

**INTERLOCAL AGREEMENT BETWEEN
SNOHOMISH COUNTY AND
FRENCH SLOUGH FLOOD CONTROL DISTRICT
FOR
ACCOMMODATING SURFACE WATER IN
FRENCH SLOUGH FLOOD CONTROL DISTRICT**

THIS INTERLOCAL AGREEMENT is entered into by and between the FRENCH SLOUGH FLOOD CONTROL DISTRICT, a Special Purpose District in the State of Washington formed under chapter 86.09 RCW (hereinafter the “District”), and SNOHOMISH COUNTY, a political subdivision of the State of Washington (hereinafter the “County”), pursuant to the Interlocal Cooperation Act, chapter 39.34 RCW. The District and County may also be referred to individually as a “Party” or collectively as the “Parties.”

WHEREAS, the County adopted Ordinance No. 15-069 repealing Title 25 of the Snohomish County Code (SCC) and enacting a new Title 25 relating to storm and surface water management which established a watershed management area (WMA) adjacent to and including the District known as the Snohomish WMA and provides for the imposition of service charges on property within such WMA; and

WHEREAS, the County adopted Amended Ordinance No. 17-020, eliminating watershed management areas in favor of a single surface water management utility district, which includes territory adjacent to and including the District; and

WHEREAS, in 2007 the District and the County executed the “Interlocal Agreement for Accommodating Surface Water in French Slough Flood Control District” (hereinafter the “2007 Interlocal Agreement”) (County Auditor recording #200709200147), under which the County distributed \$17,000 of service charges to the District in 2007, \$8,500 of service charges to the District each year for the years 2008-2009, and an additional \$8,500 in 2010 through Amendment No. 1 (County Auditor recording #201005170501) to the 2007 Interlocal Agreement; and

WHEREAS, in 2011 the District and the County executed the “Interlocal Agreement For Accommodating Surface Water in French Slough Flood Control District” (hereinafter the “2011 Interlocal Agreement”) (County Auditor recording #20114180245), under which the County distributed \$8,500 of service charges to the District each year for the years 2011-2015 to partially offset the costs the District incurred in accommodating the drainage originating from upland development within the Snohomish WMA; and

WHEREAS, in 2016 the District and the County executed the “Interlocal Agreement For Accommodating Surface Water in French Slough Flood Control District” (hereinafter the “2016 Interlocal Agreement”), under which the County distributed a total of \$59,812 of service charges to the district for the combined years 2016 – 2020 to partially offset the costs the District incurred in accommodating the drainage originating from upland development within the Snohomish WMA, with the final payment in 2020 being \$12,571; and

WHEREAS, the County and the District have negotiated the terms of this new “Interlocal Agreement between Snohomish County and French Slough Flood Control District for Accommodating Surface Water in French Slough Flood Control District” (“2021 Interlocal Agreement”) under which the County shall reimburse the District for costs incurred each calendar year 2021 through 2025 to partially offset the costs the District will incur in accommodating the drainage originating from upland development within the Snohomish surface water management utility district; and

WHEREAS, the County and the District are agreeable to an annual payment from the County to the District, and

WHEREAS, the County and the District are also agreeable to provide for payment adjustments based on the consumer price index for years 2021 through 2025, not to exceed a three percent increase per year;

NOW, THEREFORE, in consideration of the mutual promises and covenants contained in the Interlocal Agreement, the County and District agree to the following:

I. Payment by County. The County agrees to pay the District annually from 2021 to 2025 an amount to reimburse the District for assisting with the suitable conveyance of quantities of storm, surface, and drainage water from and within the surface water management utility district over and across the District to a suitable and adequate outlet (its pump plant/station), such reimbursement not to exceed the amounts established in this section. Beginning with the payment for 2021, annual payments shall be adjusted from the previous year based on the lesser of (1) the annual increase or decrease, as applicable, in the consumer price index for the previous year (Consumer Price Index for Seattle-Tacoma-Bremerton, WA, All Urban Consumers, All Items, published every other month by the U.S. Department of Labor, Bureau of Labor Statistics, in which 1982-84 equals 100 (the “CPI”)) or (2) three percent increase per year. The 2021 payment calculation under this Agreement shall use the 2020 County payment of \$12,571 as the previous year’s payment to which the CPI will be applied. The payments are to partially offset the costs the District incurred in accommodating the drainage originating from upland development within the Snohomish surface water management utility district. Payments shall be made in accordance with Section IV & V of this agreement.

II. Use of Funds by District. The District shall use all funds distributed by the County to the District under this Agreement as reimbursement for District expenditures only for the following purposes in relation to the District’s assistance with and the conveyance of storm, surface, and drainage water from and within the surface water management utility district:

Paying all or any part of the cost and expense of maintaining and operating its drainage, storm water control, and surface water control facilities as defined in RCW 85.38.180(2), all or any part of the cost and expense of planning, designing, establishing, acquiring, developing, constructing and improving any of such facilities, or to pay or secure the payment of all or any portion of any issue of general obligation or revenue bonds issued for such purpose. The following expense categories, as listed in the 2021 Budget (which is attached as Exhibit B hereto and

incorporated herein by reference), are approved for reimbursement: PUD, Repair and Maintenance, and Ditch Maintenance. Additional expense categories may be approved for reimbursement subject to the County's review and approval by the Director of Surface Water Management.

III. District Responsibilities. The District Board of Commissioners or its designee shall, within its geographical jurisdiction and boundaries, serve as administrator of the storm and surface water control activities for which funds are provided under this Agreement and, within such boundaries, but not throughout the entirety of the surface water management utility district, shall be solely responsible for obtaining all necessary permits and for compliance with all local, state and federal requirements related to its activities under this Agreement, including but not limited to the Endangered Species Act and the Clean Water Act.

IV. County Responsibilities. No later than January 15th of each year starting in 2021 the County will provide the District with a letter documenting the previous year's CPI as specified in Section I of this Agreement, along with the calculation of the new funding rate for the current year. Calculation of the annual funding rate will be within the sole discretion of the County. An example of the letter is shown in Exhibit A.

V. Requests for Payment. The District shall submit an annual invoice, no later than December 31st of each year to:

PWInvoices@snoco.org (preferred)

Or

**Snohomish County Public Works – Contract Admin
Attn: Gidget Ames
3000 Rockefeller, M/S 607
Everett, WA 98201**

The District shall keep records of all expenditures for which reimbursement by the County is requested in accordance with this Agreement. The District shall prepare and present an invoice to the County showing the actual services provided and the total amount of expenditures made or obligations incurred. The County shall provide payment on approved invoices within thirty (30) days of receipt. All invoices shall provide the following for each expense:

1. The applicable category or categories in Section II of this Agreement under which the expense qualifies for reimbursement.
2. The amount of the expense.
3. The date and location of the work within the District.
4. A description of the work accomplished.

Invoices shall include a signed and dated certification from a District Commissioner verifying that payment is for work completed in fulfillment of this Agreement

VI. Non-Discrimination. It is the policy of the County to reject discrimination which denies equal treatment to any individual because of his or her race, creed, color, national origin, families with children, sex, marital status, sexual orientation, age, honorably discharged veteran or military status, or the presence of any sensory, mental, or physical disability or the use of a trained dog guide or service animal by a person with a disability as provided in Washington's Law against Discrimination, Chapter 49.60 RCW, and the Snohomish County Human Rights Ordinance, Chapter 2.460 SCC. These laws protect against specific forms of discrimination in employment, credit transactions, public accommodation, housing, county facilities and services, and county contracts.

The District shall comply with Chapter 2.460 SCC, which is incorporated herein by this reference. Execution of this contract constitutes a certification by the District of the District's compliance with the requirements of Chapter 2.460 SCC. If the District is found to have violated this provision, or furnished false or misleading information in an investigation or proceeding conducted pursuant to Chapter 2.460 SCC, this contract may be subject to a declaration of default and termination at the County's discretion. This provision shall not affect the District's obligations under other federal, state, or local laws against discrimination.

VII. Indemnity. The District shall hold harmless, indemnify and defend the County, its officers, elected and appointed officials, employees and agents, from and against any and all claims, actions, suits, liability, loss, expenses, damages and judgments of any nature whatsoever, including costs and attorney's fees in defense thereof, for injury, sickness, disability or death to persons or damage to property or business, caused by or arising out of the District's acts, errors or omissions in the performance of this Agreement; PROVIDED, HOWEVER, that the District's obligations hereunder shall not extend to injury, sickness, death or damage caused by or arising out of the sole negligence of the County, its officers, elected and appointed officials, employees or agents; PROVIDED FURTHER, that in the event of the concurrent negligence of the Parties, the District's obligations hereunder shall apply only to the percentage of fault attributable to the District, its employees or agents.

VIII. Effect. The Parties agree that this Agreement shall not relieve them of any obligation, authority or responsibility imposed upon them by law.

IX. Duration. The Parties intend this Agreement to be effective upon execution and remain in force until December 31, 2025, unless earlier terminated as provided in Section X.

X. Termination. Either Party may terminate this Agreement, for any reason, upon providing thirty (30) days written notice to the other Party. The County shall reimburse the District for all approved invoices as set forth in Section V; PROVIDED, HOWEVER, that the invoices are reimbursable only to the extent that such expenditures were incurred prior to or on the date of termination. Section V and Section VII shall survive the early termination of this Agreement set forth in this Section X.

XI. Administration of Agreement. Each party to this Agreement shall designate an individual who may be designated by title or position to oversee and administer such party's

participation in this Agreement. The parties' initial Administrators shall be the following individuals:

County's Initial Administrator:
Surface Water Management Director
Snohomish County
3000 Rockefeller Ave, M/S 607
Everett, WA 98201

District's Initial Administrator:
David Remlinger, Chairperson
French Slough Flood Control District

XII. Amendment. This Agreement may be amended, altered, clarified, or extended only by written agreement of both Parties. Amendment must be accomplished with the same formalities as are required for execution of this Agreement.

XIII. Public Records Act. This Agreement and all public records associated with this Agreement shall be available from the County for inspection and copying by the public where required by the Public Records Act, Chapter 42.56 RCW (the "Act"). To the extent that public records then in the custody of the District are needed for the County to respond to a request under the Act, as determined by the County, the District agrees to make them promptly available to the County. If the District considers any portion of any record provided to the County under this Agreement, whether in electronic or hard copy form, to be protected from disclosure under law, the Contractor shall clearly identify any specific information that it claims to be confidential or proprietary. If the County receives a request under the Act to inspect or copy the information so identified by the District and the County determines that release of the information is required by the Act or otherwise appropriate, the County's sole obligations shall be to notify the District (a) of the request and (b) of the date that such information will be released to the requester unless the District obtains a court order to enjoin that disclosure pursuant to RCW 42.56.540. If the District fails to timely obtain a court order enjoining disclosure, the County will release the requested information on the date specified.

The County has, and by this section assumes, no obligation on behalf of the District to claim any exemption from disclosure under the Act. The County shall not be liable to the District for releasing records not clearly identified by the District as confidential or proprietary. The County shall not be liable to the District for any records that the County releases in compliance with this section or in compliance with an order of a court of competent jurisdiction.

XIV. Contingency. The obligation of the County to make payments under this Agreement is contingent upon local legislative appropriation of necessary funds in accordance with law. Any payment is subject to appropriation by the County Council. In the event funding is withdrawn, reduced, or limited in any way after the effective date of this Agreement, either Party may terminate this Agreement under Section X.


XV. Severability. Invalidation of any of the provisions contained in this Agreement, or of the application thereof to any person, by judgment or court order, shall in no way affect any of the other provisions hereof or the applications thereof to any other person and the same shall remain in full force and effect.

XVI. Complete Agreement. This Agreement represents the entire integrated Agreement between the Parties and supersedes all prior negotiations, representations or agreements, either written or oral.

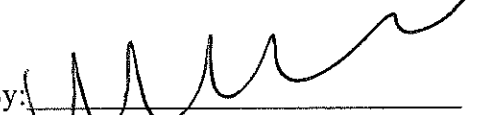
XVII. Authority. The Parties represent to each other that the persons executing this Agreement have authority to do so and to bind the parties hereunder.

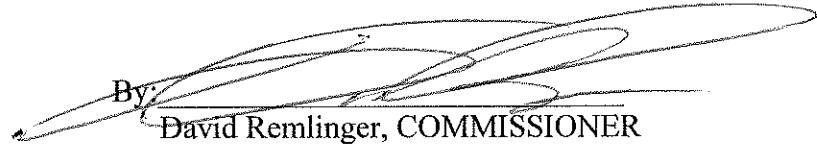
IN WITNESS THEREOF, the undersigned Parties have executed this Agreement on the day of the last party to sign.

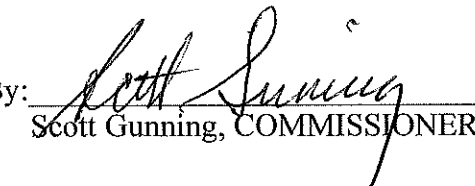
SNOHOMISH COUNTY

By: 
David Somers
Snohomish County Executive

FRENCH SLOUGH FLOOD CONTROL DISTRICT

By: 
Michelle Canfield, CHAIRPERSON

By: 
David Remlinger, COMMISSIONER

By: 
Scott Gunning, COMMISSIONER

Approved as to Form Only:



By: _____ 1/15/21
Deputy Prosecuting Attorney

Exhibit A



Snohomish County

Public Works

3000 Rockefeller Ave., M/S 607
Everett, WA 98201-4048
(425) 388-3488
www.snoco.org

Dave Somers
County Executive

January 14, 2021

EXAMPLE ONLY

Mr. Scott Gunning Chairperson
French Slough Flood Control District

RE: Interlocal Agreement between French Slough Flood Control District and Snohomish County for
Accommodating Surface Water in French Slough Flood Control District

Mr. Gunning,

Per Section IV. COUNTY RESPONSIBILITIES, of the above mentioned agreement, "No later than January 15th of each year the County will provide the District with a letter regarding the previous years' Consumer Price Index for Seattle-Tacoma-Bremerton, WA, as specified in Section 1, along with the calculation of the new funding rate for the current year."

	CPI	Rate
2021	1.5%	\$12,571
2022		\$14,456
2023		
2024		
2025		

Please feel free to contact me at 425-262-2360 or gidget.ames@snoco.org if you have any questions regarding this information.

Sincerely,

Gidget Ames
Contract Specialist

EXHIBIT B

French Slough Flood Control District, Snohomish County, Washington 2021-Budget

ASSETS:

Trash Rake Reserve	\$20,000.00	
Reserve/Emergency	\$156,000.00	
Reserve/Flood Related	\$188,546.00	
	<u>\$364,546.00</u>	\$ 364,546.00

REVENUES:

Cash on Hand/Balance Forward 2020		\$27,324.00
Income:SWM Annual Funding		\$12,500.00
Snohomish County Flood Reduction Grant		\$ 50,000.00
		<u>\$ 89,824.00</u>
Assessment:		
City of Monroe		\$ 124,052.00
Property Owners Inc. ROW Assessment		\$ 353,624.00
		<u>\$ 567,500.00</u>

EXPENDITURES:

Operating Budget:		
Pilchuck Dike Repair		\$ 102,000.00
PUD		\$ 140,000.00
Payroll/Dir. Fees/Consulting		\$ 95,000.00
Administrative,Legal/Consulting		\$ 40,000.00
Insurance		\$ 28,000.00
Repair & Maintenance		\$ 22,000.00
Ditch Maintenance		\$ 60,000.00
Trash Rake Reserve		\$ 5,000.00
Emergency Flood Repair		\$ 10,000.00
Emergency Fund Undesignated		\$ 25,000.00
Brush Control		\$ 18,000.00
Dike O&M		\$ 12,500.00
Tree Removal		\$ 5,000.00
Revegetation/HPA Project		\$ 5,000.00
Total Expenditures		<u>\$ 567,500.00</u>