

Agreement No. GCB 1070, Exhibit B
Hood Canal Coordinating Council In-Lieu Fee Program
Statement of Sale

OFFICIAL RECORD OF SALE OF MITIGATION CREDITS TO THE STATE PURSUANT TO THE TERMS AND CONDITIONS OF THE COUNCIL'S IN-LIEU FEE PROGRAM INSTRUMENT – BASIC AGREEMENT, DATED JUNE 15, 2012, WITH THE U.S. ARMY CORPS OF ENGINEERS, INCLUDING PROVISIONS CONTAINED IN 33 CFR PARTS 325 AND 332 AS REVISED EFFECTIVE JUNE 9, 2008 (FEDERAL MITIGATION RULE).

I. PURPOSE

This Statement of Sale confirms the sale of mitigation credits from the Hood Canal Coordinating Council In-Lieu Fee Program (COUNCIL) to the State of Washington Department of Transportation (STATE). This Statement of Sale does not constitute a permit or permission to proceed with any proposed action. The STATE is responsible for obtaining all necessary permits for the STATE's proposed transportation project in Belfair, Washington.

II. TRANSFER OF PERMIT MITIGATION RESPONSIBILITY

The COUNCIL hereby accepts full responsibility for satisfying the mitigation requirements for the STATE'S US Army Corps of Engineers' (USACE) Section 404 Permit, Reference #NWS-2013-489-DOT, dated March 7, 2014, for which the COUNCIL's In-Lieu Fee Program has been designated as the compensatory mitigation vehicle. This responsibility does not include any additional mitigation requirements as a result of subsequent permit modifications or violations. The COUNCIL's responsibility includes compliance with 33 CFR 332, 40 CFR 230, and any applicable state and local jurisdictional laws, and the terms of the In-Lieu Fee Program Instrument. In satisfaction of the compensatory mitigation requirements, the COUNCIL shall provide compensatory mitigation of the type and in the amount necessary to meet the mitigation requirements of the below specified USACE Section 404 Permit, Reference #NWS-2013-489-DOT.

III. APPLICANT AND IMPACT PROJECT DETAILS

A. COUNCIL:

Hood Canal Coordinating Council is a non profit entity organized under the Revised Code of Washington (RCW) Chapter 24.03 and recognized by the Internal Revenue Service as having 501(c)(3) tax exempt status.

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Executive Director
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B. STATE is the State of Washington Department of Transportation, an agency of the state of Washington (STATE).

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PO Box 47417
Olympia, WA 98504-7417

C. Impact Project. The COUNCIL has accepted mitigation fees in the amount of \$204,754.72 for the unavoidable impact to aquatic resources as described below. Upon acceptance of these fees from the STATE, the COUNCIL is agreeing to implement mitigation and assume all associated obligations and liabilities according to terms of the In-Lieu Fee Program Instrument, dated June 15, 2012, and the terms of Agreement GCB 1070.

COUNCIL ILF Program Service Areas:

- WRIA 15 Freshwater

Descriptions of impacts are provided in the SR 3 Belfair Area, Widening and Safety Improvements, In Lieu Fee Use Plan for the STATE dated October 2013, Exhibit A to Agreement No. GCB 1070.

Permitting Agency: United States Army Corps of Engineers

Permit Number: Section 404 Permit, Reference #NWS-2013-489-DOT, dated March 7, 2014.

Debits incurred in the WRIA 15 (Kitsap Basin) Freshwater Service Area: 5.26 (2.07 water quality, 1.52 hydrology, and 1.67 habitat).

Descriptions of debits are provided in the SR 3 Belfair Area, Widening and Safety Improvements, In Lieu Fee Use Plan for the STATE dated October 2013, Exhibit A to Agreement No. GCB 1070.

IV. MITIGATION CREDITS PURCHASED AND MITIGATION FEES PAID

A. Mitigation Credits Purchased. In exchange for the payment of mitigation fees, the STATE receives 5.26 mitigation credits. These credits have been withdrawn from the Advance Credit pools as shown in the WRIA 15 service area ledger.

B. Allocation to the HCCC ILF Program Account. The mitigation fees for the debits occurring in the WRIA 15 Freshwater Service Area will be deposited into the following accounts within the Hood Canal Coordinating Council In-Lieu Fee Program Account (see Basic Agreement Article III.D and Appendix F):

Service Area: WRIA 15 (Kitsap Basin) Freshwater

Total Mitigation Fees (Land Fee plus Credit Fee) Collected from Applicant: \$ 204,754.72

Land Fee Account:	\$ <u>2,874.72</u>	
*Program Admin. Account:	\$ <u>23,407.15</u>	(<u>11.43%</u> of total credit fee)
Contingency Fee Account:	\$ <u>29,302.41</u>	(<u>14.31%</u> of total credit fee)
Long Term Management Fund:	\$ <u>15,990.40</u>	(<u>7.81%</u> of total credit fee)
Mitigation Project Accounts:	\$ <u>133,180.04</u>	(<u>65.04%</u> of total credit fee)

* An additional \$2,000.00 was added to the Total Mitigation Fee and placed within the Program Admin. Account for contract development costs. The % of total credit fee per account has been revised to reflect the additional funds to the Program Admin. Account.

V. PROOF OF PURCHASE

This Statement of Sale shall serve as official proof, pursuant to USACE Section 404 Permit, Reference #NWS-2013-489-DOT referred to in Section III.C, that the STATE has purchased mitigation credits from the COUNCIL.

- A. Signed Statement of Sale provided to STATE. The COUNCIL will provide a signed copy of the Statement of Sale to the Applicant within 15 days after receipt of payment of mitigation fees from the STATE. The STATE is responsible for submitting copies of the signed Statement of Sale to appropriate regulatory agencies as proof of purchase of HCCC ILF Program mitigation credits.
- B. Signed Statement of Sale provided to the USACE. The COUNCIL will provide a signed copy of this form to the USACE and Washington Department of Ecology within 15 days after receipt of funds from the STATE.
- C. Copies available to IRT members. Copies of this Statement of Sale will be made available to any member of the IRT upon the IRT member’s request.

VI. ADDITIONAL PROVISIONS

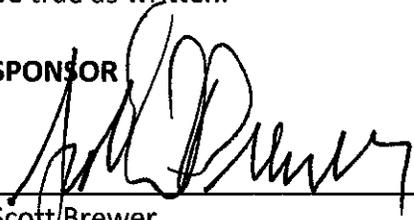
- A. Allocation of Funds. The COUNCIL will deposit the moneys listed above into the program account in the amounts listed in Article IV.B of this Statement of Sale. Record of these funds will also be added to the Program Account Ledger.
- B. Spending Authorization. Upon receipt of mitigation fees, the COUNCIL shall be authorized to spend up to 75 percent of funds allocated to Administrative Accounts according to the terms of the Program Instrument (see Appendix F). The District Engineer, after consultation with the IRT, must authorize all additional expenditures from the program account pursuant to 33 CFR 332.8(i)(2) and pursuant to the Basic Agreement Article III.B.
- C. Reporting requirements unaffected. This Statement of Sale shall not affect reporting requirements outlined in the Program Instrument.
- D. Effect of Statement of Sale. This Statement of Sale does not in any manner affect statutory authorities and responsibilities of the COUNCIL or the STATE, except to the extent as the Parties have agreed in Agreement No. GCB 1070. This Statement of Sale is not intended, nor may it be relied upon, to create any rights in third parties enforceable in litigation against the United States, State of Washington or the COUNCIL. This Statement of Sale does not authorize, nor shall it be

construed to permit, the establishment of any lien, encumbrance, or other claim with respect to the Hood Canal Coordinating Council In-Lieu Fee Program property, with the sole exception of the right on the part of the Corps to require the COUNCIL to implement provisions of the Program Instrument, including recording conservation easements or similarly restrictive site protection mechanisms, required as a condition of the issuance of permits for discharges of dredged and fill material into waters of the United States associated with construction and operation and maintenance of a Mitigation Site.

E. Headings and Captions. Any paragraph heading or caption contained in this Statement of Sale shall be for convenience of reference only and shall not affect the construction or interpretation of any provision of this Statement of Sale.

IN WITNESS WHEREOF, the COUNCIL confirms the information contained in this Statement of Sale to be true as written.

SPONSOR



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Executive Director
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5-27-2014
Date