Council Meeting Date: August 5, 2013 **Agenda Item:** 9(a)

CITY COUNCIL AGENDA ITEM

CITY OF SHORELINE, WASHINGTON

AGENDA TITLE:	Hidden Lake Maintenance Management
DEPARTMENT:	Public Works
PRESENTED BY:	Mark Relph, Public Works Director Brian Landau, Surface Water and Environmental Services Manager
ACTION:	____ Ordinance ____ Resolution ____ Motion X Discussion ____ Public Hearing

PROBLEM/ISSUE STATEMENT:

Hidden Lake, a stormwater facility in Boeing Creek that was constructed by King County in 1996, is the highest cost stormwater facility in the City; since 2002, the sediment removal costs for the facility has exceeded $400,000. The total cost for removal of sediment in 2013 is $168,569 and is due to the transport of sediment upstream from major storm events in November and December 2012.

RESOURCE/FINANCIAL IMPACT:

The unpredictable maintenance costs, ranging from $25,000 to over $150,000 annually, affects the ability of the Surface Water Utility to complete higher priority projects that address flood reduction, water quality, and habitat restoration.

The Surface Water Utility currently budgets $50,000 annually for sediment removal at Hidden Lake. Bids were opened on July 25. Below is a summary of the bid opening and project costs:

Bid summary:

Contractor Name	Bid Amount
Clearcreek Contractors	**$143,069.85**
Ventilation Power Cleaning, Inc.	$206,255.30
Welwest Construction, Inc.	$211,882.50
A-1 Landscaping and Construction, Inc.	$264,004.50
Engineer's Estimate	*$143,380*

Project costs:

EXPENDITURES

Design:		
Staff and other Direct Expenses		$1,500
Construction:		
Staff and other Direct Expenses	$9,000	
Construction Contract	$143,069	
Total Construction		$152,069
Contingency		$15,000
Total Project Cost		$168,569

REVENUE

Surface Water Capital Fund	$50,000
Project Balance	($118,659)

Staff is seeking direction from Council on the maintenance strategy for the facility prior to issuing a contract to begin the maintenance project in September; the maintenance is time sensitive because it is only permitted by the Washington Department of Fish and Wildlife to occur between July 1 and September 30. The additional $118,659 to support the project is proposed to come from cost savings of the recently completed basin plans and delays in GreenWorks and small drainage programs in the Surface Water Utility capital project budgets.

RECOMMENDATION

The contract to perform the Hidden Lake dredging is within the signing authority of the City Manager, and therefore no formal action by Council is required. Staff is seeking policy direction from Council that would allow for the development of a more economically sustainable management plan for the Hidden Lake facility. Staff recommends that the City complete sediment removal in 2013 and complete a feasibility study in 2014 to provide a final maintenance recommendation for the 2015-2021 Capital Improvement Plan.

Approved By: City Manager ***JU*** City Attorney ***IS***

INTRODUCTION

Hidden Lake, a stormwater facility in Boeing Creek that was constructed by King County in 1996, is the highest cost stormwater facility in the City; since 2002, the sediment removal costs for the facility have exceeded $400,000 The total project cost for the removal of sediment in 2013 is $168,569 due to the deposition of sediment from major storm events in November and December 2012 (Attachment B). This staff report presents future management alternatives, including associated costs, for Council's consideration. Staff is seeking direction from Council on the alternatives which would allow for an improved and more economically sustainable management plan for the Surface Water Utility.

BACKGROUND

At the June 17 Council Meeting, staff presented Capital Improvement Plan (CIP) recommendations to Council, including a recommendation to discuss the Hidden Lake dredging in more detail. Between October 1 and December 31, 2012, the City received approximately 25 inches of precipitation, with a 5 inch storm event that occurred between November 17 and 21. As a result of the intense precipitation, significant erosion occurred on Boeing Creek which deposited a tremendous volume (approximately 5,000 cubic yards or more, or 500 full dump trucks) of sediment into Hidden Lake.

The Hidden Lake facility project (Project) was constructed by King County in 1996 for $1-million to restore a small lake on the main stem of Boeing Creek in conjunction with a salt water marsh enhancement at the mouth of Boeing Creek. The Hidden Lake facility is located on both public and private property (Attachment A). At the time, the purpose of the Hidden Lake project was to restore open water habitat that was lost when the lake was filled with sediment as a result of development of the upper watershed in the 1950s and 1960s. The project had considerable public support in the community, including sixteen (16) local community organizations. The goal of the project was to permanently establish the lake in a way that increased habitat for fish and wildlife and prevented the passage of fine sediments to downstream reaches of the creek.

Prior to King County constructing the project, Hidden Lake appears to have been a natural depression or beaver pond type wetland area that was enhanced by William Boeing in 1920 when Mr. Boeing dredged the existing lake and built a dam to create a 2.4 acre lake. This included two silt dams upstream of Hidden Lake to reduce the sedimentation within the lake; this indicated that high sediment loads were natural to the creek prior to the logging and development of the upper watershed. A 1995 King County report states the number and size of slope failures increased following the logging of the Innis Arden and Shorewood areas of the watershed. In addition, the Sears development in 1964 increased the flows into Boeing Creek substantially, creating widespread channel instability and severe erosion. Hidden Lake filled in with sediment, resulting in a forest and wetland type habitat with a young forest of alder, cottonwood, and willow trees.

The County acquired easements from private owners abutting the lake needed for construction of the Project, for a dam by-pass, for maintenance access, and for conservation restrictions in a buffer adjacent to the lake. No public easements were

acquired to the lake. Rather than pay for these easements in advance, the County and owners agreed to a pay-as-you go scheme recognizing a mutual benefit. For use of the easements the County agreed to construct and maintain the Hidden Lake Project as defined by the original plans. If the County or Shoreline abandoned the Project the rights to the easements would terminate and the owner's title would be cleared. (Attachment D). This easement agreement is terminable by the City if it decides to abandon the Project or materially alter the original Plan. Any future plans for the facility will need to address the maintenance access and portions of the outfall and dam which are located on private property.

The Surface Water Utility has upheld the maintenance obligation of the Hidden Lake facility that was transferred to City ownership at incorporation in 1995. Since 2002, the City has spent approximately $430,000 to remove almost 9000 cubic yards of sediment from Hidden Lake through seven maintenance projects. The Surface Water Utility has budgeted approximately $50,000 annually towards the maintenance of the facility, with maintenance occurring on an as needed basis which has been an every other year maintenance cycle on average. However, large storm events can result in above average sedimentation that can result in a higher maintenance cost in any given year. This potential maintenance cost increase reduces the stability of the Surface Water Utility plans in any given year, as budget needs to be reallocated from other surface water utility capital projects or from fund balance to support the maintenance project for that year. The Surface Water Utility has received bids with a total 2013 project cost of $168,569 for sediment removal of approximately 5000 cubic yards of sediment in Hidden Lake.

DISCUSSION

The Hidden Lake facility does little to meet the current goals of the Surface Water Utility, including flood reduction, erosion control or water quality improvement. Hidden Lake was constructed for the sole purpose of habitat enhancement by reducing the amount of sediment that moves downstream. However, most of the sediment is highly mobile and would be transported to Puget Sound. In addition, recent water quality monitoring has shown that water quality is not improved by the existence of a maintained lake.

The long-term maintenance and management of the Hidden Lake facility needs to be carefully evaluated. The King County design underestimated the volume of sediment that would need to be removed annually which has a substantial cost over time. The facility maintenance costs since 2002 (including this year) will equal close to $600,000, over half the original capital cost of $1-million.

While the easement agreement is terminable by the City, any change to the maintenance strategy could have real or perceived impacts to the value of adjacent property. This and other issues could be evaluated with the few options noted below, depending upon Council's direction. Perhaps other alternatives exist, including using the General Fund to finance some portion of the project if Council decided this was not an appropriate cost for the surface Water Utility, but these options are intended to assist Council in moving towards a more economical and ecologically sustainable management of the facility.

Alternative 1. Sediment removal in 2013 and completion of a feasibility study in 2014 to provide a final recommendation in the 2015-2021 CIP.

This alternative would include the removal of 5000 cubic yards of sediment in 2013 and conducting a feasibility study in 2014 to determine the best management approach to address Hidden Lake for the long-term. Project BC-Hab 1 in the 2013 Boeing Creek Basin Plan is a feasibility study for multi-functional restoration in Shoreview and Boeing Creek Parks that encompasses Hidden Lake, Boeing Creek, and the recreational trail adjacent to the creek (Attachment C). The goal of the study is to identify a preferred habitat and trail restoration alternative or suite of alternatives to address multiple issues within this reach of Boeing Creek, including Hidden Lake. This feasibility study would include a public outreach component for multiple stakeholders, including residents, park users, and other interested parties.

Advantages: This alternative provides a holistic approach to addressing Hidden Lake and the recreational and habitat issues in the vicinity of Hidden Lake. It also provides for an informed public process which is necessary if major management changes are proposed for Hidden Lake.

Disadvantages: Continued high maintenance costs until an informed and publicly supported alternative is proposed in 2014.

Estimated Costs: $168,569 for sediment removal in 2013 and $100,000 for the feasibility study in 2014.

Alternative 2. No sediment removal in 2013 and completion of alternatives analysis and study in 2014 to provide a final recommendation in the 2015-2021 CIP.

This alternative is similar to Alternative 1, except no sediment would be removed until an informed and publicly supported alternative is proposed. Sediment would continue to accumulate upstream in the channel and also deposit in the lake. Natural recruitment of vegetation may establish on the sediment in the next year or two.

Advantages: The Surface Water Utility saves money on maintenance costs until an informed and publicly supported alternative is proposed in 2014.

Disadvantages: The maintenance easement to the residential properties adjacent to the facility is not fulfilled.

Estimated Costs: $100,000 for the feasibility study and potential additional cost if sediment is to be removed in the future.

Alternative 3. No sediment removal and no study.

This alternative would abandon the maintenance and management of the facility, except for the outlet structure in the pond that needs to be maintained to prevent potential damage to the Hidden Lake dam.

Advantages: This is the lowest cost alternative.

Disadvantages: It would be premature for the City to abandon the facility without a plan for managing the property into the future. In addition, a decision to abandon a facility that has multiple stakeholder interests without a public process would likely not be supported by the stakeholders.

Estimated Costs: A much reduced cost is expected for continued staff time to maintain the outlet structure. Cost would have to be estimated based on some hydraulic performance model.

Alternative 4. Cost sharing with adjacent landowners and City

This alternative would continue the management of the facility to remove sediment annually or every other year. However, the costs of sediment removal would be wholly or partially paid by the homeowners adjacent to the facility, who have provided the City an easement for maintenance of the facility.

Advantages: This allows for continued maintenance of the facility at a reduced cost to the City.

Disadvantages: The City continues to fund maintenance of a facility that serves little value in meeting the goals of the Surface Water Utility.

Estimated costs: $168,569 in 2013 and approximately $25,000 or less per year in future years if the City paid only a portion of the maintenance costs.

STAKEHOLDER OUTREACH

The residents adjacent to the lake were contacted on July 18, 2013 regarding the discussion for this evening and the approximate schedule for the sediment removal in the Hidden Lake facility for 2013.

RESOURCE/FINANCIAL IMPACT

The unpredictable maintenance costs, ranging from $25,000 to over $150,000 annually, affect the affect the ability of the Surface Water Utility to complete higher priority projects that address flood reduction, water quality, and habitat restoration. The Surface Water Utility currently budgets $50,000 annually for sediment removal at Hidden Lake. This year's sediment project will cost $168,569 to remove approximately 5000 cubic yards of sediment.

EXPENDITURES

Design:		
Staff and other Direct Expenses		$1,500
Construction:		
Staff and other Direct Expenses	$9,000	
Construction Contract	$143,069	
Total Construction		$152,069
Contingency		$15,000
Total Project Cost		$168,569

REVENUE

Surface Water Capital Fund	$50,000
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Staff is seeking direction from Council prior to issuing a contract to begin the maintenance project in September; the maintenance is time sensitive because it is only permitted by the Washington Department of Fish and Wildlife to occur between July 1 and September 30. The additional $118,659 to support the project is proposed to come from cost savings of the recently completed basin plans and delays in GreenWorks and small drainage programs in the Surface Water Utility capital project budgets

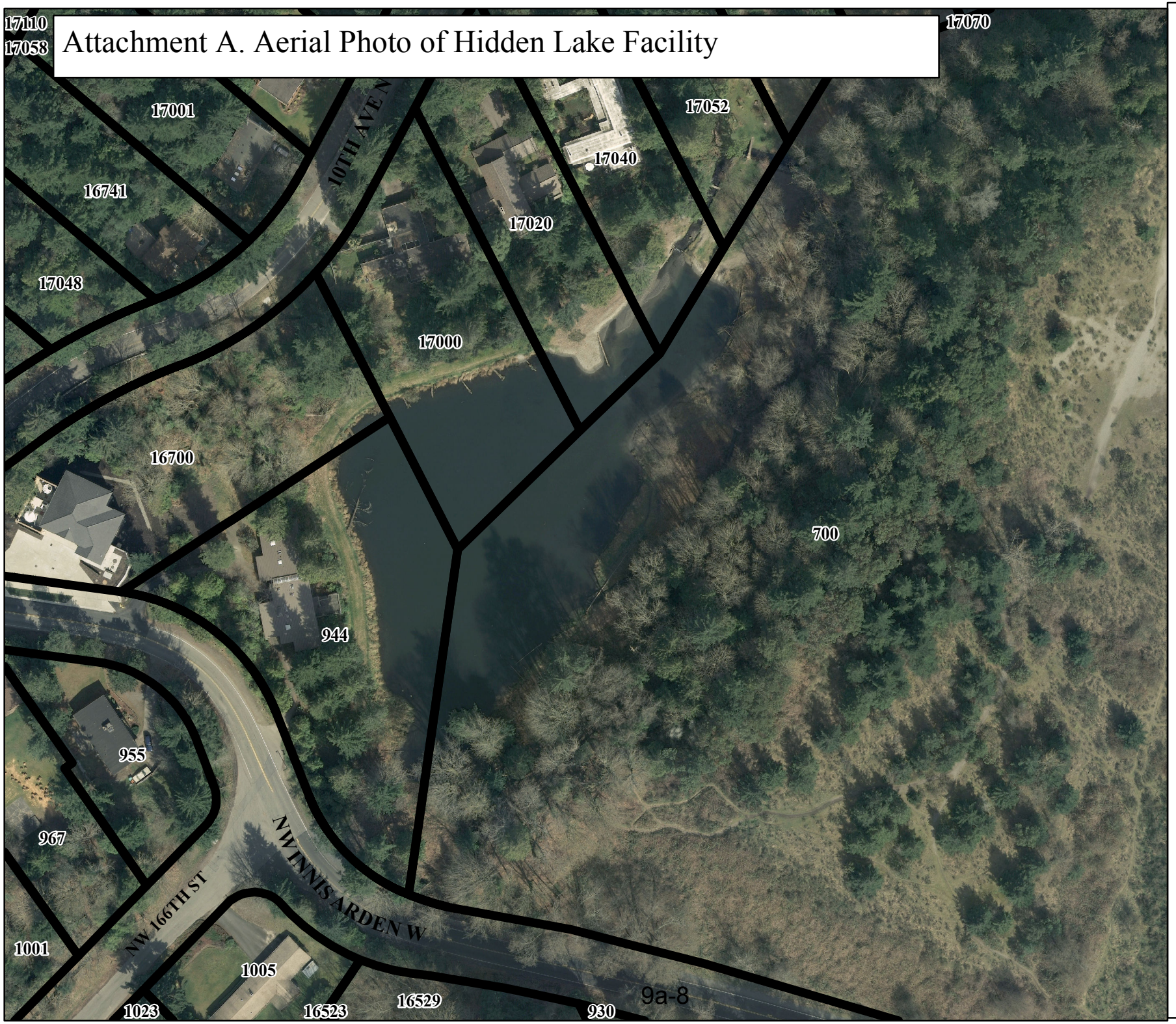
RECOMMENDATION

The contract to perform the Hidden Lake dredging is within the signing authority of the City Manager, and therefore no formal action by Council is required. Staff is seeking policy direction from Council that would allow for the development of a more economically sustainable management plan for the Hidden Lake facility. Staff recommends that the City complete sediment removal in 2013 and complete a feasibility study in 2014 to provide a final maintenance recommendation for the 2015-2021 Capital Improvement Plan.

ATTACHMENTS

Attachment A - Aerial Map of Hidden Lake stormwater facility
Attachment B - Picture of Hidden Lake before and after the 2012 storm events
Attachment C - Boeing Creek (including Hidden Lake) feasibility study Project description (Boeing Creek Basin Plan CIP BC-Hab 1)
Attachment D – 1996 Easement

Attachment A. Aerial Photo of Hidden Lake Facility



City of Shoreline
Geographic Information System

Surface Water Management

HIDDEN LAKE FACILITY

Surface Water Facilities

0 5 10 20 30 40 Feet

SHORELINE

User: blandau
Date: 7/18/2013
Path: J:\GIS\users\Blandau\Hidden Lake.mxd

Attachment B. Photos of Hidden Lake Sedimentation

Hidden Lake after dredging in 2011.

Hidden Lake December 14, 2012

4 Habitat and Fish Passage

Project: **BC-Hab-1**

Project Name: Hidden Lake and Boeing Creek channel restoration, fish passage, and trail improvement feasibility study

Description: This project involves developing a feasibility study for multi-functional restoration in Shoreview and Boeing Creek Parks that encompasses Hidden Lake, Boeing Creek, and the recreational trail adjacent to the creek. The issues through this reach include bank erosion that has affected the adjacent recreational trail, log weirs that may not be passable to fish at different stages of flow, and sedimentation in Hidden Lake, a large annual maintenance expense for the City. One option to be considered is the discontinuation of maintenance dredging in Hidden Lake. If this were to occur, Hidden Lake would, over time, fill in with sediment and become more vegetated with additional wetland characteristics. Another option is the construction of a single-thread channel through what is now Hidden Lake. Opportunities to improve fish passage and habitat through this reach of Boeing Creek would also be considered in the feasibility study.

Benefits: The potential benefits that would come out of a restoration project in this area are reduced annual or biannual maintenance efforts by the City, improved fish passage for resident cutthroat trout, and improved recreational trail benefits. In the City's *Surface Water Master Plan Update* (SAIC 2011), instream stabilization, such as the installation of large wood, is mentioned as a possible solution in addition to upstream flow control (low impact development, infiltration, and/or detention) to address channel degradation in the upper reaches of Boeing Creek and sedimentation in the lower reaches. The potential for instream restoration would be evaluated in this feasibility study, along with incorporation of trail improvements, fish passage, and opportunities to reduce dredging in Hidden Lake.

Assumptions: The feasibility study would include elements described below in the attached feasibility scope outline.

Estimated Cost/

Level of Effort: $100 K

Potential Partners: City of Shoreline Parks Department, Shoreline Community College, private entities within the City that require natural resource

mitigation credits for other project impacts, local residents and neighbors

Priority: Medium

Feasibility Study Outline of Scope of Work

Purpose:

The purpose of this feasibility study is to evaluate existing geomorphic, biological and surface water flow conditions in the vicinity of Hidden Lake and Boeing Creek within Boeing and Shoreview Parks, and identify potential restoration projects.

Goals:

Identify a preferred habitat and trail restoration alternative or suite of alternatives to address multiple issues within this reach of Boeing Creek, including Hidden Lake. Specific goals include:

- Improved fish passage and aquatic habitat conditions
- Reduced maintenance dredging
- Improved trail conditions

Scope of Work:

It is anticipated that the tasks listed below would be included in the feasibility study.

Hidden Lake Evaluation

- Review as-built and operation and maintenance plans for documentation regarding outlet control structure, lake bathymetry, and flow by-pass structures used for maintenance.
- Review maintenance records for estimates of sediment volumes dredged from Hidden Lake to estimate annual sedimentation rates.
- Review 2008 Shoreview and Boeing Creek parks vegetation management plan for areas identified as requiring invasive plant management or removal, and opportunities for vegetation enhancement.

Geomorphic Assessment of Boeing Creek

- Construct a longitudinal profile of Boeing Creek from the confluence of the North and South forks to Hidden Lake for the purpose of identifying overall grade, and grade drops (particularly downstream of channel spanning weirs).
- Conduct pebble counts at representative reaches to evaluate particle size distribution of channel bed materials.
- Evaluate critical shear stress and mobilization of different particle sizes relative to different flow conditions, using existing hydrologic model and pebble count data.
- Construct channel cross sections at a minimum of three different locations at representative reaches to obtain geometric information about channel bed and bank configuration.

- Evaluate bed, bank and hillslope erosion processes that contribute to downstream sedimentation, including incision, channel widening, slope failure associated with seepage and other factors.
- Evaluate potential for sediment inputs from upstream urban sources (i.e., road runoff, ditch erosion, etc.)

Existing Conditions Conceptual Model

Develop a conceptual model of existing hydrologic, geomorphic, and biologic conditions using data obtained in the tasks above, and including information on fish passage and fish presence collected during this Boeing Creek Basin Plan. The conceptual model can be used as a framework for evaluating potential effects of restoration improvements and/or upstream stormwater retrofit actions. For instance, understanding the sources of sediment and deposition rates in Hidden Lake would help evaluate the effects of discontinued dredging, and/or the channel configurations and flows necessary to facilitate sediment transport through this reach.

Identification of Restoration Project Alternatives

Evaluate restoration alternatives for Hidden Lake and Boeing Creek within Shoreview and Boeing Creek parks, including combinations of the following potential options for different project elements:

- Hidden Lake
  - Conversion of Hidden Lake to a wetland
  - Construction of a single thread channel through what is now Hidden Lake, connecting Boeing Creek channel on the upstream side to an outlet structure upstream of Innis Arden Way
- Boeing Creek/fish passage
  - Installation of grade control or hydraulic structures to rebuild channel between existing weirs to facilitate fish passage and hydraulic variability
  - Removal of existing weirs
  - Large woody debris
- Revegetation
  - Uplands
  - Riparian/bank stabilizing vegetation
  - Wetlands (Hidden Lake area)

- Trail
  - Reconstruction
  - Relocation
  - Replacement with a boardwalk
  - Removal

Victor Yanez Smith

AFTER RECORDING RETURN TO:
King County Property Services Division
500A King County Administration Bldg.
500 Fourth Avenue
Seattle, WA 98104

R/W #6-1994-029
Parcel # 1

Attachment D

960423-0329 10:06:00 AM KING COUNTY RECORDS 004 RTD

EASEMENT

THIS AGREEMENT, made by and between Bruce David Daly, as his separate estate, (Grantor), and KING COUNTY, a political subdivision of the State of Washington, (Grantee):

RECITALS

A. Grantor owns real property located in the City of Shoreline, King County, State of Washington which is described as follows:

Lots 1 and 2, Block 30, Innis Arden No. 3, according to the plat recorded in Volume 46 of Plats, page 42, records of King County, Washington.

B. The Grantor's property abuts Boeing Creek, a natural watercourse which, at times in the past, has been dammed to create Hidden Lake, a small lake which inundates portions of the above described property.

C. King County is currently planning to dam Boeing Creek and thus recreate Hidden Lake in the City of Shoreline (hereinafter referred to as "the Project"), and to construct related improvements in the vicinity of the lake, all as depicted in the engineering plans, drawings and related specifications entitled "Hidden Lake Restoration", comprised of 15 sheets of engineering drawings (hereinafter referred to as "the Plans"). The Plans are still being revised and are not yet in their final form, but once the Plans are finalized, they will be deemed to be fully incorporated into this Agreement by reference.

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D. At some date after the completion of the Hidden Lake Restoration Project, the County intends to transfer responsibility for the Project to the City of Shoreline, which will undertake to manage the project and to maintain and operate the drainage system and related improvements to be constructed according to the Plans.

E. In order to construct the Hidden Lake Project according to the Plans, King County needs to obtain easement rights over and across certain portions of the Grantor's property for certain limited purposes.

F. That Grantor for and in consideration of the mutual benefits, acquired under threat of condemnation according to Eminent Domain statutes, does hereby grant and convey to the Grantee, its successors and assigns, agents, and licensees an easement to establish the necessary rights and to define the responsibilities of King County for the future operation and maintenance of the Project.

AGREEMENT

In consideration of the mutual covenants contained herein, the parties hereby agree as follows:

1. Completion of the Hidden Lake Restoration Project. In consideration of the easement rights granted by the Grantor herein, King County hereby commits to complete the restoration of Hidden Lake in accordance with the Plans. Although the parties acknowledge that the Plans are not yet in final form, King County hereby warrants that there will be no changes to the plans which materially affect the Grantor's property after the date of this Agreement. King County agrees to provide the Grantor with copies of all changes to the Plans made hereafter and to deliver a set of the final Plans to the Grantor when they are completed.

2. Drainage Easement. Grantor hereby grants to King County a permanent non-exclusive easement over that portion of the Grantor's property which is described on Exhibit "A" attached hereto for the following purposes:

a) To construct, reconstruct, maintain and to perform grading, lakebed preparation and other tasks depicted in the Plans which are reasonably related to the construction of the Project; and

b) To construct an underground bypass pipeline beneath the Drainage Easement, at the location depicted in the Plans, such pipeline to be placed completely underground.

EXCISE TAX NOT REQUIRED
King Co. Records Division
By _____ Deputy

3. Access Easement. Grantor hereby grants to King County a permanent non-exclusive easement for access, ingress and egress over and across that portion of the Grantor's property which is included in the Access Easement which is attached hereto as Exhibit "A". The parties acknowledge that the Access Easement includes the entire track of the Access Road, which also runs across properties owned by other persons. This easement is granted for the following limited purposes:

a) To move personnel. trucks, backhoes, trackhoes and other equipment along the Access Road for the purpose of maintaining, dredging and cleaning the sediment basin located at the Northeasterly end of the Project, as needed.

b) To allow personnel and vehicles to move along the perimeter of the Lake for the purpose of maintaining and inspecting the lakebed, the shoreline of the lake and the landscaping in the vicinity of the lake.

c) Nothing in this Agreement shall be deemed to grant a right of access to persons other than the employees or contractors of King County who are actually engaged in the tasks set forth above. This Agreement does not create any general right of access for members of the public, for any purpose. The Access Easement describes the centerline of the Access Road. King County may grade and gravel a roadway which does not exceed twelve (12) feet in width, i.e. extending approximately six (6) feet on either side of the centerline.

4. Native Growth Protection Easement. Grantor hereby grants to King County a permanent non-exclusive easement covering property which coincides with the centerline of the Access Road and is further described herein on attached Exhibit "A" as the Native Growth Protection Easement. Within the Native Growth Protection Easement, Grantors may not use fertilizers, pesticides or other chemicals. It is understood and agreed that the planting of non-native vegetation is prohibited in the Native Growth Protection Easement. For the purposes of this easement, non-native vegetation includes those species and subspecies which are not indigenous to King County, Washington. It is also understood and agreed that limbing, pruning, trimming, topping, cutting or removal of native vegetation by physical, mechanical, chemical or other means is prohibited without the prior written approval of King County Surface Water Management or the agency which then has maintenance responsibility for the Project.

5. Temporary Construction Easement. Grantor hereby grants to King County a temporary non-exclusive easement over and across that portion of the Grantor's property which is described herein on attached Exhibit "A", for the purpose of constructing the Hidden Lake Project improvements, as indicted in the Plans. This temporary easement shall exist only as long as the Project is under construction and shall terminate not later than December 31, 1998.

6. Limitations Upon Easements to be Strictly Observed. King County agrees that the easements and restrictive covenants granted hereby shall be strictly construed and limited only to the purposes expressly stated in this Agreement. Nothing in this Agreement shall be construed to grant King County a general easement or right of entry for other purposes over any portion of Grantor's property. King County may not construct any improvements or perform any grading or other alteration of Grantor's property which is not shown on the Plans. The Access Road and other easement areas may not be used at any time for the storage of materials, the parking of vehicles or other uses inconsistent with this Agreement. Vehicles may not remain on the Grantor's property for any period of time that they are not in actual use, except in emergency conditions.

7. Commitment to Maintain Site. King County hereby agrees that, once construction of the Project has been completed, that King County will thereafter maintain the Lake consistent with the Plans and the permit requirements issued by the State of Washington and the City of Shoreline to construct the Project.

8. Control of Public Access. Nothing in this Agreement shall be construed to grant access by members of the public to any portion of the Grantor's property or to use any portion of the Access Road for recreational or other public purposes. The parties recognize that, because other portions of the Lake will be open for use by the public as a park, measures may need to be taken to inform the public regarding the boundaries between public and private property and to prevent the public from trespassing upon the Grantor's property. King County agrees that fences will be constructed at the locations shown on the Plans.

9. Termination of Easements and Restrictions. The Grantor's agreement to grant these easements rights is based upon their understanding that the Hidden Lake Restoration Project will be completed in a timely and professional manner in accordance with the Plans. The easements and restrictions granted in this Agreement to King County shall cease and terminate upon the happening of any of the following:

a) The failure of King County to commence construction of the Project on or before December 31, 1997.

b) The failure of King County to complete construction of the Project on or before December 31, 1998.

c) The abandonment of the Project.

In the event that any of the above situations should occur, then this Agreement shall immediately become null and void and all rights granted herein to King County shall be terminated and if requested by the Grantor, King County shall execute and deliver to the Grantor a document in recordable form certifying that this Agreement is terminated and has no further force or effect.

10. Governing Law; Venue. This Agreement shall be governed by and construed under the laws of the State of Washington. In the event of any legal action to enforce or construe this Agreement, the action shall be filed in the King County Superior Court.

11. Attorneys Fees. In the event that any party files legal action to enforce, construe, interpret or terminate this Agreement, the prevailing party in any such action shall be awarded reasonable attorney fees and court costs, as determined by the Court.

12. Binding Effect; Assignment. This Agreement shall be binding upon and inure to the benefit of the parties hereto and their heirs, successors and assigns and shall be deeded covenants and restrictions running with the lands described herein.

IN WITNESS WHEREOF, the Grantor has executed this instrument this 18 day of April, 1996.

Bruce David Daly

STATE OF WASHINGTON)
)ss
COUNTY OF KING)

On the 18th day of April, 1996, before me, a Notary Public in and for the State of Washington, duly commissioned and sworn, personally appeared before me Bruce David Daly to me known to be the individual described in and who executed the foregoing instrument, and acknowledged to me that he signed and sealed the same as his free and voluntary act and deed, for the uses and purposes therein mentioned.

Given under my hand and official seal the day and year first above written.

STATE OF WASHINGTON JAMES M. SWAN NOTARY PUBLIC 8-1-96

NOTARY PUBLIC in and for the State of Washington residing at MERCER ISLAND.

R/W #6-1994-029
Parcel # 1

EXHIBIT "A"

DRAINAGE EASEMENT:

That portion of said Lot 1 which is described as follows: Beginning at a point on the Northerly right of way margin of Northwest Innis Arden Way, as shown on said plat of Innis Arden No. 3 which is located North 36°43'08" East a distance of 33.30 feet from a roadway centerline monument described as MIC Point #207 as disclosed on King County Survey No. 12-26-3-68 and as shown on the plat of Shorewood Hills Division II, recorded in Volume 112 of Plats, pages 48 through 50; thence North 09°03'29" East a distance of 129.03 feet; thence North 84°22'04" West a distance of 42.39 feet; thence South 60°35'51" West a distance of 59.22 feet; thence South 00°14'42" West a distance of 73.61 feet; thence Easterly along the Northerly right of way margin of said road a distance of 80.06 feet to the point of beginning. Excepting any portion lying within King County Shoreview Park. Contains an area of 4,071.63 square feet, more or less.

ACCESS EASEMENT:

Together with and subject to a 20 foot easement for ingress and egress over Lots 1, 2, 3, 4, 5, and 6, Block 30, said plat of Innis Arden No. 3, lying 10 feet on each side of the following described centerline: Beginning at a point on the Northerly right of way margin of Northwest Innis Arden Way which is located North 45°06'25" West a distance of 90.12 feet from the above mentioned roadway centerline monument described as MIC Point #207; thence North 01°14'42" East a distance of 233.38 feet; thence along a curve to the left which has a central angle of 36°33'18" and a radius of 55.0 feet an arc distance of 35.09 feet; thence along a curve to the right which has a central angle of 114°30'49" and a radius of 95.0 feet an arc distance of 189.88 feet; thence along a curve to the left which has a central angle of 10°36'22" and a radius of 680.0 feet an arc distance of 125.81 feet; thence along a curve to the left which has a central angle of 28°13'54" and a radius of 256.82 feet an arc distance of 126.54 feet and the terminus of this line description. Contains an area of 7,011.93 square feet, more or less.

NATIVE GROWTH PROTECTION EASEMENT:

Together with a Native Growth Protection easement over that portion of the above described property lying 20 feet Westerly of Lot 1; 15 feet Westerly of Lot 2 and Easterly of the following described line: Beginning at a point on the Northerly right of way margin of Northwest Innis Arden Way which is North 45°06'25" East a distance of 90.12 feet from said roadway centerline monument described as MIC Point #207; thence North 01°14'42" East a distance of 233.38 feet; thence along a curve to the left which has a central angle of 36°33'18" and a radius of 55.0 feet a distance of 35.09 feet; thence along a curve to the right which has a central angle of 49°34'50" and a radius of 95.0 feet an arc distance of 82.21 feet to the Northwesterly line of said Lot 2 and the terminus of this line description. Contains an area of 33,547.98 square feet, more or less.

TEMPORARY CONSTRUCTION EASEMENT:

Together with a temporary construction easement over that portion of the above described property lying 20 feet Westerly of and Easterly of the following described line: Beginning at a point on the Northerly right of way margin of Northwest Innis Arden Way which is North 45°06'25" East a distance of 90.12 feet from said roadway centerline monument described as MIC Point #207; thence North 01°14'42" East a distance of 233.38 feet; thence along a curve to the left which has a central angle of 36°33'18" and a radius of 55.0 feet a distance of 35.09 feet; thence along a curve to the right which has a central angle of 49°34'50" and a radius of 95.0 feet an arc distance of 82.21 feet to the Northwesterly line of said Lot 2 and the terminus of this line description. Contains an area of 34,264.52 square feet, more or less.