

1 APPROVED: 08/26/15
2 EFFECTIVE: 09/06/15

3
4 SNOHOMISH COUNTY COUNCIL
5 SNOHOMISH COUNTY, WASHINGTON

6
7 ORDINANCE NO. 15-058

8
9 FINALIZING A SYSTEM OF ASSESSMENT FOR FRENCH SLOUGH FLOOD
10 CONTROL DISTRICT PURSUANT TO CHAPTER 85.38 RCW

11
12 WHEREAS, RCW 85.38.160 requires that the County establish a system of assessment
13 for the French Slough Flood Control District (District); and

14
15 WHEREAS, the District's system of assessment was originally adopted under Amended
16 Ordinance No. 01-056 and last updated by Ordinance No. 11-046; and

17
18 WHEREAS, RCW 85.38.160(4) requires that the County shall periodically review and
19 finalize the system of assessment for the District; and

20
21 WHEREAS, the District has updated its assessment zone acreages and boundaries; and

22
23 WHEREAS, the District has updated its improvement assessment based on County
24 records; and

25
26 WHEREAS, the District and the City of Monroe (City) have entered into an Interlocal
27 Agreement (District and City Agreement), a copy of which is attached hereto as Exhibit A and
28 incorporated by reference, wherein the City agrees to pay to the District a defined portion of the
29 District's annual budget; and

30
31 WHEREAS, notice of the public hearing on the proposed system of assessment
32 was duly published and mailed to each owner of property within the District pursuant to the
33 requirements of RCW 85.38.160(2); and

34
35 WHEREAS, pursuant to RCW 85.38.160(3), a public hearing on the system of
36 assessment for the District was held on August 26, 2015 and

37
38 WHEREAS, the County Council (Council) has given due consideration to the system of
39 assessment for the District; and

40
41 WHEREAS, it is deemed necessary and advisable that the system of assessment for the
42 District be finalized;

43
44 NOW, THEREFORE, BE IT ORDAINED:

45
46 Section 1. The Council hereby finds and determines that the system of assessment
47 for the District is in accordance with chapter 85.38 RCW and other applicable laws of the State of

1 Washington, and that the system of assessment described in Sections 2, 3 and 4 is hereby
2 finalized.

3
4 Section 2. The system of assessment for the District shall consist of a four zone
5 classification system (Zone 1, Zone 2, Zone 3, and Zone 4). Parcels in Zones 1 and 2 shall be
6 assessed a per acre assessment based on percentage of the parcel that is located within the flood
7 zone.

8
9 In addition, parcels in Zones 1, 2 and 3 shall be assessed for Improvements on the parcel.
10 An Improvement shall be either an Equivalent Residential Unit (ERU), where one ERU is defined
11 as a market improvement on a parcel in the R-5, R-9,600, R-8,400, R-7,200, or A-10 zones as
12 defined in Title 30 SCC (Unified Development Code), or 3,500 square feet of impervious area in
13 any other zone, as determined based on County records and as verified by the District. The
14 determination of whether parcels are located in Zone 1, Zone 2, or Zone 3 shall be based on
15 County records and mapping.

16
17 ZONE 1- Includes parcels that have more than 50 percent of the parcel area inside the
18 100-year flood plain and more than 50 percent of the parcel area landward of the District dikes.
19 These parcels shall be assessed 100 percent of the per-acre assessment and 100 percent of the
20 Improvement assessment.

21
22 ZONE 2- Includes parcels that have 50 percent or more of the parcel area outside the
23 100-year flood plain or that have 50 percent or more of the parcel area waterward of the District
24 dikes (toward the Pilchuck or Snohomish rivers). These parcels shall have a 50 percent reduction
25 in per acre assessments. These parcels shall also be assessed 100 percent of the Improvement
26 assessment.

27
28 ZONE 3- Includes parcel that have 100 percent of the parcel area outside the 100-year
29 flood plain or that have 100 percent of the parcel area waterward of the District dikes (toward the
30 Pilchuck or Snohomish rivers). Zone 3 shall not include those properties within the District that
31 also lie within the City and are under interlocal agreement between the City and District. All
32 Zone 3 parcels shall not be assessed a per acre assessment. These parcels shall be assessed 100
33 percent of the Improvement assessment.

34
35 ZONE 4- Includes those properties that lie within the District and also lie within the
36 City and are subject to the interlocal agreement between the City and District.

37
38 Acreeage Assessments for Zone 1, Zone 2 and Zone 3:

39
40 The total acreage assessment shall be \$521.10 (rounded) of a \$1,000 hypothetical
41 budget.

42
43 Based upon the area in Zone 1 of 5,341.47 acres, the area in Zone 2 of 172.24 acres
44 and the area in Zone 3 of 639.88 acres, the associated dollar value of benefits for a
45 \$1,000 hypothetical assessment is:

46
47 Zone 1 = \$0.0960089 per acre
48 Zone 2 = \$0.0480045 per acre
49 Zone 3 = \$0.00 per acre

1
2 Zone 4 Assessment:
3

4 No separate District assessment is made for acreage in Zone 4. The share of the
5 \$1,000 hypothetical assessment which is covered by the District and City Agreement
6 is calculated by the District at \$259.70 (rounded).
7

8 Improvement (ERU) Assessment:
9

10 The total assessment shall be \$219.21 (rounded) of a \$1,000 hypothetical budget.

11
12 Based on a total of 1,535.20 ERU, the associated dollar value of benefits is
13 \$0.1427865 per ERU. Improvements to property shall be determined from
14 Snohomish County and District records.
15

16 Assessment Summary:
17

18 The assessment shares of a \$1,000 hypothetical budget are as follows:
19

20	Acreage Assessment in Zone 1 and Zone 2:	\$521.10 (rounded)
21	Zone 4 Assessment:	\$259.70 (rounded)
22	<u>Improvement Assessment in Zone 1, Zone 2 and Zone 3:</u>	<u>\$219.21 (rounded)</u>
23	Total	\$1,000.00 (rounded)

24

25 Section 3. The District shall adopt an annual budget and special assessments based
26 upon application of the system of assessments established by this ordinance sufficient to finance
27 the adopted budget. The District is further directed to forward a copy of its resolution approving
28 the budget, the budget and special assessments sufficient to finance the budget to the County
29 Council and to the County Treasurer, in accordance with RCW 85.38.170.
30

31 Section 4. As provided in the RCW 85.38.170, the special assessments shall be
32 collected by the County Treasurer. Notice of the special assessments due may be included in the
33 notice of the property taxes due, may be included on a separate notice that is mailed with the
34 notice of property taxes due, or may be sent separately from the notice of property taxes due.
35 Special assessments shall be due at the same time property taxes are due and shall constitute liens
36 on the land or improvements upon which they are imposed. Delinquent special assessments shall
37 be foreclosed in the same manner, and subject to the same time schedules, interest and penalties
38 as delinquent property taxes. The County Treasurer may impose a fee for collection of special
39 assessments not to exceed one percent of the dollar value of the special assessments collected.
40

41 Section 5. This ordinance shall have a prospective effect and shall supersede the
42 District's system of assessment last finalized by the adoption of Snohomish County Ordinance
43 No. 11-046 on August 17, 2011.
44

45 PASSED this 26th day of August, 2015.
46

47 SNOHOMISH COUNTY COUNCIL
48 Snohomish County, Washington
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Chairperson

ATTEST:



Asst. Clerk of the Council

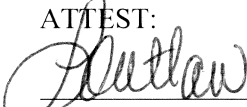
APPROVED
 EMERGENCY
 VETOED

8-27-15
DATE



County Executive

ATTEST:



Approved as to form only:

 6/8/15

Deputy Prosecuting Attorney

EXHIBIT A:

FRENCH SLOUGH FLOOD CONTROL DISTRICT AND CITY OF MONROE INTERLOCAL AGREEMENT



**AN INTERLOCAL AGREEMENT BETWEEN THE CITY OF MONROE AND
FRENCH SLOUGH FLOOD CONTROL DISTRICT
(INTO WHICH FORMER DRAINAGE IMPROVEMENT DISTRICTS #4 AND #4A
HAVE BEEN CONSOLIDATED)**

The City of Monroe ("City") and French Slough Flood Control District ("District") recognize that each delivers water that must be handled by the facilities within and under the District's jurisdiction. The Parties desire to set forth conditions to improve City input into District decision-making with respect to control, ownership, management, and financing of the Drainage System.

WHEREAS, at the beginning of the 20th century the Fryelands area of Monroe was farmland within former Drainage Improvement District #4 and #4A so that the owners of what is now Fryelands were subject to direct assessments for operating a Drainage System; and

WHEREAS, former Drainage Improvement Districts #4 and #4A were special purpose districts created, operated and governed by officials elected pursuant to Title 85 RCW; and

WHEREAS, in the late 1950's a Federally funded more coordinated Drainage System required creation of the French Slough Flood Control District which operated under and was governed by officials elected pursuant to Chapter 86.09 RCW; and

WHEREAS, the three special purpose districts above mentioned assessed property owners within what is now the Fryelands area of Monroe for the combined Drainage System of said districts; and

WHEREAS, the Fryelands area was annexed into Monroe in the 1960's and was filled above the 100 year flood level as flood fringe in the early 1990's; and

WHEREAS, the City recognized the impacts this had on the three special purpose districts and that, although City drainage from Fryelands would continue to flow through said districts, the City needed the ability and authority to develop its own drainage infrastructure within Fryelands; and

WHEREAS, the City therefore proposed an Interlocal Agreement by which the City agreed that, as a public entity representing many small urban landowners who occupied former farmland previously owned by a few large landowners, the City would pay directly to the three districts the proportionate share of assessments borne by Fryelands; and

WHEREAS, after several years of operation under said Interlocal, recorded under Snohomish County Auditor's File No. 9210290769, the City is concerned that the Interlocal did not provide the City with any votes for district commissioners as was the case in Fryelands before City annexation; and

WHEREAS, taxation (by assessment) without representation is diametrically opposed to American values; and

WHEREAS, the three districts have been consolidated into one district known as French Slough Flood Control District; and

WHEREAS, said District has undergone an assessment revision in August 2001, which was subsequently approved by Snohomish County, and;

WHEREAS, the City and District wish to maintain a Joint Advisory Board for the purpose of improving communications regarding their combined Drainage System and service area; and

WHEREAS, the Parties wish to control the discharge of storm water runoff into the Drainage System and protect their jurisdictions from saturated soil conditions; and

WHEREAS, the Parties wish to maintain a process for increasing cooperation and providing City input into determining the City's share of the drainage service area costs in continuation of AF# 200301060895 as modified herein;

NOW, THEREFORE, THE PARTIES AGREE AS FOLLOWS:

Section 1. Glossary of Terms

- | | | |
|-----------------------------|----|---|
| <u>City</u> | - | The City of Monroe |
| <u>County</u> | - | Snohomish County |
| <u>District</u> | - | French Slough Flood Control District |
| <u>Drainage System</u> | - | Shall include the system of dikes, ditches, pipes, rights-of-way draining to said ditches, the pump station conveying water to the Snohomish River from within the jurisdiction of the Parties. The said Drainage System protects said areas from 10 year floods or less and saturated soil conditions. |
| <u>Joint Advisory Board</u> | - | Consisting of: |
| | 1. | City Council Members or their designee(s) |
| | 2. | Commissioners of French Slough Flood Control District |

Areas of Responsibility -

- | | |
|----------------------|---|
| <u>City Area</u> | -Property that is within the District boundary and the City limits |
| <u>District Area</u> | -Property that is within the District boundary and not the City limits. |

The City Area and District Area are mutually exclusive.

Section 2. Joint Advisory Board

The parties agree to maintain the established Joint Advisory Board for the purpose of improving communication regarding the Drainage System in order to implement this Agreement. The Joint Advisory Board shall consist of three (3) members of the Monroe City Council or their designee(s) and the three (3) Commissioners of the District.

A. Authority of the Joint Advisory Board.

The Joint Advisory Board shall have the authority to implement the terms and conditions of this Agreement and to recommend the annual budget of the Drainage System. The Joint Advisory Board shall not have authority to modify the terms of this Agreement. The Joint Advisory Board shall not have authority to incur liabilities or obligations on behalf of either of the Parties to this Agreement except as provided herein.

B. Meetings, Actions and Quorum of Joint Advisory Board.

1. All meetings of the Joint Advisory Board shall be held in compliance with the Open Public Meetings Act, RCW Chapter 42.30.
2. The Joint Advisory Board shall meet not less than four times annually at a regular meeting location of French Slough Flood Control District or such other location as the Parties shall agree.
3. A quorum of the Joint Advisory Board shall consist of two representatives each from the District and City.
4. Each City representative of the Joint Advisory Board shall have one vote and each District representative shall have one vote.
5. Disputes shall be resolved as provided in section 8D of this Agreement.
6. An appointed Secretary shall take minutes of the Joint Advisory Board meetings and other proceedings.

Section 3. Statutory Authority.

This Agreement is entered into pursuant to RCW Chapter 39.34, the Interlocal Cooperation Act, RCW 35A.11.040 and 35A.35.010, and RCW 86.09.020, 85.38.180(10), 86.09.526 and 86.09.529.

Section 4. Purpose of the Agreement.

The purpose of the Agreement is to:

- A. Establish areas of responsibility for maintenance and operation of the Drainage System.
- B. Establish a City voting input basis for District budgeting issues.
- C. Establish a cooperative method for regularly reviewing the City's proportionate share of the costs for the handling of the waters delivered into the Drainage System by each of the Parties.
- D. Develop a system for reviewing funding levels to maintain the District as a whole system.

Section 5. Responsibility.

- A. District Responsibilities - Property that is within the District boundary and not the City limits (District Area):

The District shall retain ownership of the ditches, and shall be responsible for the water quality, ditch maintenance, system improvements, and personal property used by the District in the District Area. The District shall be solely responsible for developing and administering the annual operating budget, and the capital repairs and improvements budget as required for receiving and handling flows both from within the City Area as well as the District Area... (See also section 6F of this Agreement)

- B. City Responsibilities - Property that is within the District boundary and the City limits (City Area): The District, by the prior Interlocal Agreement of October, 1992, did "cede ownership of all District ditch rights-of-way east of [a certain] Separation Line to the City" and that "The City shall be responsible for water quality, ditch maintenance, system improvements, personal property and other equipment and its acquisition to be used by the City within the City area." The City shall continue to be responsible for water quality, ditch maintenance, system improvements, personal property and other equipment and its acquisition to be used by the City within the City Area. . The City shall also continue to be responsible for capital repairs and improvements and associated costs to maintain and repair the Drainage System within the City Area and jurisdiction, as well as for improvements necessary to maintain flows and water quality from the City to the District in conformance with applicable federal, state and county regulations. C. Adjustments to the Areas of Responsibilities & Financial Responsibilities.

Adjustments may be made to the area of responsibility if the City limits are expanded. Such annexations by the City shall be approved by the Boundary Review Board in accordance with law, and adjustments to the areas of

responsibility shall thereafter be proposed by the Joint Advisory Board subject to approval of the District and City.

D. Liability.

Each Party shall assume liability for those areas of property for which they have assumed maintenance responsibility under this agreement. In such cases where all Parties may be held liable, or mutually joined in a liable action, the Party with maintenance responsibility for the area creating the liable action shall be responsible for providing the resources for responding to such action.

E. Indemnification.

The District agrees to fully protect, defend, indemnify, and hold harmless the City, including its officers, employees, and agents, from and against any and all claims, damages, and costs, incurred by the City as a result of the District's performance or failure to perform its obligations under this Agreement, except for damages caused by the negligence of the City.

The City agrees to fully protect, defend, indemnify, and hold harmless the District, including its officers, employees, and agents, from and against any and all claims, damages, and costs, incurred by the District as a result of the City's performance or failure to perform its obligations under this Agreement, except for damages caused by the negligence of the District.

Section 6. Administration of Responsibilities.

A. Maintenance and Operation.

1. The City is responsible for the control and maintenance of the Drainage System within the City limits, including the City Area... Maintenance of ditches will generally include the control of grasses and noxious weeds as well as reconstruction of ditch banks or channel bottoms that restrict or otherwise affect the rate or quality of water flow to the District ditches.
2. The District is responsible for the control and maintenance of the ditches within the District Area. Maintenance will generally include the control of grasses and noxious weeds as well as reconstruction of ditch banks or channel bottoms that restrict or otherwise affect the rate or quality of water flow within the District ditches. Maintenance also includes dike and pump station upkeep.

B. Capital Improvements.

1. The Parties shall be responsible for making all improvements to the Drainage System within their respective areas of responsibility. Such improvements shall include, but not be limited to, dike and pump plant reconstruction, the installation of storm water retention systems, conveyance piping, trail and/or recreational uses in conjunction with the ditch system, diversions within or to the drainage ditches, ditch crossings and landscaping including berming around or along the ditches.

C. Administration of Governmental Regulations.

Each Party shall be directly responsible for the administration of all regional, state and federal regulations governing the discharge of water and water quality for their jurisdiction's portion of the Drainage System.

D. Water Quality Control.

Each party shall be responsible for the quality of waters discharged within their jurisdiction if required by other law and as provided by law.

E. Storm Water Discharge.

Each Party shall be responsible for the volume, rate, duration, and tidal effects of, from and to storm water run-off entering the ditch system originating from within their jurisdiction.

F. Budget.

Commencing annually on or about July 2011 and for each succeeding year for the duration of this Agreement, the Joint Advisory Board shall start preparation of the Preliminary Budget for the District. This Preliminary Budget shall endeavor to itemize expenditures in order to provide useful information to the City and District for their respective budget processes. The Joint Advisory Board shall recommend approval of the Preliminary Budget to the District and City annually by September 30th so that the City Council and District will have reliable figures at the time each Party's budget is under consideration. (See also Section 6.H below). The parties acknowledge the Preliminary Budget is an estimate, and is subject to revision.

1. If the District must revise the preliminary budget after the final scheduled annual Joint Advisory Board meeting, the District shall make contact with the City and schedule an additional Joint Advisory Board meeting to allow all members of the Joint Advisory Board to vote on the proposed preliminary budget revision(s).

G. Assessments/Financial Responsibilities.

1. The City is financially responsible for the cost of maintaining and improving the Drainage System within the City limits.
2. The City and the District assume responsibility for a proportionate share of the District's financial obligations in the budget, based upon the following formula:
 - a.) The City portion of the entire District budget shall be 27.73% through December 31, 2002.
 - b.) Commencing January 1, 2003, the District will begin billing (assessing) property within the District boundary that is not annexed into the City. It is understood that revenues from such new assessment(s) are based on the total budget and must be received.
 - c.) The City's maintenance obligation, which formerly included said non-annexed property, will be transferred to the District.
 - d.) The City's financial obligation shall be determined as follows:
 - i.) The initial base for the City shall be 27.73% of the 2003 budget.
 - ii.) On receipt of revenues from said non-annexed areas, the City's initial base shall be reduced by an amount equal to 55% of revenues from said non-annexed areas to determine the City's financial obligation.
 - iii.) This amount shall be the basis of annually determining the City's percentage (portion) of the total assessment for 2003 and subsequent years.
 - iv.) Initial setup costs for assessing said non-annexed areas shall be split 55/45 between City and District.
3. The City's percentage may also be modified annually to account for storm water run-off from areas outside the current city limits that are annexed into the City in the future.

4. The City reserves the right to request records of the District in order to perform periodic audits for the purpose of establishing actual expenses to the budget.

H. Billing of Assessments.

The District shall send an assessment statement to the City for the annual assessment on a semi-annual basis after the first of each year. The City shall pay the assessment within ninety (90) days of receipt of said assessment. To insure adequate notification of such annual assessment, the Joint Advisory Board shall provide the City an estimate of the expected expenses along with the estimated cost of the City portion of such expenses by September 30 of the preceding year in time for the City's annual budget preparations.

Section 7. Relationship to Existing Laws, Statutes and Regulations.

This Agreement is not intended to modify or supersede existing laws, statutes and regulations. In meeting the commitments of this Agreement, all Parties shall comply with the requirements of the Open Public Meetings Act, State Environmental Policy Act, State Department of Fish and Wildlife, Annexation Statutes and all other state, federal and local laws.

The District shall retain sole authority and responsibility for ditches within the District boundary, excluding those included in the City limits, and the City shall continue to exercise delegated authority and responsibility for ditches within the City limits and the District boundary. The provisions of this Agreement are not intended to authorize either jurisdiction to abrogate ultimate decision-making responsibility assigned to it by law or to impair the power of the District electorate as guaranteed by 85.38.105 and 86.09.377.

Section 8. Conditions of Agreement.

A. Effective Date.

This Agreement replaces "AN INTERLOCAL AGREEMENT BETWEEN THE CITY OF MONROE AND SNOHOMISH COUNTY DRAINAGE IMPROVEMENT DISTRICTS NUMBER FOUR AND NUMBER FOUR-A AND FRENCH SLOUGH FLOOD CONTROL DISTRICT" entered into by the Parties in October of 1992 and as modified by AF# 200301060895

This Agreement shall be submitted for approval to the requisite authorities and upon the last such filing or approval, the Agreement shall come into and be of full force and effect from the date of termination of AF#200301060895. This Agreement shall be recorded with the Snohomish County Auditor's Office.

B. Terms of Agreement.

This Agreement shall remain in effect for five (5) years and may be renewed

for three (3) additional periods of five (5) years each by the Parties jointly signing a notice of renewal at least 180 days before the end of the then-current period. Either party may terminate agreement with 180 days written notice to the other Party.

On termination, the District shall reassume sole responsibility and authority for billing and maintaining property within its jurisdictional boundary going forward.

C. Amendment of the Agreement.

This Agreement may be amended by written agreement of the Parties approved through a simple majority vote by each of the respective governing bodies, or by a simple majority vote of the Joint Advisory Board ratified by a simple majority vote of the Parties' respective governing bodies -- City Council and District Board. Such amendment shall become effective five days after approval by both Parties or as otherwise designated by the agreement.

D. Disputes.

1. In the event the Joint Advisory Board is unable to achieve agreement on a matter reasonably necessitating a decision and action on such matter, then such matter shall be referred to the decision-making bodies of the respective Parties for mediation.
2. The District and the City shall each submit three names as potential mediators. If the Parties share one name in common, that mutually submitted name shall be the mediator. If two or more names are in common, both Parties shall be asked to rank the commonly named mediators by preference. The name which is most preferred based upon ranking shall become the agreed mediator. If there is a tie in the ranking, a majority vote of the Joint Advisory Board shall determine the mediator. If none of the names submitted by the parties are in common, a majority vote of the joint advisory board shall determine the mediator, and that failing, the six names shall be put in a container and the name selected from the container by the County Auditor shall be the mediator.
3. The District shall pay 100% of its own expenses associated with mediation including but not limited to legal and preparatory. The City shall pay 100% of its own expenses associated with mediation including but not limited to legal and preparatory. The mediator's fee shall be divided between the District and the City. The District shall pay 72.27% of the shared cost of the mediator's fee; the City shall pay 27.73%.

4. Venue -- Snohomish County, Washington.

E. Severability.

If any provision of this Agreement or its application is held invalid, the remainder of the agreement shall remain in effect.

IN WITNESS THEREOF, the Parties have affixed their signatures and dated below.

DATED this 7th day of December, 2010.

CITY OF MONROE

Robert G. Zimmerman, Mayor

FRENCH SLOUGH FLOOD CONTROL DISTRICT

Scott Gunning, CHM. F.S.F.C.D.

APPROVED AS TO FORM

J. Zachary Lell, City Attorney

Commissioner F.S.F.C.D.
David Remlinger

Commissioner F.S.F.C.D.
J. Scott Gunning

ATTEST:

Eadye Martinson, Deputy City Clerk

APPROVED AS TO FORM

Peter C. Gail, District Attorney

ATTEST

Andrea J. Miller
Secretary F.S.F.C.D.