

## SETTLEMENT AGREEMENT

This Settlement Agreement (“Agreement”) is made and entered into by and between the Southwest Florida Water Management District (“District”) and Arthur L. Schaer as Trustee of the Arthur L. Schaer Revocable Trust Agreement dated June 10, 1993 (“Schaer”). The District and Schaer may be referred to herein as “Party” and collectively as “the Parties.”

### RECITALS

1. The District is the administrative agency charged with the responsibility to conserve, protect, manage, and control the water resources within its geographical boundaries, and to administer and enforce Chapter 373, Florida Statutes (“Fla. Stat.”), and the rules promulgated thereunder as Chapter 62-330, Florida Administrative Code (“F.A.C.”).

2. Schaer is the owner of real property located at 2825 Hunt Road in Land O’ Lakes, Florida, and further identified by the Pasco County Property Appraiser as Parcel Identification Number 26-26-18-0000-00100-0000 (“the Property”).

3. On April 25, 2016, District staff inspected the Property and determined that several improvements had been constructed on the Property between 1999 and 2004 without prior authorization from the District in the form of an environmental resource permit (“ERP”).

4. The unauthorized improvements on the Property include the construction of several pole barns covering 0.23 acres of the Property, the placement of 0.75 acres of impervious material for heavy equipment parking and storage, and the placement of fill material within 1.55 acres of a freshwater forested wetland.

5. The placement of fill material within the wetland constitutes adverse impacts to the wetland, and correlates to a functional loss of 0.38 units pursuant to the Uniform Mitigation Assessment Method (“UMAM”) of Chapter 62-345, F.A.C.

6. District staff issued a Notice of Unauthorized Activities to Schaer on May 4, 2016. Following this initial notice, Schaer informed District staff that he would submit an ERP application to the District requesting authorization to construct and operate a surface water management system at the Property and to address the adverse impacts to the wetland.

7. On August 1, 2016, District staff granted a time extension for the ERP application to be submitted; however, Schaer did not submit an ERP application at that time.

8. Two Final Notices of Unauthorized Activities regarding the unauthorized construction were issued to Schaer on December 30, 2016, and May 21, 2019, respectively.

9. The District and Schaer met on June 26, 2019, to again discuss the requirements for submittal of an ERP application.

10. The District issued a final correspondence to Schaer on October 29, 2019, requiring Schaer to submit an ERP application within thirty (30) days to bring the site into compliance with Florida Statutes Chapter 373, Part IV and Chapter 62-330 of the Florida Administrative Code.

11. Schaer did not subsequently submit an ERP application within the thirty (30) days, as set out in the October 29, 2019, correspondence.

12. Based upon the authority granted under § 373.119, Fla. Stat., the District issued a proposed Consent Order to Schaer to resolve the outstanding violations at the Property.

13. The Consent Order was agreed to and executed by Schaer, and the fully rendered Consent Order ("Consent Order") was issued on March 2, 2021.

14. Pursuant to the terms of the Consent Order, Schaer was required to: (1) comply with and respond to all requests for additional information or clarification relating to the ERP application within sixty (60) days of receiving such request from the District; and (2) obtain

District approval of an ERP within one hundred eighty (180) days of submitting the ERP application.

15. The Consent Order further provided that the District would waive the penalty of \$29,250.00 if Schaer completed all of the required corrective actions within the timeframes outlined in the Consent Order.

16. Additionally, if Schaer failed to timely complete any corrective action, Schaer would be required to pay to the District \$29,250.00 upon the District's written demand for such.

17. In compliance with the Consent Order, Schaer submitted ERP Application Number 824155 ("ERP Application") to the District on April 29, 2021.

18. On May 28, 2021, the District issued its first Request for Additional Information ("RAI") regarding the ERP Application.

19. On September 10, 2021, Schaer, through his engineering consultant, requested from the District a time extension to respond to the RAI. Although the request was untimely under the terms of the Consent Order, the District granted the extension request on September 14, 2021.

20. On December 6, 2021, Schaer's engineering consultant requested from the District a second time extension to respond to the RAI. Although this request was also untimely under the terms of the Consent Order, the District granted a second time extension on December 10, 2021.

21. On December 13, 2021, the District issued to Schaer a written Demand for Payment of the stipulated penalties, including late fees, for his failure to comply with the terms of the Consent Order as detailed in paragraph 14 herein.

22. On December 15 and 16, 2021, and January 4, 2022, Schaer discussed the breach of the Consent Order with the District's Office of General Counsel.

23. On January 6, 2022, Schaer's engineering consultant submitted to the District a response to the RAI issued May 28, 2021.

24. On February 4, 2022, the District issued to Schaer a Clarification of Received Information ("CLAR") regarding the ERP Application.

25. On February 9, March 16 and 31, 2022, Schaer's engineering consultant submitted to the District responses to the CLAR issued February 4, 2022.

26. Schaer did not pay the District any stipulated penalties pursuant to the terms of the Consent Order.

27. To enforce the terms of the Consent Order, the District filed a Petition for Enforcement and Complaint for Civil Remedies in Pasco County circuit court on February 14, 2022.

28. On April 4, 2022, Schaer, through his counsel, filed an Answer and Affirmative Defenses.

29. On April 20, 2022, the District authorized the withdrawal of 0.38 freshwater forested wetland credits from the Big Bullfrog Creek Mitigation Bank to offset wetland impacts on the Property at the request of Schaer.

30. On May, 13, 2022, the District issued ERP 43045255.000 to Schaer authorizing construction of the surface water management system required by the Consent Order.

#### **TERMS OF SETTLEMENT AGREEMENT**

NOW, THEREFORE, in consideration of the terms and conditions defined herein and other good and valuable consideration, the sufficiency of which is hereby acknowledged, the Parties agree as follows:

31. The foregoing preamble and recitals are true, correct, and integral parts of this Agreement.

32. This Agreement shall be effective on the date last executed by the Parties. The Parties agree that this Agreement is contingent upon its approval by the District's Governing Board. If this Agreement is not approved by the District's Governing Board, nothing herein shall be deemed a representation or admission by any Party as to any issue and this Agreement shall be null and void and of no legal effect.

33. The District agrees that the outstanding violations outlined herein will be resolved by a payment by Schaer of Fifteen Thousand Dollars (\$15,000.00), which shall be paid in full within thirty (30) days of the approval of this Agreement by the District's Governing Board. If mailed, the address for payment is:

Southwest Florida Water Management District  
Finance Department  
2379 Broad Street  
Brooksville, Florida 34604-6899

34. The District shall file with the Pasco County Clerk of Court a Notice of Voluntary Dismissal with Prejudice of Circuit Court Case Number 2022-CA-000399 within five (5) days of receipt of the payment described in Paragraph 33 herein. Each Party shall bear its own costs, including attorneys' fees, incurred in connection with Pasco County Circuit Court Case Number 2022-CA-000399 and the development of this Agreement.

35. Schaer may apply to the District for an extension of the time limits contained in this Agreement. A request for an extension of time must be made in writing and submitted to the Office of General Counsel no later than five (5) days prior to the expiration of such time limit. Only the Office of General Counsel may approve a request for an extension of time for good cause shown.

Any purposed approval of an extension of time that does not have the prior authorization of the Office of General Counsel will not constitute compliance with this provision of the Agreement.

36. For each day of delay beyond the due dates specified in this Agreement, Schaer shall pay to the District an additional sum of One Hundred Dollars (\$100.00) per day. This additional sum shall be paid by Schaer upon the District's mailing of a demand letter for payment. This provision shall not be construed to preclude the District's right to undertake other administrative, civil, or criminal action as appropriate in the event any due date is not met.

37. Entry of this Agreement shall not relieve Schaer of the duty to comply with all applicable federal, state, and local laws, regulations, and ordinances.

38. The terms and conditions set forth in this Agreement may be enforced in a court of competent jurisdiction.

39. Schaer hereby waives any right to an administrative hearing or judicial review of terms of this Agreement.

40. The District hereby expressly reserves and retains the right to initiate appropriate legal action against Schaer to prevent or prohibit the future violation of any applicable statutes, rules, or orders, except as specifically addressed in this Agreement.

41. For and in consideration of the complete and timely performance by Schaer of the obligations under this Agreement, the District waives its right to pursue civil or administrative action for any violation described in this Agreement. In the event that Schaer fails to completely and timely perform the obligations under this Agreement, the District retains the right to pursue civil or administrative action for any violations described herein.

42. No modifications of the terms of this Agreement shall be effective until reduced to writing and executed by all the Parties.

WHEREFORE, the Southwest Florida Water Management District and Arthur L. Schaer as Trustee of the Arthur L. Schaer Revocable Trust have executed this Settlement Agreement on the date and year set forth with their signatures below.

**The Arthur L. Schaer Revocable Trust**



Signature

Arthur L. Schaer Trustee

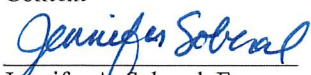
Printed Name

5-18-2022

Date

Approved by the Governing Board of the Southwest Florida Water Management District this \_\_\_\_ day of \_\_\_\_\_, 2022.

By: \_\_\_\_\_  
Kelly S. Rice, Chair

Approved as to Legal Form and Content  
  
Jennifer A. Soberal, Esq.  
Staff Attorney

Filed this \_\_\_\_ day of \_\_\_\_\_, 2022.

\_\_\_\_\_  
Deputy Agency Clerk

THE ARTHUR L. SCHAER REVOCABLE TRUST  
CT NO. 383658 – PASCO COUNTY, FLORIDA