

**TERMS OF SALE AGREEMENT
FOR THE PURCHASE OF MITIGATION BANK CREDITS
for Issaquah School District's
High School #4 and Elementary School #17 Project in the
East Lake Sammamish Basin, King County, Washington
From East Lake Sammamish Wetland Mitigation Bank**

This Agreement is made and entered into by and between Issaquah School District ("ISD") 5150 220th Ave SE, Issaquah, WA 98029 and King County, 201 S. Jackson St. Rm. 5600, Seattle, WA 98104-3855, ("COUNTY"). The COUNTY and ISD are referred hereinafter as the "Parties."

WHEREAS, ISD has proposed a combined elementary school and high school campus located west of 228th Avenue SE in the City of Issaquah, Washington, known as the High School #4 and Elementary School #17 Project (the "Impact Project"); and

WHEREAS, COUNTY is legal owner of wetland mitigation credits ("Mitigation Bank Credits") released and available for sale from the East Lake Sammamish Wetland Mitigation Bank ("ELSMB") as approved by the U.S. Army Corps of Engineers ("CORPS") and Washington State Department of Ecology ("DOE"); and

WHEREAS, COUNTY owns Mitigation Bank Credits that are available for sale and COUNTY administers the sale of Mitigation Bank Credits from ELSMB through the King County Mitigation Reserves Program ("KC MRP"); and

WHEREAS, the purchase of Mitigation Bank Credits from ELSMB provides a means for the ISD to fully and irrevocably transfer ISD's mitigation obligations associated with the unavoidable impacts at the Impact Project, as identified by the relevant permitting agencies, to COUNTY; and

WHEREAS, ISD agrees to pay, and the COUNTY will accept through its KC MRP, a fee in exchange for Mitigation Bank Credits that the COUNTY will provide to ISD to satisfy the

mitigation obligations related to the Impact Project, that are identified by the Permitting Agencies and in the Bank Use Plan (“Bank Use Plan”) as further described below; and

NOW, THEREFORE, in consideration of the terms, conditions, covenants, and performances contained herein,

IT IS MUTUALLY AGREED AS FOLLOWS:

I. The above recitals are a material part hereof and are incorporated herein by this reference.

II. Applicant, and Impact Project Details

A. APPLICANT

The “APPLICANT,” as used herein means:

Issaquah School District

ATTN: Thomas Mullins

5150 220th Ave SE

Issaquah, WA 98029

Tel: (425) 837-7000

B. Impact Project Description

The Impact Project is known as the High School #4 and Elementary School #17 Project and is located west of 228th Avenue SE in the City of Issaquah. The Impact Project will construct a combined elementary school and high school campus.

C. Wetland Impacts from Impact Project

The Impact Project will result in 1,806 square feet of permanent Category IV wetland fill. Additional details about the wetland impacts are provided in *Mitigation Bank Use Plan for Issaquah School District- High School #4 and Elementary School #17* dated November 18, 2020.

D. Impact Project Permits

The permits that have requirements directed toward the wetland impacts from the Impact Project are the following:

- U.S. Army Corps of Engineers, Nationwide Permit NWS-2020-1211
- City of Issaquah, Land Use Permit SDP20-00001

These permits contain a special condition requiring ISD to purchase 0.04 Mitigation Bank Credits from ELSMB to meet the mitigation requirements for the wetland impacts resulting from the High School #4 and Elementary School #17 Project, as provided for in the Bank Use Plan.

III. Payment and Records

- A. ISD hereby agrees to pay a fee to the COUNTY in accordance with the KC MRP in the amount of Thirty-Three Thousand Six Hundred Ninety-One Dollars (\$33,691) (“Mitigation Fee”).
- B. Within fifteen (15) days after the execution of this Agreement, the COUNTY will provide an invoice to ISD for the Mitigation Fee. Upon payment of the Mitigation Fee, the COUNTY acknowledges and agrees that ISD shall have no further monetary or mitigation obligations for, or related to, the Mitigation Project or the mitigation site, and all obligations for implementing and completing the Mitigation Project shall be the COUNTY’s sole responsibility.
- C. ISD shall have sixty (60) days from the Mitigation Fee invoice date to make full payment to the COUNTY unless extended in writing at the COUNTY’s sole discretion. If the COUNTY does not receive full payment of the Mitigation Fee within sixty (60) days of the invoice date or written extension granted by the COUNTY, this Agreement shall become null and void and the remaining terms herein shall be unenforceable by either Party.

D. Within fifteen (15) days of receiving the payment of the Mitigation Fee from ISD, the COUNTY shall provide ISD with a signed and dated acknowledgment which shall identify the Applicant, the Impact Project, the project impacts and the permits for which required mitigation responsibility is being transferred from the Applicant to the COUNTY through the purchase of Mitigation Bank Credits (“Transfer Letter”). The Transfer Letter is also intended to, and shall, confirm and serve as the official record of the sale of Mitigation Bank Credits to ISD. This Transfer Letter shall not constitute a permit or permission to proceed with any proposed action. ISD is responsible for obtaining all necessary permits to construct the Impact Project.

IV. Transfer of Mitigation Bank Credits

Upon receipt of the Mitigation Fee from the ISD, COUNTY transfers to ISD 0.04 Mitigation Bank Credits from ELSMB to satisfy the Mitigation Bank Credits identified in Section II.D. above.

V. Dispute Resolution

In the event a dispute cannot be resolved between the Parties, the dispute shall be resolved in the following manner: Each Party shall appoint a member to a dispute board. The members so appointed shall jointly appoint a third member to the dispute board who is not employed by or affiliated in any way with the two Parties. The three-member board shall conduct a dispute resolution hearing that shall be informal and unrecorded. A written recommendation shall be made by the dispute board to the Parties. An attempt at such dispute resolution in compliance with this process shall be a prerequisite to the filing of any litigation concerning the dispute. The Parties shall equally share in the cost of the third dispute board member; however, each Party shall be responsible for its own costs and fees.

VI. Legal Relations

A. The COUNTY shall protect, defend, indemnify, and hold harmless ISD, its officers, officials, employees, and agents, while acting within the scope of their employment as such, from any and all costs, claims, judgments, and/or awards of damages, both to persons and property, arising out of, or in any way resulting from, the COUNTY's own

negligent acts or omissions, or the negligent acts or omissions of the COUNTY's officials, officers, or employees, in carrying out the County's obligations under the terms of this Agreement. ISD shall protect, defend, indemnify, and hold harmless the COUNTY, its officers, officials, employees, and agents, while acting within the scope of their employment as such, from any and all costs, claims, judgments, and/or awards of damages, both to persons and property, arising out of, or in any way resulting from ISD's own negligent acts or omissions, or the negligent acts or omissions of ISD officials, officers, or employees, in carrying out ISD's obligations under the terms of this Agreement. Where such claims, suits, or actions result from concurrent negligence of the Parties, or involves those actions covered by RCW 4.24.115, the indemnity provisions provided herein shall be valid and enforceable only to the extent of the Party's own negligence. Each Party agrees that its obligations under this Section extend to any claim, demand, and/or cause of action brought by, or on behalf of, any of its employees or agents. For this purpose, each Party, by mutual negotiation, hereby waives, with respect to the other Party only, any immunity that would otherwise be available against such claims under the Industrial Insurance provisions of Title 51 RCW.

This indemnification provision shall survive the termination of this Agreement.

- B. In the event that either Party deems it necessary to institute legal action or proceedings to enforce any right or obligation under this Agreement, the Parties hereto agree that any such action or proceedings shall be brought in a court of competent jurisdiction situated in King County, Washington. Further, each Party shall be liable for its own litigation costs and attorney's fees.

VII. Term of Agreement and Modification

- A. This Agreement shall become effective as of the Party's signature date last written below and shall remain in effect until COUNTY issues the Transfer Letter to the CORPS and DOE and COUNTY provides a copy of the Transfer Letter to ISD, at which point this Agreement shall terminate, unless terminated earlier pursuant to Section III.C. above. Upon its payment of the Mitigation Fee to COUNTY, ISD shall have no further


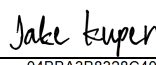
mitigation and/or monetary obligation related to the Mitigation Project and Mitigation Site.

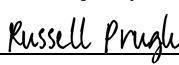
- B. No modification of this Agreement is valid unless evidenced in writing and signed by both Parties. No verbal agreement may supersede, replace or amend this Agreement.
- C. This Agreement may be executed in multiple counterparts, all of which taken together shall constitute one and the same Agreement.

VIII. Binding Agreement

This Agreement shall be binding on the officers, directors, shareholders, members, partners, employees, agents, personal representatives, heirs, successors, and assigns of the Parties.

IN WITNESS WHEREOF, the Parties hereto have executed the Agreement as of the Party’s date signed last below.

KING COUNTY <small>DocuSigned by:</small>	ISSAQUAH SCHOOL DISTRICT <small>DocuSigned by:</small>
By  <small>449DE71A6745480...</small>	By  <small>04BBA3B8328C40F...</small>
Name: Tricia Davis	Name: Jake Kuper
Title: Road Services Division Director	Title: CFO/COO
Date: 5/27/2021	Date: 5/27/2021

APPROVED AS TO FORM <small>DocuSigned by:</small>	APPROVED AS TO FORM
 <small>CD23A91EF54544B...</small>	
Name: Russ Prugh	Name:
Title: Sr. Deputy Prosecuting Attorney	Title:
Date: 5/25/2021	Date: