

SWALLOW TAIL LLC

Tuesday, March 13, 2018

Mrs. Kailey Jones
US Army Corps of Engineers
Regulatory Division Kansas City District
635 Federal Building 601 East 12th Street
Kansas City Missouri 64106

RE: Mitigation Credit Purchase NWK-2017-00785 The Grove at Lee's Summit LLC
CONFIRMATION OF CREDIT PURCHASE

Dear Mrs. Jones,

By means of this correspondence, we have assigned mitigation credit for the aforementioned permit as follows:

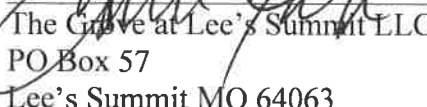
SITE NAME: CAMP BRANCH WETLAND AND STREAM MITIGATION BANK
CREDITS: 0.11 WETLAND CREDITS
12,247 STREAM CREDITS

The applicant has been instructed to submit separate correspondence signifying their purchase of said credits. A hardcopy of this correspondence has been mailed to the project representative.

Sincerely,
SWALLOW TAIL LLC
David L. Flick
David L. Flick
Managing Member

Copy: Mr. Doug Berka, US Army Corps of Engineers

APPLICANT CONFIRMATION
FORWARD TO US ARMY CORPS OF ENGINEERS AFTER SIGNING BELOW:

✓ 

The Grove at Lee's Summit LLC
PO Box 57
Lee's Summit MO 64063
Attn: Daren Fristoe

24820 Miller Road • Harrisonville, MO 64701
(816) 810-8377
dflick@terratechnologies.com

MITIGATION CREDIT AGREEMENT

This MITIGATION CREDIT AGREEMENT (Agreement) is made and entered into as of February 12, 2018, (the “Effective Date”), by and between Swallow Tail LLC (“Seller”) and The Grove at Lee’s Summit, LLC (“Purchaser”).

WITNESSETH:

WHEREAS Purchaser has applied for a U. S. Army Corps of Engineers (“USACOE”) permit under Section 404 of the Clean Water Act to allow impacts to Jurisdictional Waters (“Project”). Project Number assigned by the USACOE is NWK-2017-00785. The project manager with the Corps of Engineers is Kailey Jones.

WHEREAS, as a condition to the issuance of a permit from the USACOE, the Purchaser is required to compensate for said impacts, and elects to satisfy part of the requirement through the purchase of mitigation credits in the Sellers’ Camp Branch Creek Stream and Wetland Mitigation Bank (“Mitigation Bank”).

WHEREAS, the USACOE has determined that Purchaser is allowed to purchase credits due to permanent impacts resulting from the activities at the subject site.

NOW, THEREFORE, for and in consideration of the mutual covenants herein contained and other good and valuable consideration, the receipt and sufficiency of which are hereby mutually acknowledged, it is agreed as follows:

- 1) RECITALS: The recitals are hereby incorporated by this reference.

2) COMPENSATION: Purchaser shall, subject to the terms and conditions hereinafter provided, pay to the Seller the sum of **Four hundred ninety-five thousand nine hundred and thirty DOLLARS (\$495,930)** (“Purchase Price”) for 0.11 wetland credits and 12,247 stream credits at the Mitigation Bank. The Purchase Price is derived from the unit cost of \$55,000 per wetland credit and \$40 per stream credit. Purchase Price is to be paid in the manner following:

a.) PURCHASE PRICE: Upon signing this Agreement, Purchaser will pay the total balance due, or \$495,930.

3) SELLERS WARRANTY: In consideration of the Purchase Price, Seller affirms that it has sufficient credits in the Mitigation Bank to satisfy the credits required by Purchaser and agrees to sell such credits to Purchaser. It is understood and agreed that Purchaser shall have no obligation to perform any responsibility or incur any liability associated with the creation, development, maintenance and/or management of the Mitigation Bank.

4) NOTICES: Any notices required or permitted hereunder shall be sufficiently given if delivered by overnight courier, by United States mail, return receipt requested to the parties hereto as follows:

If to Seller: Swallow Tail LLC c/o Terra Technologies Inc.
6240 West 135th Street, Suite 100
Overland Park, KS 66223
Attn: Mr. David Flick

If to Purchaser: The Grove at Lee’s Summit LLC
PO Box 57
Lee’s Summit MO 64063
Attn: Daren Fristoe

Any notice given pursuant hereto by overnight courier shall be effective after recipient signs for notice; any notice given pursuant hereto by United States mail, return receipt requested, shall be effective as of receipt of confirmation by the sending party.

5) PRIOR AGREEMENTS: This Agreement shall supersede any and all prior understandings and agreements between the parties hereto, whether written or oral, with respect to the subject matter hereof and may be amended only by a written instrument executed by or on behalf of both Seller and Purchaser.

6) APPLICABLE LAW: Purchaser and Seller shall be contractually bound to this Agreement, which shall be governed by the laws of the state of Missouri and subject to the requirements of any applicable federal law or regulation. Changes in federal, state or local laws, however, which might have otherwise impacted this Agreement shall not be enforced retroactively after execution of this Agreement.

7) CONTRACT ACCEPTANCE: This Agreement is null and void if not executed by both parties within 180 days after the Effective Date of the Agreement.

IN WITNESS WHEREOF, the parties hereto have caused this Agreement to be executed as of the Effective Date.

Purchaser

The Grove at Lee's Summit, LLC

By:


Daren Fristoe

Seller

Swallow Tail LLC

By:

David L. Flick
David L. Flick

