in accordance with Chapter 120, Florida Statutes. Upon the timely filing of a petition this Consent Order will not be effective until further order of the Department.

FOR THE RESPONDENT:
PHLLIP CHAFFEE, TRUSTEE OF THE
TROY A. CHAFFEE 2011 IRREVOCABLE
TRUST, DATED MARCH 28, 2011

DATE

Phillip Chaffee, Trustee
The Troy A. Chaffee 2011 Irrevocable Trust
Dated March 28, 2011

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Please do not write below this line. For DEP use only.

DONE AND ORDERED this _____ day of _____, 20__, in Lee County, Florida.

STATE OF FLORIDA DEPARTMENT
OF ENVIRONMENTAL PROTECTION

Elizabeth "Liz" Sweigert
Director of District Management
South District Office
Florida Department of Environmental Protection

**Filed, on this date, pursuant to Section 120.52, F.S., with the designated Department Clerk,
receipt of which is hereby acknowledged.**

Clerk

Date

cc: Lea Crandall, Agency Clerk [agency_clerk@dep.state.fl.us]

ATTACHMENT I
OGC Case No. 24-0389
CORRECTIVE ACTIONS

This Consent Order addresses the following:

- unauthorized dredge and fill impacts to approximately 1,838 square feet of forested saltwater wetlands protected under the Conservation Easement
- unauthorized alteration of a mangrove fringe consisting of red, white, and black mangroves protected under the Conservation Easement

MITIGATION CONDITIONS:

1. **Within 90 days of the effective date of this Consent Order**, Respondents shall mitigate for the approximately 1,838 square feet of impacts to forested saltwater wetlands and the alteration of a mangrove fringe by:
 - a. **The purchase of 0.02 credits of saltwater forested wetlands from one of the following mitigation banks:**
 - i. **Little Pine Island Mitigation Bank**
Contact: Desmond Duke, EcoResolve, Inc.
239-530-8044, dduke@ecoresolve.com
2. **Within thirty (30) days of credit purchase**, Respondents shall provide the Department with documentation that **the above mitigation bank credits** have been deducted from the credit ledger of the bank. This documentation shall be submitted to the Florida Department of Environmental Protection, South District Office, P.O. Box 2549, Fort Myers, FL 33902-2549 ('South District Office'), by facsimile to (850) 412-0590, or via email to FTMERP_Compliance@dep.state.fl.us. This payment confirmation shall include the Respondents' names and the OGC number associated with this Consent Order, which is **24-0389**.

RESTORATION ACTIONS:

3. **Within 90 days of the effective date of this Consent Order**, the Respondent shall complete all planting required in accordance with the plans and specifications detailed in the attached Exhibit C. The types of species to be planted are described in "Table 1" of Exhibit C, and the locations and quantity of plantings are depicted on Page 6 of Exhibit C. The area in which planting is to occur is described as "Cleared Area to be Re-Planted and Restored Per Plan" on Page 6 of Exhibit C (Cleared Area to be Re-Planted and Restored Per Plan shall hereafter be referred to as "Restoration Area" in Attachment I). Should the terms in Exhibit C conflict with any terms of the Consent Order and Attachment I, the terms within the Consent Order and Attachment I shall prevail.

MONITORING & SUCCESS CRITERIA

4. **The Respondent shall submit a "Time Zero" Monitoring Report within 30 days after all planting in the Restoration Area is complete** and shall include the following:
 - a. The "OGC Case No. 24-0389" and name of the Respondent exactly as it appears on the first page of this Consent Order;
 - b. Dates of all work completed;

ATTACHMENT I
OGC Case No. 24-0389
CORRECTIVE ACTIONS

- c. Color photographs to provide an accurate representation of the Restoration Area. The photographs shall be taken from fixed reference points and directions which are shown on a scaled plan-view of the Property; and
 - d. A table depicting numbers, spacing, and sizes (including tree height) of each species planted and nursery receipts.
5. **The Respondent shall conduct a monitoring inspection of the Restoration Area and submit a “180 Day” Monitoring Report within 180 days, or 6 months, after submitting the Time Zero Monitoring Report.** The 180 Day Monitoring Report shall include the following information:
 - a. The “OGC Case No. 24-0389” and name of the Respondent exactly as it appears on the first page of this Consent Order;
 - b. Dates of inspection;
 - c. Color Photographs to provide an accurate representation of the Restoration Area. The photographs shall be taken from the fixed reference points and directions used for the Time Zero Monitoring Report shown on a scaled plan-view of the Property;
 - d. Plant species composition with estimates of the contribution of each species to percent cover; and
 - e. Plan view depicting the locations of any specimens replanted (indicate numbers of each species replanted and nursery receipts).
6. **The Respondent shall conduct annual monitoring events of the Restoration Area, starting six months after submitting the 180 Day Monitoring Report, for a minimum of three (3) years or until the success criteria are achieved as described in Paragraph 9 below.** The purpose of monitoring shall be to determine the success of the Restoration Area.
7. **The Respondent shall conduct treatment and removal of all exotic and nuisance vegetation in the Restoration Area every six (6) months, starting after the date of completion of all the planting, for (3) years or until the success criteria is achieved as described in Paragraph 9 below.** Respondent shall remove all exotic and nuisance vegetation without disturbing the other existing vegetation in the Restoration Area. Exotic and nuisance vegetation shall include vegetation listed in the most recent published list of invasive species by the Florida Exotic Pest Plant Council (FLEPPC). Internet website for FLEPPC is <http://www.fleppc.org/list/list.htm>. Exotic and nuisance vegetation shall include, but not limited to, vines, Brazilian Pepper (*Schinus terebinthifolius*), Punk tree (*Melaleuca quinquenervia*), and Australian pine (*Casuarina equisetifolia*).
8. **Within thirty (30) days after the completion of each annual monitoring inspection,** Respondent shall complete a monitoring report and submit it to the Department. The monitoring reports shall include the following information:
 - a. The “OGC Case No. 24-0389” and name of the Respondent exactly as it appears on the first page of this Consent Order;
 - b. Dates of inspection;
 - c. Color Photographs to provide an accurate representation of the Restoration Area. The photographs shall be taken from the fixed reference points and directions used

ATTACHMENT I
OGC Case No. 24-0389
CORRECTIVE ACTIONS

for the Time Zero and 180 Day Monitoring Reports shown on a scaled plan-view of the Property;

- d. Plant species composition with estimates of the contribution of each species to percent cover; and
 - e. Plan view depicting the locations of any specimens replanted (indicate numbers of each species replanted and nursery receipts).
9. Restoration of the Restoration Area shall be deemed successful **when the following criteria have been continuously met for a period of at least three (3) years:**
- a. Planted species and/or naturally recruited wetland vegetation have achieved a minimum 80% survival;
 - b. Total contribution to percent cover by plantings listed in “Table 1” of Exhibit C exceeds 50%;
 - c. Total contribution to percent cover by exotic, non-native wetland species, and species not listed in 62-340, F.A.C. shall be maintained below 5%;
 - d. The planted species are exhibiting natural, vigorous growth consistent with the species and target plant community; and
 - e. The Restoration Area has been inspected by the Department and the Department has informed the Respondent in writing that the Restoration Area has achieved the described success criteria.
10. **If it is determined by the Department, based on visual inspection and/or review of the monitoring reports, that the Restoration Area is not meeting the success criteria (described in Paragraph 9 above),** Respondent shall submit an alternative Restoration Plan to the Department for review and approval, which shall meet the following requirements:
- a. Respondent shall submit the plan within 30 days of notification by the Department of failure to meet the performance criteria;
 - b. The Revised Restoration Plan shall include a plan, including a time schedule for planting the Restoration Area with enough plants representative of the naturally occurring habitat approved by the Department in advance to meet the success criteria. The revised plan shall also include maintenance and monitoring schedules to ensure that the replanting is successful.

The Respondent shall implement the revised restoration plan, including any changes required by the Department, no later than 90 days after receiving Department approval.

GENERAL CONDITIONS:

11. This Consent Order or a copy thereof, complete with all conditions, attachments, exhibits, and modifications shall be kept at the work site of the ordered activity. The complete Consent Order shall be available for review at the work site upon request by the Department staff. The Respondents shall require the contractor to review the complete Consent Order prior to commencement of the activity authorized by this Consent Order.
12. Activities approved by this Consent Order shall be conducted in a manner which does not cause violations of state water quality standards. The Respondents shall implement best

ATTACHMENT I
OGC Case No. 24-0389
CORRECTIVE ACTIONS

management practices for erosion and pollution control to prevent violations of state water quality standards. Turbidity barriers shall be installed and maintained at all locations where the possibility of transferring suspended solids into the receiving waterbody exists due to the ordered work. Turbidity barriers shall remain in place at all locations until construction is completed and soils are stabilized and vegetation has been established. All practices shall be in accordance with the guidelines and specifications described in the State of Florida Erosion and Sedimentation Control Inspectors Manual, FDEP (2008), available on the Department's website at <http://www.dep.state.fl.us/water/nonpoint/docs/erosion/erosion-inspectors-manual.pdf> unless a project-specific erosion and sediment control plan is approved as part of this Order. Thereafter the Respondents shall be responsible for the removal of the barriers. The Respondents shall correct any erosion or shoaling that causes adverse impacts to the water resources.

13. Should any other regulatory agency require changes to the herein authorized act, the Respondents shall notify the Department in writing of the changes prior to implementation so that a determination can be made whether a Consent Order modification is required.
14. This Consent Order does not eliminate the necessity to obtain any required federal, state, local and special district authorizations prior to the start of any activity approved by this Consent Order. This Consent Order does not convey to the Respondents or create in the Respondents any property right or any interest in real property, nor does it authorize any entrance upon or activities on property, which is not owned or controlled by the Respondents, or convey any rights or privileges other than those specified in the Consent Order and Chapter 62-330, F.A.C.
15. The Respondents shall hold and save the Department harmless from any and all damages, claims, or liabilities, which may arise by reason of the ordered activities, authorized by this Consent Order.
16. If historical or archaeological artifacts are discovered at any time on the project site, the Respondents shall immediately notify the Department's South District Office, P.O. Box 2549, Fort Myers, FL 33902-2549.
17. The Respondents shall immediately notify the Department in writing of any previously submitted information that is later discovered to be inaccurate.
18. The Respondents are hereby advised that Department authorization is required for all dredging and filling activities in wetlands or surface waters and for mangrove trimming, alteration and/or removal, pursuant to Chapters 403 and 373, Florida Statutes (F.S.). In addition, water quality standards, as stipulated in Chapter 62-302, F.A.C., shall be upheld. Respondents shall not commence any excavation, construction, or other activity within any wetland areas until Respondents have received from the Department (or the appropriate Water Management District) the required permit authorizing the activity. Pursuant to Chapter 373.129 and 403.141, if such work is done without authorization, the Department may levy

ATTACHMENT I
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CORRECTIVE ACTIONS

civil penalties of up to \$10,000 per offense. Each date during which such violation occurs may constitute a separate offense.

19. The project shall comply with applicable State Water Quality Standards, namely:
 - a. Rule 62-302.500, F.A.C. – Surface Waters: Minimum Criteria, General Criteria; and
 - b. Rule 62-302.530, F.A.C. – Table: Surface Water Quality Criteria – Class III Waters.

COLLIER COUNTY CONSERVATION EASEMENT RECORDED

STATE OF FLORIDA)
) SS.
COUNTY OF COLLIER)

REC 17
PRM 17
DOC 17
INT 17
IND 17

OR BOOK 1101575

KNOW ALL MEN BY THESE PRESENTS that for and in consideration of issuance of State of Florida Department of Environmental Regulation Permits Numbered 111501035 and 111703805 in the name of SOUTHPORT VENTURE ASSOCIATES, a general partnership and other good and valuable considerations, the receipt of which is hereby acknowledged, SOUTHPORT VENTURE ASSOCIATES, a general partnership, ("Grantor") has bargained, sold, conveyed and granted to the STATE OF FLORIDA DEPARTMENT OF ENVIRONMENTAL REGULATION ("Grantee"), 7451 Golf Course Boulevard, Punta Gorda, Florida 33950-9359, a non-exclusive conservation easement in accordance with Section 704.06, Florida Statutes (1985), in and over the real property located in Collier County, Florida and described on the attached Exhibit "A".

1. This Easement conveys to Grantee a perpetual non-exclusive interest in the property, consisting of the following affirmative and negative covenants on the part of the Grantor and Grantor's successors and assigns:

a. No construction or placing of buildings, roads, signs, billboards or other advertising, utilities or other structures of any kind whatsoever on or above the ground on the property shall be undertaken without prior written consent of Grantee.

b. No dumping or placing of soil or other substance whatsoever or dumping or placing of trash, waste or unsightly or offensive material on the property.

c. No removal or destruction of native trees, shrubs, or other vegetation on the property.

d. No excavation, dredging or removal of loam, peat, gravel, soil, rock or other material substance in such manner as to affect the surface on the property.

e. No surface use except for purposes that permit the land or water area to remain predominantly in its natural condition on the property.

f. No activities detrimental to drainage, flood control, water management, water conservation, water quality, erosion control, soil conservation or fish or wildlife habitat preservation on the property.

g. No acts or uses detrimental to such retention of land or water area on the property.

h. Grantor and its successors and assigns shall maintain the described real property free from exotic vegetation.

2. Provided, however, that this Easement shall not preclude the following specific activities from being undertaken on the subject property as authorized pursuant to the above referenced Permits Numbered 111501035 and 111703805.

a. The placement, construction and maintenance of ramps and walkways for access and single family boat docks for property owners and associations of such property owners within the Southport on the Bay subdivision, provided such access ramps or walkways do not exceed 4' in width.

b. Maintenance of mangroves located adjacent to residential lots within Southport on the Bay Subdivision provided such mangroves may not be trimmed to a height of less than ten (10) feet.

c. Grantor retains and reserves the use of the property for any and all purposes which do not interfere with and prevent the uses herein granted to the Grantee.

PAGE 1

11009993

HUMPHREY & KNIGHT, P.A.
1505 HENDERY STREET
FORT WALTERS, FL 33601
THIRD FLOOR

Exhibit A
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3. In the event of violation of any covenant contained in this Conservation Easement, Grantee shall be entitled to pursue all available legal and equitable remedies, including injunction.

4. Grantee may, in its sole discretion, transfer its rights under this Easement to such other state or local agency or to a private or public organization provided same is dedicated to the conservation and preservation of land in its natural state.

It is understood that the granting of this Conservation Easement entitles the Grantee or its authorized representatives to enter the above described land in a reasonable manner and at reasonable times to assure compliance.

The Grantor on behalf of itself and its successors or assigns hereby agrees to bear all costs and liability relating to the operation and maintenance of the land subject to this Conservation Easement in the natural vegetative and hydrologic condition existing at the time of execution of this Conservation Easement, including the maintenance of enhanced or created wetlands in the vegetative and hydrologic condition required by the aforementioned permit, and Grantor does hereby indemnify and hold harmless the Grantee from same. The Conservation Easement hereby granted and the obligation to retain and maintain the land forever predominantly in the vegetative and hydrologic condition as herein specified shall run with the land and shall be binding upon the Grantor and its successors and assigns, and shall inure to the benefit of the Grantee and its successors and assigns.

The terms and conditions of this Conservation Easement may be enforced by the Grantee by injunctive relief and other appropriate available remedies, and Grantor consents that venue for such enforcement actions shall lie exclusively in the circuit court of the Second Judicial Circuit, in Leon County, Florida. In any enforcement action in which the Grantee prevails, Grantee shall be entitled to recover reasonable attorney's fees and costs in the trial and appellate courts, in addition to the cost of restoring the land to the natural vegetative and hydrologic condition existing at the time of execution of this Conservation Easement or to the vegetative and hydrologic condition required by the aforementioned permits. These remedies are in addition to any other remedy, fine or penalty which may be applicable under Chapter 403, Florida Statutes.

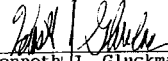
Any forbearance on behalf of the Grantee to exercise its rights in the event of the failure of Grantor to comply with the provisions of this Conservation Easement shall not be deemed or construed to be a waiver of the Grantee's rights hereunder in the event of any subsequent failure of the Grantors to comply.

IN WITNESS WHEREOF, the undersigned does execute this Grant of Conservation Easement on the date first above written.

Grantor:

SOUTHPORT VENTURE ASSOCIATES, a
New Jersey general partnership

By: Orion Marketing, Inc.,
a general partner

By: 
Kenneth J. Gluckman, Its
President


1st Witness


2nd Witness

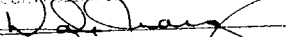
Received \$ 55 Documentary Stamp Tax
Received \$ 15 Class C Intangible
and Property Tax
COLLIER COUNTY PUBLIC SALES DEPARTMENT
BY:  D.C.

Exhibit A

OGC No. 24-0389

Page 2 of 4

STATE OF FLORIDA)
) SS.
COUNTY OF COLLIER)

The foregoing instrument was acknowledged before me by Kenneth J. Gluckman, as President of Orion Marketing, Inc., a general partner of Southport Venture Associates this 27 day of NOVEMBER, 1990.

My Commission Expires:
NOTARY PUBLIC STATE OF FLORIDA
MY COMMISSION EXP. OCT. 5, 1992
BONDED THROUGH GENERAL INS. LTD.

Donald K. Milne (SEAL)
Notary Public



Accepted:

By: Philip R. Edwards Dated: 11/28/90, 1990

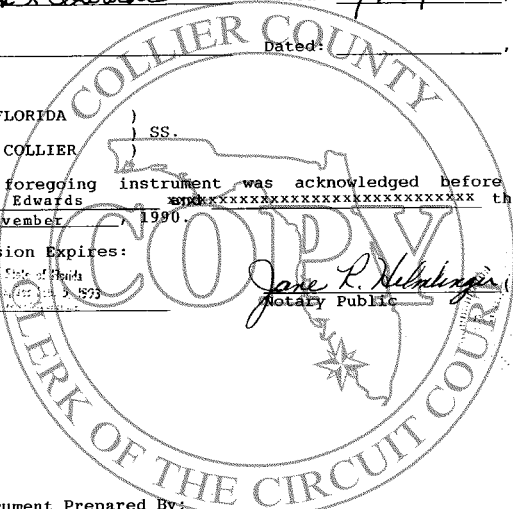
By: _____ Dated: _____, 1990

STATE OF FLORIDA)
) SS.
COUNTY OF COLLIER)

The foregoing instrument was acknowledged before me by Philip R. Edwards ~~and~~ this 28th day of November, 1990.

My Commission Expires:
NOTARY PUBLIC State of Florida
My Commission Expires Oct. 5, 1992
BONDED THROUGH GENERAL INS. LTD.

Jane R. Helbing (SEAL)
Notary Public



This Instrument Prepared By:

George L. Consoer, Jr., Esq.
HUMPHREY & KNOTT, P.A.
1625 Hendry Street
Fort Myers, Florida 33901

Exhibit A
OGC No. 24-0389
Page 3 of 4

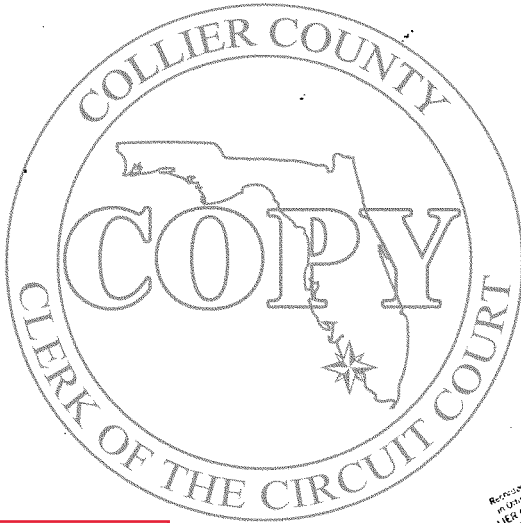
EXHIBIT "A"

Legal Description of Conservation Easement

All of that certain property designated as Conservation Easement Area (C.E.) upon the plat of Southport on the Bay, Unit One, as recorded at Plat Book 15, Pages 51 - 53, and the Plat of Southport on the Bay, Unit Two, as recorded at Plat Book 16, Pages 100 - 101, both recorded in the Public Records of Collier County, Florida.

001575
OR BOOK

000998
PAGE



Revised and re-issued
in 1984 pursuant to
COLLIER COUNTY, FLORIDA
JAMES C. GILES CLERK

Exhibit A
OGC No. 24-0389
Page 4 of 4

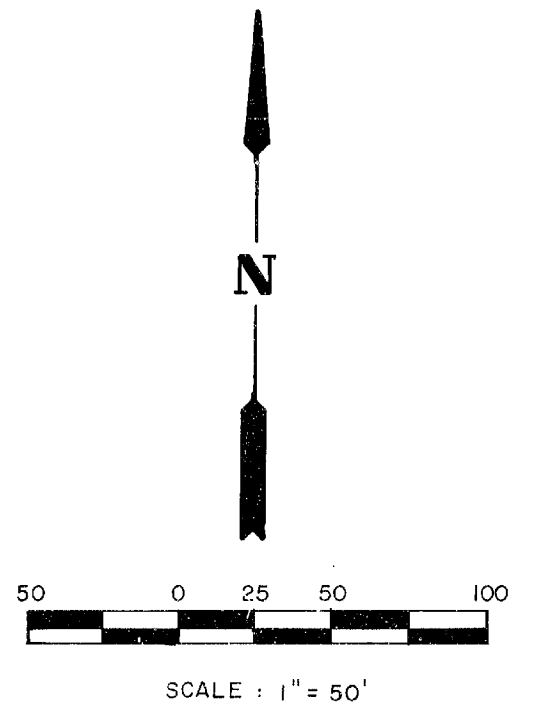
Exhibit B
OGC No. 24-0389
Page 1 of 1

SOUTHPORT ON THE BAY, UNIT TWO

A SUBDIVISION LYING IN SECTION 6, TOWNSHIP 48 SOUTH,
 RANGE 25 EAST, COLLIER COUNTY, FLORIDA.

LITTLE HICKORY BAY NOT INCLUDED

SOUTHPORT ON THE BAY, UNIT ONE
 PLAT BOOK 15, PAGES 51 - 53



Cxx - CURVE DATA

No.	Delta	Radius	Arc Length	Tangent	Chord	Bearing
1	51°42'40"	250.00	225.63	121.15	218.05	N16°35'41"E
2	21°37'24"	250.00	94.35	47.74	93.79	N20°04'21"W
3	51°42'40"	220.00	198.56	106.62	191.89	S16°35'41"W
4	06°19'33"	700.00	77.29	38.68	77.25	S39°17'14"W
5	21°37'24"	280.00	105.67	53.47	105.05	N20°04'21"W
6	14°04'03"	280.00	68.75	34.55	68.57	N16°17'41"W
7	07°33'21"	280.00	36.92	18.49	36.90	N27°06'23"W
8	258°27'47"	50.00	225.55	-61.24	77.46	N81°39'10"W
9	93°33'27"	50.00	81.64	53.21	72.87	N00°48'00"E
10	54°58'02"	50.00	47.97	26.01	46.15	N73°27'44"W
11	26°07'31"	50.00	22.80	11.60	22.60	S65°59'29"W
12	46°23'00"	50.00	40.48	21.42	39.38	S29°44'14"W
13	37°25'47"	50.00	32.66	16.94	32.09	S12°10'10"E
14	21°37'24"	220.00	83.03	42.01	82.54	S20°04'21"E
15	73°20'04"	220.00	281.58	163.79	262.75	S05°46'59"W
16	34°41'13"	220.00	133.19	68.71	131.16	N25°06'25"E
17	00°13'27"	700.00	2.74	1.37	2.74	N42°20'18"E
18	06°06'07"	700.00	74.55	37.31	74.51	N39°10'31"E
19	38°38'52"	220.00	148.40	77.15	145.60	S10°43'37"E

Lxx - COURSE DATA

No.	Direction	Length
1	N59°06'57"E	20.00
2	S30°53'03"E	13.29
3	N73°25'59"W	66.07
4	N35°41'03"W	58.51
5	N35°41'03"W	63.78
6	N04°31'00"E	62.63
7	N04°31'00"E	88.87
8	N04°31'00"E	34.14
9	N04°31'00"E	53.90
10	S66°25'14"E	62.11
11	S46°15'39"W	40.81
12	S46°15'39"W	70.59
13	S05°10'00"W	73.05
14	S26°58'07"E	33.84
15	S26°58'07"E	59.83
16	S66°25'14"E	34.79
17	S66°25'14"E	62.52
18	S28°38'46"E	23.14
19	S28°38'46"E	50.41
20	S08°08'20"W	36.96
21	S08°08'20"W	8.16

THIS INSTRUMENT PREPARED BY:
 JAMES S. RICHMOND, P.L.S.
 COASTAL ENGINEERING CONSULTANTS, INC.
 PROFESSIONAL ENGINEERS AND LAND SURVEYORS
 3106 SOUTH HORSESHOE DRIVE, NAPLES, FLORIDA

**THE CHAFFEE RESIDENCE
61 SOUTHPORT COVE
BONITA SPRINGS, FL 34134**

VEGETATION RESTORATION PLAN

January 2024

PREPARED BY:

**BAYSHORE MARINE
CONSULTING, LLC** 

**Exhibit C
OGC No. 24-0389
Page 1 of 6**

1 INTRODUCTION

The Chaffee Residence, located at 61 Southport Cove in Bonita Springs FL 34134, is the site of a single-family residence within the Barefoot Beach subdivision. The parcel is an approximately 80' x 120' near-rectangular-shaped lot with a conservation easement spanning 30' inward from the rear property line, which corresponds with the Mean High-Water Line (MHWL). The property is approximately 0.24 acres in size and is located within Section 6, Township 48 S, and range 25 E within Collier County. It can be identified by folio #74440000052.

This property has had an ongoing compliance and enforcement situation due to illegal clearing of mangroves and wetland vegetation within the conservation easement that began in 2020. In order to return the subject property into compliance with the conservation easement, this report seeks to outline a plan to restore the inappropriately cleared area on site.

2 PREVIOUS AND EXISTING CONDITIONS

As previously mentioned, the subject property is part of the Barefoot Beach subdivision, which was created in the late 1980s. This particular lot, however, was apparently not developed until the year 1995, before which, it was simply a cleared vacant lot. As part of the subdivision's creation, the granting of a conservation easement was required, which covered (among other areas) the subject property's shoreline, 30' landward of the MHWL. Between 2019 and 2022, the clearing occurred, and we have been left with the property as it exists today.

3 PROPOSED CONDITIONS

This report seeks to restore the cleared portion of the conservation easement on site back to a balanced, native habitat through plantings. Plantings will consist of only native species and will consist of species that exist within all three substrata (Canopy, midstory, and ground cover).

Due to recent hurricane activity and maintaining of the property by the homeowner, removal of exotic vegetation does not appear to be necessary at this time. However, removal of invasive or exotic species from the easement will nevertheless occur as needed in the future so as to remain in compliance with the conservation easement.

Access to the site will be attainable through the side yard of the property. Any vegetative debris will be removed from the site and disposed of at the landfill or other approved disposal site(s). The proposed plantings will be installed prior to or during the rainy season if possible or will be watered with an irrigation system. Follow up removal of any regenerating exotic vegetation will occur in perpetuity after plantings occur.

The proposed restoration will consist of installing plantings per Table 1 (below) over 100% of the area labeled as "previously cleared area to be restored" on the attached exhibits.

Exhibit C
OGC No. 24-0389
Page 2 of 6

Table 1: Vegetation to be planted:

Common Name	Scientific Name	Plant Sizes	Planting Locations
Red mangrove	<i>Rhizophora mangle</i>	1 - 5 gal.	5' OC
Black mangrove	<i>Avicennia germinans</i>	1 - 5 gal.	5' OC
White mangrove	<i>Laguncularia racemose</i>	1 - 5 gal.	5' OC

If any of the above plant species sizes are not available for purchase, suitable alternatives may be substituted as needed upon approval.

4 MONITORING

Following the initial plantings, monitoring will need to occur so as to insure survival of the plantings and a successful restoration. The schedule of monitoring events will occur as follows:

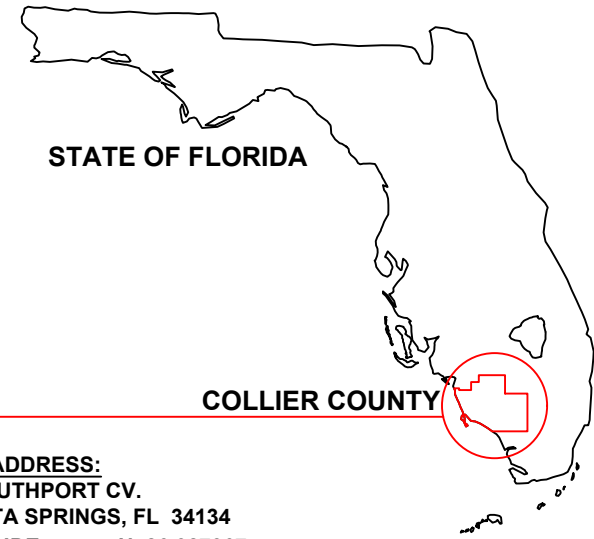
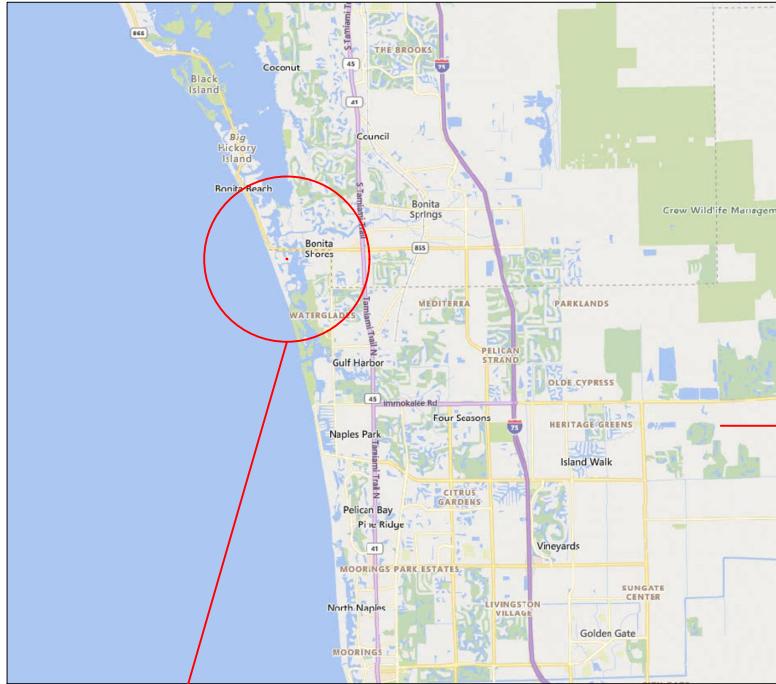
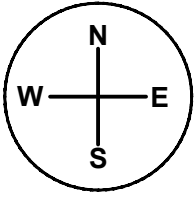
- A time zero monitoring event will occur immediately following plantings so as to document the number and health of all plantings installed on site.
- The first true monitoring event will then occur 180 days (6 months) following the time zero monitoring event.
- The second monitoring event will occur an additional 180 days following the first monitoring event, or 1 year after the time zero monitoring event.
- The third monitoring event will occur 1 full year later or 2 years following the time zero monitoring event.
- The fourth monitoring event will occur 1 full year later or 3 years following the time zero monitoring event.

Following each monitoring event, a summary will be provided documenting the status of the plantings, removal of irrigation (if utilized), and any re-plantings that were necessary to replace vegetation that did not survive. If after the third year, the success criteria below are not met, then additional monitoring will occur until the success criteria are met.

5 SUCCESS CRITERIA

The intent of the restoration plantings proposed is to restore the cleared area to proper, natural conditions. In order to accomplish this goal, a minimum of 80% of the restoration plantings proposed will be required to survive the first year, and total coverage for the restoration area must meet or exceed 50% coverage at the conclusion of the 3-year anniversary of the time zero monitoring event. Any plantings that do not survive will be replaced as needed. Any non-native vegetation that becomes established will be removed in perpetuity. The monitoring reports will document the survivorship of the plantings as well as the percent coverage of the restoration area to demonstrate that the area has been fully restored. If after 3 years of monitoring, total coverage of the site by native vegetation exceeds 50% coverage, then the success criteria of this restoration plan will be considered met and monitoring may be discontinued.

Exhibit C
OGC No. 24-0389
Page 3 of 6



STATE OF FLORIDA

COLLIER COUNTY

SITE ADDRESS:
61 SOUTHPORT CV.
BONITA SPRINGS, FL 34134
LATITUDE: N 26.327367
LONGITUDE: W -81.83785

NOTES:
THESE DRAWINGS ARE FOR PERMITTING PURPOSES ONLY AND
ARE NOT INTENDED FOR CONSTRUCTION USE.

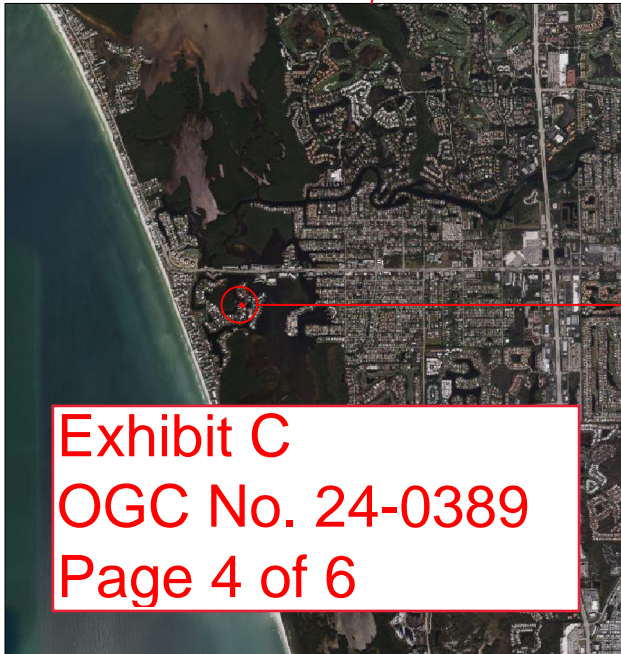
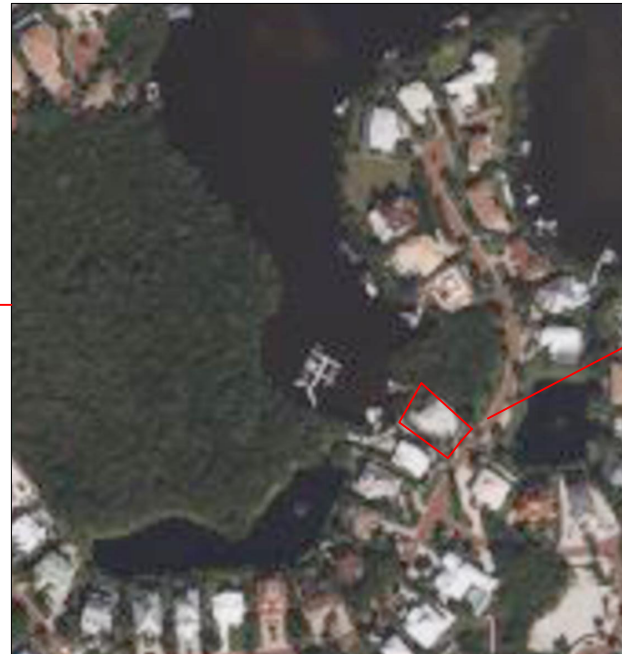
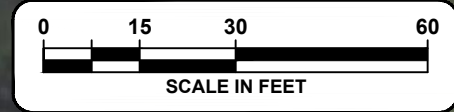
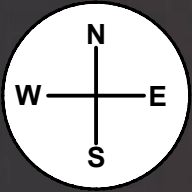


Exhibit C
OGC No. 24-0389
Page 4 of 6



SUBJECT PROPERTY

DESIGNED:	N.S.P.
JOB NO.:	2301
SHEET NO.:	01 OF 03
CREATED:	1-26-24



EXISTING DOCK AND BOATLIFTS

REAR PROPERTY LINE EXTENDS TO MHWL

PLATTED PROPERTY BOUNDARY

EXISTING VEGETATION

EXISTING RESIDENCE

ESTIMATED MHWL

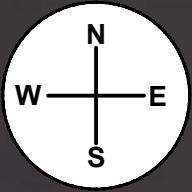
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Exhibit C
OGC No. 24-0389
Page 5 of 6

DESIGNED:	N.S.P.
JOB NO.:	2301
SHEET NO.:	02 OF 03
CREATED:	1-26-24



EXISTING DOCK AND BOATLIFTS

PLATTED PROPERTY BOUNDARY

EXISTING MANGROVE FRINGE TO BE ALLOWED TO REGENERATE NATURALLY

ESTIMATED MHWL

CLEARED AREA TO BE RE-PLANTED AND RESTORED PER PLAN

RED MANGROVES (22 TOTAL)

BLACK MANGROVES (18 TOTAL)

WHITE MANGROVES (5 TOTAL)

Exhibit C
OGC No. 24-0389
Page 6 of 6

DESIGNED:	N.S.P.
JOB NO.:	2301
SHEET NO.:	03 OF 03
CREATED:	1-26-24