

MITIGATION PURCHASE AGREEMENT

This MITIGATION PURCHASE AGREEMENT (Agreement) is made and entered into by and between Terra Foundation Incorporated (“Seller”) and The City of Oklahoma City and the Oklahoma City Water Utilities Trust (“Purchaser”).

WITNESSETH:

WHEREAS Purchaser has received a US Army Corps of Engineers (“USACE”) Section 404 Clean Water Act Authorization to allow impacts to Jurisdictional Waters (“Project”). Project Number assigned by the USACE is SWT-2017-399. The Regulatory Project Manager with the USACE is Mr. Bryan Noblitt.

WHEREAS, as a condition to the issuance of a permit from the USACE, the Purchaser is required to compensate for said impacts, and elects to satisfy this requirement through the purchase of mitigation from the Seller’s In Lieu Fee program (“ILF”).

WHEREAS, the USACE has determined that Purchaser is allowed to purchase mitigation resulting from proposed permanent impacts to jurisdictional waters at the Purchaser’s 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 **fifteen thousand, two hundred dollars (\$15,200)** (“Purchase Price”) for 0.38 forested wetland credits in the Canadian C Service Area of the ILF program. The Purchase Price is derived from the unit cost of \$40,000 per acre for wetland 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 of \$15,200.

3) SELLERS WARRANTY: In consideration of the Purchase Price, Seller affirms that it has sufficient mitigation in the ILF program to satisfy the quantity required by Purchaser and agrees to sell such mitigation 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 ILF program.

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

5)

If to Seller:	Terra Foundation Incorporated 928 SE Crimson Ct. Blue Springs, MO 64014
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Attn: Craig Gump
President

If to Purchaser: City of Oklahoma City and Oklahoma City Water
Utilities Trust
520 West Main Street
Oklahoma City, OK 73102
Attn: Utilities Director/General Manager

Any notice given pursuant hereto by overnight courier shall be effective as of delivery; any notice given pursuant hereto by US mail, return receipt requested, shall be effective as of the third business day following its posting and any notice given pursuant hereto by facsimile shall be effective as of receipt of confirmation by the sending party.

- 6) 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 written instrument executed by or on behalf of both Seller and Purchaser.
- 7) APPLICABLE LAW: Purchaser and Seller shall be contractually bound to this Agreement, which shall be governed by the laws of the state of Oklahoma 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.
- 8) ATTORNEY'S FEES: In the event any action, suit, or other proceeding at law or in equity is brought to enforce the covenant and agreements contained in this Agreement

or to obtain monetary damages for breach thereof, and such action results in an award of judgment for monetary damages, or the granting of any equitable relief in favor of any party hereto, all expenses, including reasonable attorney's fees, of the successful party in such action, suit, or other proceeding shall, upon demand of such party, be paid by the other party.

- 9) CONTRACT ACCEPTANCE: This Agreement is null and void if not executed by both parties within 30 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

Seller
Terra Foundation Incorporated

By: 

Craig Gump
President

Date: 5/31/24

APPROVED by the Trustees and signed by the Chairman of the Oklahoma City Water Utilities Trust this 18TH day of JUNE, 2024.

ATTEST:

Amy K. Simpson

SECRETARY



OKLAHOMA CITY WATER UTILITIES

Joe Cook

CHAIRMAN

APPROVED by the Council and signed by the Mayor of The City of Oklahoma City this 18TH day of JUNE, 2024.

ATTEST:

Amy K. Simpson

CITY CLERK



THE CITY OF OKLAHOMA CITY

David Holt

MAYOR

REVIEWED for form and legality.

Patricia Mann

ASSISTANT MUNICIPAL COUNSELOR