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Skagit County Auditor

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Return to:
Seattle City Light
Real Estate Services SMT 3338
P.O. Box 34023
Seattle, WA 98124-4023

CONSENT AGREEMENT

(For Use of City of Seattle Transmission Line Easement Area)

SCL Reference #: ~~PM 351034-2-001~~ 351034-2-101
Controller's File #: _____
Grantor: City of Seattle
Grantee: Skagit River System Cooperative
Short Legal: PTN Sec 27 and 34, Twp 35 N, Rge 10 E, W.M.
Tax Parcel #: P45724 and P45591, Skagit County

This Consent Agreement is entered into by and between The City of Seattle, a municipal corporation of the State of Washington ("City"), acting by and through its City Light Department ("SCL") and the Skagit River System Cooperative ("SRSC"), a tribal organization of the Sauk-Suiattle Indian Tribe and the Swinomish Indian Tribal Community, effective on the date last signed by one of the parties hereto.

WHEREAS, the Sauk-Suiattle Indian Tribe, the Swinomish Indian Tribal Community, and SCL are parties to the Skagit Fisheries Settlement Agreement, a negotiated settlement entered into as part of the Federal Energy Regulatory Commission (FERC) relicensing of SCL's Skagit River Hydroelectric Project; and

WHEREAS, the Chum Habitat Development Program is an element of the Skagit Fisheries Settlement Agreement and the SRSC proposes to construct a habitat and riparian restoration project along Illabot Creek, within City Light's Transmission Easement Area, as part of this program; and

WHEREAS, the habitat and riparian restoration project proposed to be constructed by the SRSC would include removal of rip-rap dike material, excavating pilot channels, and installing boulder grade control, flood fencing, and log jam habitat structures. A crib wall would be placed along the bank of Illabot Creek in front of City Light's transmission line towers, as well as a stockpile of rip-rap material. Also, fill material would be placed in four areas within City Light's transmission corridor. The project is further described in a set of 15 drawings titled "Illabot Creek Alluvial Fan Restoration," prepared by R2 Resource Consultants, Inc., for the SRSC, and dated June 30, 2011 ("Project").

WHEREAS, SCL owns, operates and maintains municipal electric transmission facilities on a 300 foot wide transmission line easement over, across, and through Sections 27 and 34, Township 35 North, Range 10 East, W.M., said easement being acquired from Mary and Thomas Ryan on October 16, 1930, and recorded under File No. 242435, Volume 156, Page 296, Records of Skagit County, Washington ("Transmission Easement Area"); and

WHEREAS, SRSC desires the consent of SCL to construct this Project within, under, and across, and to subsequently occupy a portion of said Transmission Easement Area; and

WHEREAS, SRSC has obtained the permission of the Ryan Tree Farm, LLC, the owners of the underlying fee-title, to construct the Project within the Transmission Easement Area; and

WHEREAS, a resolution by the SRSC Board of Directors has authorized Jason Joseph, Chair, to enter into agreements between SRSC and the City of Seattle for construction, operation, and maintenance of the Project;

NOW THEREFORE, the parties mutually agree to the following:

SCL hereby consents to the SRSC's use of the Transmission Easement Area for the sole purpose of the construction, maintenance and operation of the Project, subject to the following terms and conditions:

1. SRSC will not construct, install, place or allow any building, structure or improvement within the Transmission Easement Area except the Project as depicted in the Plans provided by SRSC that have been reviewed and accepted by SCL. SCL's acceptance of the Plans has been granted as of the date of this Agreement. If for any reason, the Plans undergo a significant change in design prior to or during initial construction, SRSC shall submit the new plans to SCL for its review and approval. SRSC agrees to submit to SCL a copy of as-built plans for the Project upon completion of construction.
2. SRSC, its agents, employees, contractors, subcontractors and assigns must observe and maintain a minimum working clearance of 20 feet from transmission lines at all times for personnel, vehicle equipment, and machinery. SRSC, its agents, employees, contractors, subcontractors and assigns must comply with all code requirements of the National Electrical Safety Code (NESC), and all laws and regulations promulgated under the Washington Industrial Safety and Health Act (WISHA), and the Occupational Safety and Health Act (OSHA) while engaging in any activity within the Transmission Easement Area.
3. Transmission lines can produce significant amounts of induced current. Any conductive materials used, stored, or installed by SRSC, its agents, employees, contractors, subcontractors and assigns in the Transmission Easement Area shall be properly grounded to prevent injury or damage from induced current.
4. No grading, cutting or filling is allowed within the Transmission Easement Area other than as authorized in the approved plans for the Project without prior written consent from the City, and in no cases is it permitted within 25 feet of any tower foundation structure. There shall be no trenching, digging or excavation within 25 feet of any tower foundation structure.
5. SRSC covenants and agrees that it will not store, dump, bury or transfer any hazardous substances, inoperable vehicles, chemicals, oils, fuels, or containers for said substances, chemicals, oils, fuels, flammable materials, etc., on the premises; and further agrees to observe all environmental laws of the State of Washington or any other governmental subdivision having regulatory authority over such activities on the premises.
6. SRSC agrees that it will not construct any ponds, "V" ditches, or open water retention facilities in the Transmission Easement Area, other than those authorized in the approved plans for the Project.
7. SRSC shall, upon completion of any construction on or around the Transmission Easement Area, remove all debris and restore the surface of the Transmission Easement Area as nearly as possible to the condition in which it existed at the date of this Agreement.
8. SRSC shall not at any time interfere with the City's access to, through, across, or over the Transmission Easement Area.



9. SCL shall have the right at all reasonable times to inspect the Transmission Easement Area for the purpose of observing the conditions thereof, and the manner of compliance by SRSC with the terms and conditions of this Agreement.
10. SCL reserves the right to locate a transmission line support structure and any other necessary appurtenances within the Transmission Easement Area, if necessary, in the future.
11. SRSC assumes all risk of loss, damage, or injury to its agents, employees, contractors, subcontractors, and assigns, or to the City, which may result from SRSC's use of the Transmission Easement Area. It is understood and agreed that any damage to the City's property, caused by or resulting from the SRSC's use of the Transmission Easement Area, may be repaired by the City and that the actual cost of such repair shall be reimbursed to the City by SRSC.
12. The primary purpose of the Seattle City Light's transmission right of way is transmission of electricity to serve its customers. However, SCL agrees to minimize actions that will damage the project or interfere with the intended habitat function of the Project to the extent practicable which does not diminish or constrain SCL's facilities and operations. SRSC agrees that the City shall not be liable for any damage to SRSC's Project resulting from any construction, alterations, or maintenance performed in the Transmission Easement Area by the City.
13. SRSC agrees to protect and save harmless the City from all claims, actions or damages of every kind and description, which may accrue from or be suffered by reason of SRSC's use of the Transmission Easement Area or the performance of any work in connection with its use; and in case of any such suit or action being brought against the City, or damages arising out of or by reason of any of the above causes, SRSC shall, upon notice to SRSC of commencement of such action, defend the same at SRSC's sole cost and expense and will fully satisfy any judgment after the said suit shall have been finally determined, if adversely, to the City.
14. SRSC agrees not to use the Transmission Easement Area herein described for any other purpose whatsoever than as set forth above, and agrees that the Superintendent of the City Light Department shall be the sole judge of any conflict or violation of such use as above stated. The Superintendent of the City Light Department shall have the right at all times to suspend any or all operations on the Transmission Easement Area, not expressly permitted or allowed by this Agreement, which he or she deems to be detrimental to the best interests of the City.
15. This Agreement is for the use of the Transmission Easement Area only, and shall not be construed to replace or to be used in lieu of any easements or permits from the underlying property owners, or permits or licenses which may be required, granted or supervised by any other subdivision of government charged with licensing, policing and supervising the operations of SRSC hereunder. It is understood that any rights granted hereunder are subject to existing rights, if any, of other parties. In consenting to the use of the Transmission Easement Area for this purpose, the City does not waive or subordinate any of the rights and privileges granted to the City by easements for transmission line purposes.
16. SRSC shall provide a policy of Commercial General Liability Insurance, with a minimum limit of liability of One Million Dollars (\$1,000,000.00) each occurrence, with the City of Seattle named as an additional insured for primary limits of liability including products additionally insured status for five years following completion of work. In addition, SRSC shall maintain Commercial Umbrella Excess coverage for an additional Four Million Dollars (\$4,000,000)
17. This agreement and all its covenants, terms and conditions shall be binding on the parties, their successors and assigns.



GRANTED this 6th day of November 2012.

APPROVED:

CITY OF SEATTLE
SEATTLE CITY LIGHT

By: David L. Barber
David L. Barber
Real Estate Manager

ACCEPTED:

SKAGIT RIVER SYSTEM COOPERATIVE

By: Jason Joseph
Jason Joseph
Chair, Board of Directors

Date: 12-6-12

SKAGIT COUNTY WASHINGTON
REAL ESTATE EXCISE TAX

APR 10 2013

Amount Paid \$
Skagit Co. Treasurer
By Mt Deputy



STATE OF WASHINGTON)
) ss.
COUNTY OF KING)

On this 6th day of ^{November,} 2012, before me personally appeared David L. Barber,
to me known to be the Real Estate Services of Seattle City Light, a department of
the City of Seattle, the Washington municipal corporation that executed the within and foregoing
instrument, and acknowledged that said instrument was the free and voluntary act and deed of said
municipal corporation for the uses and purposes therein mentioned, and on oath stated that he was
authorized to execute said instrument on behalf of the City of Seattle.

IN WITNESS WHEREOF, I have hereunto set my hand and affixed my official seal the day and
year above written.

(notary seal)



Signature: Mary Louise Davis
Print name: Mary Louise Davis
Notary Public in and for the State of Washington
Residing at: Edmonds WA
My commission expires: January 29, 2014

STATE OF WASHINGTON)
) ss.
COUNTY OF KING)

On this 6th day of ^{December,} 2012, before me personally appeared Jason L. Joseph,
to me known to be the Chair, Board of Directors of the Skagit River System
Cooperative, a tribal organization of the Sauk-Suiattle Indian Tribe and the Swinomish Tribal
Community, Seattle City Light, a department of the City of Seattle, the Washington municipal
corporation that executed the within and foregoing instrument, and acknowledged that said
instrument was the free and voluntary act and deed of said tribal organization for the uses and
purposes therein mentioned, and on oath stated that he was authorized to execute said instrument
on behalf of the Skagit River System Cooperative.

IN WITNESS WHEREOF, I have hereunto set my hand and affixed my official seal the day and
year above written.

(notary seal)



Signature: Marcella Haase
Print name: Jason L. Joseph
Notary Public in and for the State of Washington
Residing at: LaCannon WA
My commission expires: March 1, 2015

