

ORDINANCE No. 118053

COUNCIL BILL No. 111149

AN ORDINANCE relating to the City Light Department, ratifying the Agreement between the City of Seattle, City Light Department and British Columbia Hydro and Power Authority, entered into on December 15, 1995, for the purposes of sharing the costs of a probable Maximum Flood Study for the Grand Graille River within the City of Seattle Boundary from the Seven Mile Dam.

*Law Department*

# The City of Seattle--Legisla

INDEXED

## REPORT OF COMMITTEE

Honorable President:

Your Committee on \_\_\_\_\_

to which was referred the within Council Bill No. \_\_\_\_\_  
report that we have considered the same and respectfully recommend that the

*Full Council Vote 8-0*

Committee Chair

Introduced: MAR - 4 1996	By: PAGER
Referred: MAR - 4 1996	To: UTILITIES & ENVIRONMENTAL MANAGEMENT COMMITTEE
Referred:	To:
Referred:	To:
Reported:	Second Reading: MAR 18 1996
Third Reading: MAR 18 1996	Signed: MAR 18 1996
Presented to Mayor: MAR 19 1996	Approved: MAR 21 1996
Returned to City Clerk: MAR 25 1996	Published: <i>Little</i>
Vetoed by Mayor:	Veto Published:
Passed over Veto:	Veto Sustained:

455047



ORDINANCE 118053

1  
2  
3  
4 AN ORDINANCE relating to the City Light Department, ratifying the "Agreement Between  
5 The City of Seattle, City Light Department and British Columbia Hydro and Power  
6 Authority," entered into on December 15, 1995, for the purposes of sharing the costs of  
7 a joint Probable Maximum Flood study for the Pend Oreille River drainage basin above  
8 Boundary Dam and Seven Mile Dam.

9  
10 WHEREAS, British Columbia Hydro and Power Authority (BC Hydro) owns the Seven Mile  
11 Dam immediately downstream from Seattle City Light's (City Light) Boundary Dam;  
12 and

13  
14 WHEREAS, since 1984 Seattle has entered into a series of agreements regarding coordination  
15 and operation of Boundary Dam and Seven Mile Dam with BC Hydro; and

16  
17 WHEREAS, the Federal Energy Regulatory Commission (FERC) has required City Light to  
18 more fully assess and refine the estimated Probable Maximum Flood (PMF) for this  
19 section of the Pend Oreille River, and has required City Light to modify the crest and  
20 adjoining structures of Boundary Dam for protection of the dam and foundation during  
21 overtopping flows occurring during major floods; and

22  
23 WHEREAS, the FERC has granted Seattle an extension of its deadline for completion of the  
24 flood protection projects until December 1997 to allow for PMF reevaluation; and

25  
26 WHEREAS, Morrison-Knudsen Corporation, a consultant, has been authorized to perform the  
27 PMF Study, to define potential effects on Boundary Dam as described in "Amendment  
No. 2 to Engineering Services for Abutment Erosion Control System and Elevator  
Tower Connection Reinforcement Projects at Boundary Dam"; and

WHEREAS, sharing expenses for the PMF Study work between City Light and BC Hydro  
reduces costs to both parties; and

WHEREAS, the "Agreement Between The City of Seattle, City Light Department and British  
Columbia Hydro and Power Authority" is mutually beneficial and has been signed by  
the BC Hydro representative and the City Light Superintendent; NOW, THEREFORE,

BE IT ORDAINED BY THE CITY OF SEATTLE AS FOLLOWS:

Section 1. The Council concurs with and ratifies the "Agreement Between The City of  
Seattle, City Light Department and British Columbia Hydro and Power Authority" (the  
Agreement), attached hereto, establishing the terms and conditions by which City Light and BC  
Hydro will jointly fund the work contracted to Morrison-Knudsen Corporation.

NOTICE: IF THE DOCUMENT IN THIS FRAME IS LESS CLEAR THAN THIS NOTICE  
IT IS DUE TO THE QUALITY OF THE DOCUMENT.

1  
2  
3  
4  
5  
6  
7  
8  
9  
10  
11  
12  
13  
14  
15  
16  
17  
18  
19  
20  
21  
22  
23  
24  
25  
26  
27

Section 2. Seattle City Light is authorized to accept funding from BC Hydro to pay BC Hydro's portion of the PMF Study, including Agreement amendments as needed, signed and executed by the Superintendent of City Light, as specified in terms and conditions of the Agreement. When received, those funds shall be deposited into the Light Fund.

Section 3. This ordinance shall take effect and be in force thirty (30) days from and after its approval by the Mayor, but if not approved and returned by the Mayor within ten (10) days after presentation, it shall take effect as provided by Municipal Code Section 1.04.020.

Passed by the City Council the 18 day of March, 1996, and signed by me in open session in authentication of its passage this 18 day of March, 1996.

Jan Dusse  
President of the City Council

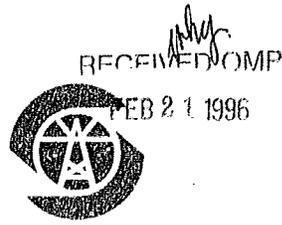
Approved by me this 22 day of March, 1996

Norman B. Rose  
Mayor

Filed by me this 25 day of March, 1996

Janice E. Pappin  
City Clerk

NOTICE: IF THE DOCUMENT IN THIS FRAME IS LESS CLEAR THAN THIS NOTICE IT IS DUE TO THE QUALITY OF THE DOCUMENT.



# Seattle City Light

Gary Zarker, Superintendent  
Norman B. Rice, Mayor

February 20, 1996

Via Tom Tierney, Director  
Office of Management & Planning

The Honorable Jan Drago, President  
Seattle City Council

Dear Councilmember Drago:

Boundary Dam Probable Maximum Flood Study Agreement  
Joint City Light - BC Hydro Participation and Cost Sharing

Enclosed for your consideration is an Ordinance ratifying the "Agreement Between The City of Seattle, City Light Department and British Columbia Hydro and Power Authority." Council concurrence on ratification allows Seattle City Light (City Light) to accept funds for British Columbia Hydro's (BC Hydro) portion of the Probable Maximum Flood (PMF) Study, and to place such BC Hydro cost-sharing funds into the Light Fund. A copy of the PMF Study Agreement and a fact sheet summarizing its main points are enclosed. The PMF is the flood expected from the most severe meteorological and hydrological conditions that are reasonably possible.

This Agreement provides for City Light and BC Hydro to equally share the cost of a PMF study on the the Pend Oreille River. Both utilities are required to conduct such a study, City Light by the Federal Energy Regulatory Commission (FERC) and BC Hydro by the Ministry for Environment, Water Controller's Office. A single joint study will meet the needs of both and avoid the costs of duplicate efforts. The study will be conducted by the Morrison-Knudsen Corporation under contract to City Light, and City Light will invoice BC Hydro directly for its share of the costs. Total savings to City Light are estimated at \$280,000.

The agreement was signed by BC Hydro and the City Light Superintendent on December 7, 1995 and December 15, 1995, respectively. However, as noted in Paragraph J of the Agreement's scope of work, the Agreement is only effective if ratified by the Seattle City Council.

An Equal Employment Opportunity Affirmative Action Employer  
City of Seattle -- City Light Department, 700 Fifth Avenue, Suite 3100, Seattle, Washington 98104-5031  
Telephone: (206) 625-3000 TDD: (206) 684-3225 FAX: (206) 625-3709  
Accommodations for people with disabilities provided on request  
Printed on recycled paper

NOTICE: IF THE DOCUMENT IN THIS FRAME IS LESS CLEAR THAN THIS NOTICE IT IS DUE TO THE QUALITY OF THE DOCUMENT.

Councilmember Drago  
Page 2  
February 16, 1996

Seattle City Light and BC Hydro have a history of cooperation and mutual support in managing the section of the Pend Oreille River between City Light's Boundary Dam and BC Hydro's Seven Mile Dam. This agreement is consistent with this and promotes continued cooperation and coordination between the two entities.

If you have questions or need more information, you may contact John Hastig at 684-3123, or Walt Davis at 684-3657. Thank you.

Sincerely,



Gary Zarker  
Superintendent

WLD/MPH:db

Enclosure

cc: w/enclosure  
Mayor Norman B. Rice  
City Councilmembers  
Tom Tierney, Director, Office of Management & Planning  
Mr. Ilene Yamashita, Law Department  
Wayne Sugai, Legislative Department

NOTICE: IF THE DOCUMENT IN THIS FRAME IS LESS CLEAR THAN THIS NOTICE  
IT IS DUE TO THE QUALITY OF THE DOCUMENT.

SUMMARY BRIEFING PAPER AND FACT SHEET  
PROBABLE MAXIMUM FLOOD (PMF) STUDY AGREEMENT  
BETWEEN BRITISH COLUMBIA HYDRO AND  
SEATTLE CITY LIGHT

Introduction

This ordinance proposes that the Seattle City Council ratify an agreement with British Columbia Hydro (BC Hydro) and Seattle City Light (City Light) to share the costs of a Probable Maximum Flood study on the Pend Oreille River. This ordinance authorizes City Light to accept BC Hydro funds for this purpose, and allows Seattle City Light to place these funds into the Light Fund. Both utilities are required to do this by their respective regulatory agencies--the Federal Energy Regulatory Commission (FERC) for City Light, and the Ministry for Environment, Water Controller's Office for BC Hydro. A single shared study will meet the needs of both utilities and will save the cost of conducting duplicate studies.

BC Hydro and the City Light Superintendent have signed the Agreement on December 7 and December 15, 1995, respectively, in anticipation of Council/Mayoral approval by the City of Seattle.

The mechanics of the Agreement and the projected cost savings are detailed below.

Background Information

- Seattle City Light has an existing agreement with Morrison-Knudsen Corporation (MKC) to provide engineering services and to conduct a study on the Probable Maximum Flood of the Pend Oreille River and its potential effects upon Boundary Dam. The City Light budget for the MKC studies is fully funded; BC Hydro participation will reduce costs.
- The study work will refine the current Probable Maximum Flood projections developed in 1973, which are believed to be overly conservative. The study is scheduled to be completed in 1996.
- BC Hydro owns the Seven Mile Dam downstream from Boundary Dam and wishes to participate in a joint Probable Maximum Flood study with City Light.
- On December 7, 1995 BC Hydro signed the Agreement to share the study costs equally. The City Light Superintendent signed the Agreement on December 15, 1995. The next step is for the City of Seattle to ratify this Agreement.
- Following Council/Mayoral approval, City Light will begin invoicing BC Hydro, as specified in terms and conditions of the Agreement.

Features of the Agreement

- Work would be performed under City Light's existing contract with Morrison-Knudsen. Seattle City Light would invoice BC Hydro for half of the sum of these costs plus related contract administration costs as they are incurred. BC Hydro would pay directly to City

NOTICE: IF THE DOCUMENT IN THIS FRAME IS LESS CLEAR THAN THIS NOTICE IT IS DUE TO THE QUALITY OF THE DOCUMENT.

Light within 30 days. This is projected to save City Light \$280,000 in direct consultant fees. Additionally, BC Hydro will provide technical expertise in review of the consultant's work.

- The Agreement is consistent with the requirements of the FERC.
- The Agreement has been reviewed and approved by the legal departments of the City of Seattle and BC Hydro.
- The insurance policy obtained by the consultant Morrison-Knudsen Corporation names both City Light and BC Hydro as additional insureds.

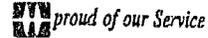
sumbrief.pmf

NOTICE: IF THE DOCUMENT IN THIS FRAME IS LESS CLEAR THAN THIS NOTICE  
IT IS DUE TO THE QUALITY OF THE DOCUMENT.

APPENDIX A



Hydroelectric Engineering Division  
Hydrotechnical Department



Fax: (604) 528-1940

RECEIVED  
DEC 21 1994  
CIVIL ENGINEERING

urn 12/23

cc Butler  
Hirsty  
373 FLO

20 December 1994  
File: 224-1204

fax to Sharma@MK

Mr. Walter Davis, P.E.  
Seattle City Light  
1015 Third Avenue  
Seattle, WA 98104-1198

Pend d'Oreille PMF study - Scope of Work for B.C. Hydro

Dear Mr. Davis,

Attached is our proposed scope of work for the Pend d'Oreille River PMP/PMF study. Most of the items are extracted from the B. C. Hydro PMP/PMF Study Guidelines sent earlier. Of particular concern in this study is that the PMP developed for each sub-catchment and for the entire catchment be compatible with the PMP developed by Miller (BCH Report H2719, March 1993) for the Columbia River basin including the Pend d'Oreille River basin. Miller's report also provides estimates for extreme snowpack and temperature melt sequences which should also be consistent with the values used in the study.

If you require any clarification or further information so that Morrison-Knudson can complete their proposal, please let me know. We are looking forward to MK's presentation.

Yours truly,

Murray G. Kroeker, P.Eng.

MGK/pem

- cc: J.D. Cattanach
- W.Q. Chin
- M.R. Keith
- G.M. Salmon

British Columbia Hydro and Power Authority, 6911 Southpoint Drive, Burnaby, B.C. Canada V3N 4X8  
HYD2670

NOTICE: IF THE DOCUMENT IN THIS FRAME IS LESS CLEAR THAN THIS NOTICE IT IS DUE TO THE QUALITY OF THE DOCUMENT.

## Pend d'Oreille River PMF Study - Scope of Work

The scope of work for the Pend d'Oreille PMF study is intended to provide a framework so that the resulting PMF for the B.C. Hydro Seven-mile project is consistent with recently issued guidelines. It is not intended to cover all issues but rather to highlight some items of particular importance for this study. Any items not addressed here should be referred to the PMP/PMF Study Guidelines (B.C. Hydro report H2748, March 1994).

### Meteorological Inputs

In general, the approach to the PMF should be a combining of key meteorological components to determine the critical flood scenario. The meteorological components are combined such that the primary component is maximized, and the next most critical element is set at a high level but not maximized. The upper limit for the secondary component is set at, or based on, the 100-year return period event. The key meteorological components for interior basins such as the Pend d'Oreille include snowpack, a temperature melt sequence, and a rain storm. This translates to three PMF producing scenarios:

1. A 100-year snowpack water equivalent and 100-year temperature melt sequence (considered together) followed by the PMP.
2. An average snowpack followed by a 100-year pre-storm then the PMP.
3. A maximized snowpack (500-year snowpack water equivalent) followed by an extreme (greater than 100-year) temperature melt sequence and a 100-year rain storm.

Meteorological inputs such as pre-storm characteristics (duration, magnitude, dry day separation from the PMP), the PMP, storm temperatures and lapse rates, snowpack distributions, and melt temperature sequences should be included as part of the PMP studies done by a meteorologist. For the Pend d'Oreille basin, the 1993 study by Miller (BCH Report H2719, March 1993) includes estimates of these antecedent conditions in addition to the PMP. Inputs used to determine the Pend d'Oreille PMF should be compatible with those provided in Miller's study.

### PMP Spatial Distribution

The derivation of the PMF should consider various locations of the PMP storm centre within each season to determine the most critical inflow conditions. These locations should include, but not be limited to, the Seven-mile project local catchment and the Boundary project local catchment.

### Seasonality

Each of the proposed scenarios needs to be examined on a seasonal basis, as the flood most critical to the project may not necessarily be the one with the largest peak local inflow or even the largest total inflow. This is due to variations in reservoir storage availability and regulation constraints through the seasons. The PMF peaks and volumes for each applicable scenario and for each season and sub-basin should be produced and documented separately before routing is applied to determine peak reservoir levels. This allows for refinement or alteration to routing and regulation parameters without having to redetermine the PMF inflows.

NOTICE: IF THE DOCUMENT IN THIS FRAME IS LESS CLEAR THAN THIS NOTICE IT IS DUE TO THE QUALITY OF THE DOCUMENT.

### Runoff Model Calibration and Verification

The runoff resulting from the meteorological inputs should be modelled using a calibrated watershed model, such as the UBC or SSARR model. Model calibration and verification phases should use data periods of at least five years for each phase and be run with a time step such that inputs can be differentiated from basin responses. The time step used in determination of PMF runoff should be consistent with that used in the calibration. If sufficient data is available, large events should be included in both calibration and verification periods, otherwise the largest events should be included in the verification period.

The basin should be subdivided into hydrologically or climatologically homogenous areas and the runoff response modelled separately for each sub-basin. This provides more uniform representation of basin conditions by the model parameters.

Calibration should include modelling of the largest floods on record, modelling of annual runoff volumes, and modelling of snowpack accumulations. Comparison of model results to recorded values should be presented in tabular and graphical format for both the calibration and verification periods, and should list both the absolute and standard error. A listing of the calibrated model and PMF producing model should be included in the final report to assure reproducibility of the results.

Meteorological and streamflow data used for calibration and verification should be carefully checked for data quality. This is particularly important in the consideration of extreme storms and floods where inaccuracies in the data can have significant effects on model calibration. Any estimation of data to fill in missing periods should be documented as to the period estimated and the estimation method used. The process and rationale used to select representative snowcourses, precipitation stations, temperature lapse rates, and precipitation-elevation relationships should be detailed in the report.

### Sensitivity Analysis and Confidence Limits

A sensitivity analysis of the PMF study results is required to determine which factors create the greatest uncertainty in the PMF estimate. The results of the analysis should be used as a tool to estimate confidence limits on the PMF estimate.

### Reservoir Routing

Reservoir routing should be completed using both normal and maximum conditions for the upstream projects for each season and meteorological scenario considered.

### Comparison of Results

The PMF results, both in terms of peak flow and volume, should be compared to major floods and other PMF estimates from the same region to ensure that they do not significantly differ from other basins with similar characteristics. Any deviation from the general pattern of PMF estimates in the region should be assessed and explained if possible.

NOTICE: IF THE DOCUMENT IN THIS FRAME IS LESS CLEAR THAN THIS NOTICE  
IT IS DUE TO THE QUALITY OF THE DOCUMENT.

APPENDIX B

LEGAL NOTICE

The City of Seattle, City Light Department ("SCL") and British Columbia Hydro and Power Authority ("BCH") make no representations, express or implied, to any third parties as to the merchantability or fitness for any particular purpose of, the accuracy, completeness or usefulness of, or the property rights of any person in any information, product or process disclosed in the Study.

SCL and BCH do not accept any liability of any kind arising in any way out of the use of, or reliance by any third party on any information, product or process described in the Study.

NOTICE: IF THE DOCUMENT IN THIS FRAME IS LESS CLEAR THAN THIS NOTICE IT IS DUE TO THE QUALITY OF THE DOCUMENT.

## APPENDIX C

### SCL/BC HYDRO AGREEMENT On Boundary Dam/Seven Mile Dam PMF Study

#### KEY PERSONS

##### Seattle City Light

John Hastig, Director of SCL Civil Engineering  
Walt Davis, Supervising Senior Engineer  
Martin Hansen, Senior Engineer

##### BC Hydro

David Cattanch, Hydrotechnical Manager  
Murray Kroeker, Engineer, Maintenance, Engineering and Projects

NOTICE: IF THE DOCUMENT IN THIS FRAME IS LESS CLEAR THAN THIS NOTICE  
IT IS DUE TO THE QUALITY OF THE DOCUMENT.

AGREEMENT  
BETWEEN  
THE CITY OF SEATTLE, CITY LIGHT DEPARTMENT  
AND  
BRITISH COLUMBIA HYDRO AND POWER AUTHORITY

THIS AGREEMENT is made this 15<sup>th</sup> day of December, 1995 (the "Effective Date"), by and between The City of Seattle, City Light Department ("SCL") and British Columbia Hydro and Power Authority ("BCH") (collectively "Parties").

WHEREAS, SCL has an existing agreement with Morrison-Knudsen Corporation ("MKC") to provide engineering services and to conduct a study (the "Study") on the Probable Maximum Flood ("PMF") of the Pend Oreille River and its potential effect upon the Boundary Dam; and

WHEREAS, BCH owns the Seven Mile Dam downstream from the Boundary Dam and desires to participate in the Study to:

- A. set the terms of reference for the Study;
- B. monitor the progress and methodology of the Study;
- C. extend or vary the scope of the Study as mutually agreed with SCL; and
- D. jointly own with SCL all documents, information, data, computer programs, knowledge and products developed, improved or prepared by MKC or others in the performance of the Study (all of which are collectively referred to as the "Contract Property");

NOW, THEREFORE, the Parties covenant and agree as follows:

**I. SCOPE OF WORK**

- A. SCL and BCH agree to jointly fund the Study pursuant to paragraph IV, Payment/Consideration.
- B. SCL represents to BCH that it has accepted a proposal from MKC to perform the Study. The proposal consists of a "Proposal for Boundary Dam Probable Maximum Flood Update Study - Revised Scope", dated March 1995, "Boundary Hydroelectric Project - Proposal for Engineering Services - Probable Maximum Flood Study", dated January 1995, and "Amendment No. 2 to Engineering Services for Abutment Erosion Control System and Elevator Tower Connection" ("Amendment No. 2"), dated October 6, 1995. The scope of work shall consist of the Amendment No. 2 and any future amendments to the MKC contract which are mutually identified by the Parties.
- C. SCL represents to BCH that the Study shall include the continuous watershed calibration, and the work program shall be divided into two phases: 1) data inventory, collection and review, and 2) watershed model development and PMF simulation.
- D. SCL acknowledges that the scope of work to perform the Study meets the requirements of the U.S. Federal Energy Regulatory Commission ("FERC").

NOTICE: IF THE DOCUMENT IN THIS FRAME IS LESS CLEAR THAN THIS NOTICE IT IS DUE TO THE QUALITY OF THE DOCUMENT.

E. BCH acknowledges that the scope of work to perform the Study meets the requirements outlined in the 20 December 1994 "Pend Oreille River PMF Study - Scope of Work" document, a copy of which is attached hereto as Appendix A.

F. BCH acknowledges that it has received a copy of the existing agreement between SCL and MKC and has reviewed and approved the scope of work contained in Amendment No. 2. BCH and SCL shall jointly review and approve all future changes or additions to the scope of work. Any changes or additions agreed to by the Parties shall be memorialized in writing.

G. BCH acknowledges that MKC has the necessary resources, skill and experience to perform the work required by BCH.

H. SCL and BCH agree that a general consensus on the criteria and methodology shall evolve as the work progresses, and the scope of work shall be revised as needed pursuant to Section VII, Modifications/Amendments. Each Party shall draft amendments to the scope of work necessary to meet its own needs, subject to approval by the other Party. Any changes significantly affecting the balance of benefits between SCL and BCH may result in adjusting the cost sharing proportions by mutual agreement.

I. To avoid delay of the Study, SCL shall administer the contract with MKC and shall require MKC to forward any communications pertaining to the Study to both SCL and BCH simultaneously and in a timely manner. SCL shall forward simultaneously to BCH all communications to MKC pertaining to the Study. To offset SCL's costs of administration, BCH has provided to SCL its study, "Probable Maximum Precipitation Estimates for the Columbia River Basin Above the Lower Border Dam Site, Below Confluence with the Pend D'Oreille River, March 1993", H-2719, and shall provide technical review and guidance in directing the Study.

J. BCH acknowledges that SCL must obtain legislative authorization for this Agreement from the City of Seattle Council. If SCL is unable to obtain authorization, this Agreement shall be null and void.

## II. TERM

A. The first phase of the Study, consisting of data inventory, collection and review, shall be completed by January, 1996.

B. The second phase of the Study, consisting of watershed model development and PMF simulation, shall be completed by April, 1996.

## III. REVIEW

A. SCL shall obtain from MKC, and make available to BCH on a regular basis to be

NOTICE: IF THE DOCUMENT IN THIS FRAME IS LESS CLEAR THAN THIS NOTICE IT IS DUE TO THE QUALITY OF THE DOCUMENT.

agreed upon by the Parties, for review purposes only, any drawings or technical material produced by MKC for the Study. Each Party shall review the drawings or technical material to ensure that its needs are being met. Any reviews of work progress shall be done in a timely manner so as not to delay the progress of the Study.

B. SCL agrees to hold MKC responsible in its contract with MKC for professional services performed according to the scope of work, including any changes to the scope of work. Both Parties understand they are not responsible for work performed by MKC. The Parties shall not require the work to be performed in a particular manner that could interfere with MKC's obligations under its contract with SCL.

#### IV. PAYMENT/CONSIDERATION

A. In consideration of the agreements made herein between SCL and BCH, BCH agrees it will share the costs of the Study equally with SCL, which costs are estimated to be a total of US \$560,000.

B. BCH shall provide ~~staff~~ *staff* for technical review and guidance in directing the Study in an amount equivalent to SCL's costs for administrating its contract with MKC.

C. Each month SCL shall submit to BCH an invoice specifying in detail all fees and disbursements incurred by SCL for the preceding calendar month, and shall provide any verifying documents required by BCH.

D. The sum total of the invoices submitted by SCL to BCH shall be proportional to the percentage of the Study completed up to the end of the preceding month.

E. BCH shall pay SCL the amount of the invoice which has been approved for payment by SCL within thirty (30) days after BCH has received said invoice.

F. If BCH fails to make a payment within the required time, BCH shall pay interest at the rate of one percent (1%) per month (but not to exceed the maximum allowed by law).

G. The Parties may mutually agree to amend the total cost to be shared between them pursuant to Section VII. Modification.

#### V. APPROVAL/ACCEPTANCE

Before BCH authorizes payment of the final invoice to MKC, SCL shall provide to BCH information which shows:

1. the Study has been completed;
2. SCL has provided BCH with all property to be delivered or returned during or upon completion of the Study; and

NOTICE: IF THE DOCUMENT IN THIS FRAME IS LESS CLEAR THAN THIS NOTICE IT IS DUE TO THE QUALITY OF THE DOCUMENT.

3. there are no outstanding costs or claims relating to the performance of the Study.

#### VI. BREACH/DEFAULT

A. Either Party has the right to terminate this Agreement if the other Party is in default of any material obligation or representation hereunder which substantially harms the non-defaulting Party, and which default is incapable of cure or which, being capable of cure, has not been cured within thirty (30) days (or such additional cure period as the non-defaulting Party may authorize) after receipt of written notice specifying the default. Neither Party shall unreasonably terminate this Agreement.

B. If SCL fails to perform any obligation within thirty (30) days after receipt of written notice, or a greater period of time agreed to by the Parties, BCH may withhold all sums due to SCL for performance of the obligations under this Agreement without penalty until such failure to perform is cured or otherwise adjusted.

C. BCH shall not be in default for late payment until payments are thirty (30) days past due.

#### VII. MODIFICATION

A. Any departures from the approach outlined in the MKC Amendment No. 2 Scope of Work, and any other agreed changes or additions to the Scope of Work, shall be discussed and consensus reached by SCL and BCH before proceeding further with the Study.

B. The Parties agree that strict compliance with the terms of this Agreement is essential. This Agreement may be amended, altered or supplemented only by the written consent of both Parties. This Agreement, together with any attachments, constitutes the entire agreement of the Parties and supersedes all prior agreements and understandings, written or oral.

#### VIII. TERMINATION

Either Party may terminate this Agreement by giving thirty (30) days written notice to the other Party. No termination of this Agreement shall release SCL or BCH from any liability or obligation occurring prior to such termination.

#### IX. WARRANTIES

A. SCL and BCH shall make no representations, express or implied, to any third parties as to the merchantability or fitness for any particular purpose of the accuracy,

*AMS. J712*

NOTICE: IF THE DOCUMENT IN THIS FRAME IS LESS CLEAR THAN THIS NOTICE IT IS DUE TO THE QUALITY OF THE DOCUMENT.

completeness or usefulness of, or the property rights of any person in any information, product or process disclosed in the Study.

~~D. SCL and BCH do not accept any liability of any kind arising in any way out of the use of, or reliance by any third party on any information, product or process described in the Study.~~

*9/2 B Gms*

*amb JJZ*

E. Neither Party is accountable to the other for any revenues earned from, or responsible to the other for any losses suffered as a result of the use or disposition of the Contract Property.

**X. ASSUMPTION OF RISK**

Each Party shall bear the risk of any damage or loss from its use or disposition of the Contract Property.

**XI. INDEMNIFICATION**

Each Party agrees to indemnify and save harmless the other Party, its officers, agents and employees, from and against any and all suits, claims, actions, losses, costs, penalties, and damages of whatsoever kind or nature, including attorney fees, arising directly out of or directly in connection with any material default or breach of its obligations and covenants as set forth in this Agreement, except to the extent caused by the other Party's own negligence, provided that neither Party shall be liable to the other Party under the provisions of this clause for any consequential, indirect, special or incidental damages, including any loss of revenues. In the event of litigation between the Parties to enforce the rights under this paragraph, reasonable attorney fees shall be allowed to the prevailing Party.

**XII. INSURANCE**

A. SCL shall require MKC to obtain professional liability, commercial general liability and business auto coverage for owned, non-owned and hired in limits not less than U.S. \$1 Million per occurrence/claim per person, and acceptable to BCH's and SCL's Risk and Insurance Manager. The policy shall name both SCL and BCH as additional insureds on all policies excluding professional liability. Coverage shall be maintained for a period ending three months after the conclusion of the Study.

B. BCH shall reimburse SCL for any reasonable costs associated with obtaining and maintaining the above insurance to the extent that the insurance coverage exceeds that normally carried by SCL.

**XIII. ASSIGNMENT**

NOTICE: IF THE DOCUMENT IN THIS FRAME IS LESS CLEAR THAN THIS NOTICE IT IS DUE TO THE QUALITY OF THE DOCUMENT.

Neither SCL nor BCH shall assign any part of this Agreement without the other Party's prior written consent.

#### XIV. APPLICABLE LAW/VENUE

A. SCL shall comply, and shall require MKC to comply, with all applicable laws and safety instructions and regulations applicable to any work done to perform the Study.

B. The laws of the State of Washington shall govern this Agreement. The venue of any action brought hereunder shall be in the Superior Court for King County, Washington.

#### XV. TAXES

Each Party shall pay any applicable taxes pursuant to the laws governing it, and the other Party shall become delinquent in any payments thereof.

#### XVI. ARBITRATION

A. The Parties agree to make bona fide efforts to resolve any disputes, controversies or claims ("Disputes") arising between them by amicable negotiations in the following manner:

1. The Dispute shall be referred jointly to SCL's Superintendent and BCH's Director of Dam Safety responsible for this Agreement, or other senior executives as may be mutually agreed upon by the Parties from time to time.

2. If such executives do not agree upon a decision within ten (10) days after referral of the matter to them, the Parties shall proceed to arbitration.

B. To the extent allowable by law, the Parties agree to submit to arbitration any and all Disputes arising out of or related to this Agreement including the performance and activities of either Party under this Agreement not resolved in paragraph 1 above. This includes all Disputes relating to or arising out of the breach thereof. Any Disputes shall be arbitrated before a single arbitrator pursuant to the Commercial Rules of the American Arbitration Association. Any such arbitration shall be held in the Seattle metropolitan area. The arbitrator shall apply the law of the State of Washington and shall not have any power to alter, amend or otherwise affect the terms of this Agreement in rendering a decision. The decision of the arbitrator shall be final and binding upon the Parties. Judgment upon any award rendered by the arbitrator may be entered in any court of competent jurisdiction.

C. Both Parties shall provide frank, candid and timely disclosure of all relevant facts, information and documents to facilitate any Dispute resolution procedures.

NOTICE: IF THE DOCUMENT IN THIS FRAME IS LESS CLEAR THAN THIS NOTICE  
PLEASE CONTACT THE QUALITY OF THE DOCUMENT.

**XVII. COSTS AND ATTORNEY'S FEES**

The prevailing Party in any action arising out of this Agreement shall be entitled to receive reasonable attorney's fees and costs incurred in such action.

**XVIII. OWNERSHIP**

A. As between SCL and BCH, all documents, information, or data provided by BCH to SCL in connection with the performance of the Study shall remain the property of BCH, including any associated patent, copyright and trademark rights. All such property shall be marked "Property of BCH."

B. As between SCL and BCH, all documents, information, or data provided by SCL to BCH in connection with the performance of the Study shall remain the property of SCL, including any associated patent, copyright and trademark rights. All such property shall be marked "Property of SCL."

C. As between SCL and BCH, the Contract Property shall be owned jointly by SCL and BCH, and SCL and BCH shall be the joint owners of any patent, copyright or trademark rights in the Contract Property. Any Contract Property shall be marked "Property of SCL and BCH."

D. Either Party may use or dispose of the Contract Property in any way without the permission of the other Party under the following conditions:

1. In the event a public disclosure request is made to either Party, that Party shall include with each released document a statement that SCL and BCH make no representations as to the accuracy of the contents of the document.
2. Neither Party is accountable to the other for any revenues earned from, or responsible to the other for any losses suffered as a result of the use or disposition of the Contract Property.
3. SCL shall attach or incorporate into all separate components of the Contract Property, in a conspicuous place, the legal notice attached hereto as Appendix B.

**XIX. KEY PERSONS**

A. The Parties agree that the persons designated in Appendix C are essential to the services offered pursuant to this Agreement. The Parties agree that neither Party shall transfer or reassign such individual or individuals without the express written agreement of the other Party, which agreement shall not be unreasonably withheld.

NOTICE: IF THE DOCUMENT IN THIS FRAME IS LESS CLEAR THAN THIS NOTICE IT IS DUE TO THE QUALITY OF THE DOCUMENT.

B. SCL agrees to require MKC in its contract with MKC to designate key persons essential to the performance of the contract. SCL shall further require that should such individual or individuals no longer be employed by MKC during the term of this Agreement, MKC shall present to SCL an individual with equal or greater qualifications as a replacement subject to SCL's approval, made after consultation with BCH, which approval shall not be unreasonably withheld. SCL's approval shall not be construed to release MKC from its obligations.

#### XX. MEETINGS

A. Discussions of issues and presentation of work progress shall be facilitated by regular monthly meetings to be attended by SCL and BCH, and MKC may attend at its option. SCL shall notify MKC of all meetings pertaining to the Scope of Work.

B. All meetings shall be held in Seattle, unless otherwise agreed to by both Parties.

#### XXI. NOTICE

All notices or other instruments pertaining to this Agreement shall be in writing and shall be either personally served or sent by certified mail, return receipt requested, to the addresses set forth below.

Gary Zarker Superintendent Seattle City Light 1015 Third Avenue Seattle, Washington 98104 U.S.A.	G. M. Salmon Director of Dam Safety BC Hydro and Power Authority 6911 Southpoint Drive Burnaby, B.C. Canada, V3N 4X8
---	---

An address may be changed upon five days written notice to the other Party. Notice or other instrument shall be deemed to have been given when served or on the third day following the date of mailing.

#### XXII. WAIVER

Failure of either Party to insist upon strict performance of the other Party's obligations hereunder shall not be construed as a waiver of strict performance thereafter of any of obligations of the other Party hereunder and shall not prejudice any remedies as provided herein.

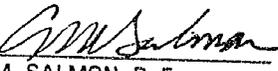
The Parties to this Agreement declare that the terms of this Agreement have been completely read and are fully understood and voluntarily accepted.

IN WITNESS WHEREOF, the Parties hereto have caused this Agreement to be duly executed as of the date first mentioned above.

THE CITY OF SEATTLE  
CITY LIGHT DEPARTMENT

By:   
GARY ZARKER  
Superintendent  
Seattle City Light

BRITISH COLUMBIA HYDRO AND  
POWER AUTHORITY

By:   
G. M. SALMON, P. Eng.  
Director of Dam Safety  
British Columbia Hydro and  
Power Authority

NOTICE: IF THE DOCUMENT IN THIS FRAME IS LESS CLEAR THAN THIS NOTICE  
IT IS DUE TO THE QUALITY OF THE DOCUMENT.

# City of Seattle

Executive Department—Office of Management and Planning

Thomas M. Tierney, Director  
Norman B. Rice, Mayor

February 21, 1996

The Honorable Mark Sidran  
City Attorney  
City of Seattle

Dear Mr. Sidran:

The Mayor is proposing to the City Council that the enclosed legislation be adopted.

REQUESTING  
DEPARTMENT: Seattle City Light

SUBJECT: AN ORDINANCE relating to the City Light Department, ratifying the "Agreement Between The City of Seattle, City Light Department and British Columbia Hydro and Power Authority," entered into on December 15, 1995, for the purposes of sharing the costs of a joint Probable Maximum Flood study for the Pend Oreille River drainage basin above Boundary Dam and Seven Mile Dam.

Pursuant to the City Council's S.O.P. 100-014, the Executive Department is forwarding this request for legislation to your office for review and drafting.

After reviewing this request and any necessary redrafting of the enclosed legislation, return the legislation to OMP. Any specific questions regarding the legislation can be directed to Yazmin Mehdi at 684-8088.

Sincerely,

Norman B. Rice  
Mayor

by

*Yazmin Mehdi*  
for Tom Tierney, Director

legis/mehdi52

Enclosure

COPY RECEIVED

FEB 21 4 11 37 PM '96

SEATTLE CITY ATTORNEY

96-036



NOTICE: IF THE DOCUMENT IN THIS FRAME IS LESS CLEAR THAN THIS NOTICE IT IS DUE TO THE QUALITY OF THE DOCUMENT.

TIME AND DATE STAMP

**SPONSORSHIP**

THE ATTACHED DOCUMENT IS SPONSORED FOR FILING WITH THE CITY COUNCIL BY THE MEMBER(S) OF THE CITY COUNCIL WHOSE SIGNATURE(S) ARE SHOWN BELOW:

*Margaret Peoples*

\_\_\_\_\_  
\_\_\_\_\_  
\_\_\_\_\_  
\_\_\_\_\_

\_\_\_\_\_  
\_\_\_\_\_

**FOR CITY COUNCIL PRESIDENT USE ONLY**

COMMITTEE(S) REFERRED TO: \_\_\_\_\_  
\_\_\_\_\_  
\_\_\_\_\_

NOTICE: IF THE DOCUMENT IN THIS FRAME IS LESS CLEAR THAN THIS NOTICE IT IS DUE TO THE QUALITY OF THE DOCUMENT.

STATE OF WASHINGTON - KING COUNTY

66462  
City of Seattle, City Clerk

-ss.

No. 055,056

City of Seattle

TITLE-ONLY PUBLICATION

The full text of the following ordinances, passed by the City Council on March 18, 1996, and published here by title only, will be mailed, at no cost, upon request for two months after this publication. For further information, contact the Seattle City Clerk at 684-8344.

ORDINANCE NO. 118062

AN ORDINANCE related to the acquisition of real property; authorizing the condemnation, or the acquisition through negotiation in lieu of condemnation, of land and other property rights in Blocks 242 and 251, Seattle Tide Lands, in King County, Washington, for general municipal purposes.

ORDINANCE NO. 118053

AN ORDINANCE relating to the City Light Department, ratifying the "Agreement Between The City of Seattle, City Light Department and British Columbia Hydro and Power Authority," entered into on December 15, 1995, for the purpose of sharing the costs of a joint Probable Maximum Flood study for the Pend Oreille river drainage basin above Boundary Dam and Seven Mile Dam.

ORDINANCE NO. 118058

AN ORDINANCE relating to telecommunications; authorizing the Department of Administrative Services to amend an inter-agency agreement with King County to extend the fiber optic cable installed pursuant to Ordinance 117745.

ORDINANCE NO. 118056

AN ORDINANCE appropriating money to pay certain audited claims and ordering the payment thereof.

Publication ordered by JUDITH PIPPIN, City Clerk.

Date of official publication in the Daily Journal of Commerce, April 5, 1996.  
4/5/96462)

Affidavit of Publication

The undersigned, on oath states that he is an authorized representative of The Daily Journal of Commerce, a daily newspaper, which newspaper is a legal newspaper of general circulation and it is now and has been for more than six months prior to the date of publication hereinafter referred to, published in the English language continuously as a daily newspaper in Seattle, King County, Washington, and it is now and during all of said time was printed in an office maintained at the aforesaid place of publication of this newspaper. The Daily Journal of Commerce was on the 12th day of June, 1941, approved as a legal newspaper by the Superior Court of King County.

The notice in the exact form annexed, was published in regular issues of The Daily Journal of Commerce, which was regularly distributed to its subscribers during the below stated period. The annexed notice, a

CIT ORD 118052, 053, 055, 056

was published on

04/05/96

The amount of the fee charged for the foregoing publication is the sum of \$ \_\_\_\_\_, which amount has been paid in full.

Subscribed and sworn to before me on

04/08/96

Notary Public for the State of Washington,  
residing in Seattle

Affidavit of Publication

NOTICE: IF THE DOCUMENT IN THIS FRAME IS LESS CLEAR THAN THIS NOTICE IT IS DUE TO THE QUALITY OF THE DOCUMENT.