

June 6, 1994

Introduced By:

Sullivan, Sims,
Laing, Derdowski
von Reichbauer,
Hague, Gossett
Phillips

94-286/skv

Proposed No.:

94-286

MOTION NO. 9295

1
2 A MOTION authorizing an interlocal
3 agreement between King County and the
4 Sammamish Plateau Water and Sewer
5 District for the purpose of developing a
6 wetland mitigation banking program to be
7 proposed to the Metropolitan King County
8 Council.
9

10 WHEREAS, wetlands provide habitat for fish and other
11 wildlife and perform a variety of other critical ecological
12 functions, including the storage of flood waters, the
13 recharge and discharge of groundwater and the filtering of
14 water-borne pollutants, and for these reasons they receive
15 special protection under K.C.C. 21.54 (the "Sensitive Areas
16 Ordinance"), and

17 WHEREAS, though the ordinance recognizes that
18 occasionally the construction of a public project has no
19 practical alternative to altering a wetland, it requires that
20 the alteration be minimized and that appropriate mitigation
21 be made for it, and

22 WHEREAS, Countywide Planning Policy CA-4 states, in
23 part, that "a tradeoff of small, isolated wetlands in
24 exchange for a larger connected wetland system can achieve
25 greater resource protection and reduce isolation and
26 fragmentation of wetland habitat," and

27 WHEREAS, establishing appropriate mitigation for public
28 projects on a case-by-case basis can cause delays in
29 important projects and add unpredictability to the schedules
30 and budgets of such projects, which it would be in the public
31 interest to avoid if an alternative process could provide
32 equal or better mitigation, and

1 WHEREAS, a wetland mitigation banking program, if
2 properly established and administered, could help develop
3 larger connected wetland systems and simultaneously expedite
4 permitting approval for important public projects by
5 authorizing the use of investments in the restoration,
6 creation or enhancement of wetlands as credit to meet later
7 mitigation requirements for public projects, and

8 WHEREAS, the Sammamish Plateau Water and Sewer District
9 desires to work cooperatively with the King County surface
10 water management division, roads division and department of
11 development and environmental services, in coordination with
12 key citizens groups, to develop a wetland mitigation banking
13 program to propose to the Metropolitan King County council,
14 which would include proposed policies, procedures and the
15 identification of potential sites for an initial project, and

16 WHEREAS, the county and the district have developed the
17 attached interlocal agreement to establish the timeline,
18 budget and scope of work for this joint effort, and

19 WHEREAS, the agreement proposes that the initial project
20 be in the East Lake Sammamish basin, where a number of
21 construction projects are located that the district and other
22 public agencies anticipate will require mitigation and where
23 the county has relatively plentiful and current information
24 on wetlands because of the East Lake Sammamish basin plan,
25 adopted by Ordinance 11111 in November 1993, and

26 WHEREAS, the Metropolitan King County council supports
27 the general idea of wetland mitigation banking and supports
28 this joint effort, provided that the program it proposes
29 would not alter the order of preference for mitigation
30 established in the Sensitive Areas Ordinance, would not
31 promote tradeoffs of wetland functions between different sub-
32 basins, would ensure that monetary payments to be credited as
33 mitigation would actually support the restoration, creation

1 or enhancement of wetlands, would require that the
2 performance of wetlands to be used as credits for mitigation
3 be appropriately certified prior to such use, and would be
4 restricted so that only public agencies may use the bank;

5 NOW, THEREFORE BE IT MOVED by the Council of King
6 County:

7 The King County executive is hereby authorized to enter
8 into an interlocal agreement in substantially the form of
9 Attachment A to cooperate with the Sammamish Plateau Water
10 and Sewer District to develop, in coordination with key
11 citizens groups, a wetland mitigation banking program to
12 propose to the Metropolitan King County Council, which would
13 include proposed policies, procedures and the identification
14 of potential sites for an initial project.

15 PASSED this 6th day of June, 1994.

16 Passed by a vote of 12-0.
17

KING COUNTY COUNCIL
KING COUNTY, WASHINGTON

Kent Pullen
Chair

18
19
20 ATTEST:

21 Gerald A. Peterson
22 Clerk of the Council

23 Attachment:
24
25 Interlocal Agreement

26

AN AGREEMENT FOR THE COOPERATIVE DEVELOPMENT
OF A MITIGATION BANKING PROGRAM IN KING COUNTY
AND SELECTION OF BANKING SITES
IN THE EAST LAKE SAMMAMISH BASIN

1 This agreement is made and entered into by King County, Washington,
2 hereinafter referred to as the "County," and the Sammamish Plateau Water
3 and Sewer District, hereinafter referred to as the "District," collectively
4 referred to as the "Parties," to establish procedures for mitigation
5 banking in King County that provide an efficient means for mitigating the
6 impacts of development and to facilitate large-scale, integrated
7 restoration and enhancement of aquatic resources. After procedures are
8 established, a site or sites will be selected and preliminary design will
9 be completed for a pilot mitigation bank in the East Lake Sammamish
10 drainage basin.

11 WHEREAS, King County has prepared and adopted the East Lake Sammamish
12 Basin and Nonpoint Action Plan; and

13 WHEREAS, the Plan has established that the East Lake Sammamish Basin
14 contains significant and valuable aquatic resources; and

15 WHEREAS, public construction projects proposed for the East Lake
16 Sammamish Basin will have impacts on stream and wetland habitats and
17 require mitigation; and

18 WHEREAS, banking is an innovative method of off-site mitigation in
19 which relatively large mitigation sites are selected and managed to provide
20 mitigation, in advance, for a number of future construction projects; and

21 WHEREAS, the County is revising and updating the King County
22 Comprehensive Plan and is considering including policies addressing
23 mitigation banking consistent with those proposed by this mitigation
24 banking project; and

25 WHEREAS, banking may be more effective than on-site mitigation for
26 many public projects; and

27 WHEREAS, the Parties desire to work together to set goals and
28 procedures for a mitigation banking program in King County and to select
29 sites and prepare preliminary designs for a pilot mitigation bank in the
30 East Lake Sammamish Basin; and

1 WHEREAS, the parties agree to share the costs of developing the
2 banking program; and

3 WHEREAS, pursuant to RCW 39.34, the Interlocal Cooperation Act, the
4 parties are each authorized to enter into an agreement for cooperative
5 action;

6 NOW THEREFORE, the Parties mutually agree as follows:

7 I. Definitions

8 A. Mitigation. For purposes of this Agreement, "mitigation" refers
9 to the creation, restoration and/or enhancement of natural features and/or
10 habitats to compensate for unavoidable adverse impacts associated with
11 development. This definition is consistent with but does not include all
12 aspects of "mitigation" as defined in the County Sensitive Areas Ordinance.
13 On-site mitigation is performed on the development site; off-site
14 mitigation takes place at a different location.

15 B. Mitigation Banking. A method of off-site mitigation in which
16 relatively large mitigation sites are established in advance to provide
17 compensating mitigation for a number of future development projects. The
18 goals of mitigation banking are: 1) to promote higher resource functions
19 and values by providing contiguous habitat sites managed by resource
20 specialists; and 2) to streamline the development permitting process.

21 C. Pilot Mitigation Bank. The mitigation bank demonstration project
22 proposed for the East Lake Sammamish Basin. As a result of this agreement,
23 pilot bank sites will be selected and preliminary site design will be
24 completed.

25 II. Purpose of Agreement

26 A. The purpose of this Agreement is to provide a means for creating
27 an ongoing mitigation banking program in the County for public agencies.

28 B. The purpose of this agreement is to enable the County and the
29 District to effectively cooperate in and share the costs of developing
30 procedures for the mitigation banking program.

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1 C. The parties agree that the East Lake Sammamish Basin will be the
2 site of the mitigation banking pilot project designed as a result of this
3 agreement.

4 III. Project Management

5 A. The lead agency for the project will be King County Department of
6 Public Works, Surface Water Management (SWM) Division, which will designate
7 a Project Manager.

8 B. A Project Management Team will have primary responsibility for
9 completing project tasks. The Team will consist of representatives from
10 King County Department of Public Works, SWM and Roads Divisions (DPW-SWM
11 and DPW-Roads), the King County Department of Development and Environmental
12 Services (DDES), and the District. Replacements of or additions to Project
13 Management Team members are subject to approval of the lead agency.

14 C. Decision-making

15 1. The Project Management Team will use consensus to reach
16 agreement on issues.

17 2. The heads of DPW-SWM, DPW-Roads, DDES and the District will
18 oversee the development and administration of the project, resolve issues
19 that cannot be resolved by the Project Management Team, and approve changes
20 to the project Scope of Work and to this Agreement.

21 D. Tasks entailed in completion of the project are described in the
22 Scope of Work attached to this Agreement as Exhibit A and incorporated
23 herein. Categories of project tasks are as follows:

- 24 1) Inventory and assessment of potential bank sites
- 25 2) Securing local, state and federal agency involvement
- 26 3) Preparing proposals addressing administrative policies and
27 regulations as required to implement the project
- 28 4) Bank planning
- 29 5) Summary report on project results

30 E. In order to accomplish project tasks, the Project Management Team
31 will develop a detailed Work Program, including a prioritization of tasks,
32

1 a timeline for completing tasks, an estimated schedule of Project
2 Management Team meetings, and a description of how project tasks will be
3 completed.

4 F. In completing project tasks, the Project Management Team will form
5 and solicit input and review from a project Task Force. The Task Force
6 will consist of representatives from Washington State and federal agencies.
7 Replacements of or additions to Task Force members are subject to approval
8 of the lead agency.

9 V. Responsibilities of the Parties

10 A. King County

11 1. DPW- SWM (Lead Agency)

12 a. The Lead Agency, as represented by the Project Manager,
13 will convene meetings of the Project Management Team and provide staff to
14 support the work of the Project Management Team, including administrative
15 and other support.

16 b. The Lead Agency will direct the Project Management Team to
17 follow the Scope of Work and Work Program. Changes to the Scope of Work or
18 Work Program will be made consistent with Agreement Section VIII. B.

19 c. The Lead Agency will direct the Project Management Team to
20 decide on the need for and scope of work to be performed by an outside
21 consultant or contract employee(s) in assessing potential mitigation
22 banking sites. The Lead Agency will ensure compliance with all applicable
23 public bidding laws in contracting for outside services.

24 d. The Lead Agency will review and approve for payment all
25 invoices issued by DDES to the District for staff costs and by any outside
26 contractor to DPW-Roads for services rendered.

27 e. Upon request by the District, the Lead Agency will ensure
28 that written progress reports on program work are provided to the District.

29 2. DPW-Roads

30 a. DPW-Roads will provide staff to participate on the Project
31 Management Team.

32

1 b. Project Management Team members from DPW-Roads will
 2 provide the Project Manager with written monthly progress reports on
 3 project tasks completed, including hours spent.

4 c. DPW-Roads will receive and pay within 60 days invoices
 5 issued for outside contractor services.

6 3. DDES

7 a. DDES will provide staff to participate on the Project
 8 Management Team.

9 b. Project Management Team members from DDES will provide the
 10 Project Manager with written monthly progress reports on project tasks
 11 completed, including hours spent.

12 c. DDES will directly invoice the District for staff costs,
 13 as outlined on Exhibit B, incurred for the project.

14 B. The District

15 • The District will provide staff to participate on the Project
 16 Management Team.

17 • The District will receive and pay, within 60 days, invoices
 18 received for DDES staff costs, as outlined on Exhibit B, incurred for the
 19 project.

20 VI. Project Costs and Cost Sharing

21 A. Estimated project costs are outlined on the project budget
 22 attached to this Agreement as Exhibit B and incorporated herein. As of
 23 the effective date of this Agreement, total project costs are estimated at
 24 \$70,795.

25 B. Cost shares for the project are as follows:

26	DPW-SWM:	28,497
27	DPW-Roads:	20,780
28	District:	<u>21,518</u>
29		\$70,795

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1 VII. Effectiveness and Duration

2 A. This Agreement will become effective upon signature by all
3 Parties.

4 B. This Agreement will remain in effect until project activities have
5 been completed or until December 31, 1995, whichever is first.

6 VIII. Termination and Amendment

7 A. This Agreement may be terminated by any party upon 90 days written
8 notice to the other parties.

9 B. Amendments to the terms of this Agreement, including costs, must
10 be agreed to in writing by each party.

11 IX. Indemnification

12 Each party hereto agrees to indemnify and hold harmless the other
13 parties, its officers, agents, and employees for all claims (including
14 demands, suits, penalties, liabilities, damages, costs, expenses, or loss
15 of any kind or nature whatsoever arising from out of this Agreement) to the
16 extent such a claim arises or is caused by the indemnifying party's sole or
17 concurrent negligence or that of its officers, agents or employees in
18 performance of this Agreement.

19 IN WITNESS WHEREOF, the parties hereto have executed this agreement on
20 the _____ day of _____, 19____.

21
22 KING COUNTY

DISTRICT

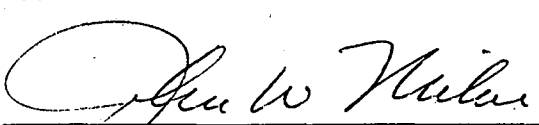
23
24 _____
25 King County Executive


26 _____
27 President, Board of Commissioners

28 Approved as to Form

Approved as to Form

29 
30 _____
31 Deputy Prosecuting Attorney


32 _____
Attorney for District

