

INTERLOCAL LEVY AGREEMENT

10-19-2010

THIS AGREEMENT is made and entered into as of this 4th day of November, 2010, by and among the King County Flood Control Zone District, a quasi-municipal corporation created and operating under chapter 86.15 RCW ("Flood District"), King County, a political subdivision of the State of Washington operating under title 36 RCW ("County"), and the following fire districts, each a municipal corporation created and operating under title 52 RCW (each, a "Fire District" and collectively, the "Fire Districts"):

- King County Fire Protection District No. 20
- King County Fire Protection District No. 25
- King County Fire Protection District No. 27
- King County Fire Protection District No. 34
- King County Fire Protection District No. 38
- King County Fire Protection District No. 39
- King County Fire Protection District No. 43
- King County Fire Protection District No. 44

In consideration of the recitals set forth below and the mutual promises and covenants contained in this Agreement, the Flood District, the County and the Fire Districts (collectively, the "Parties") agree as follows:

PART 1. RECITALS

- 1.1 RCW 86.15.025 authorizes the creation of countywide flood control zone districts to provide flood control and related services countywide, and RCW 86.15.080 grants to such districts certain powers, including the powers "to protect life and property within the district" and to "cooperate with or join with ... any agency, corporation or political subdivision" to carry out the purposes of a flood control zone district.
- 1.2 The Flood District was established effective May 5, 2007 pursuant to Ordinance 15728 of the King County Council, passed on April 16, 2007.
- 1.3 The Flood District is authorized by RCW 86.15.160 to levy "an annual *ad valorem* property tax levy of not to exceed fifty cents per thousand dollars of assessed value when the levy will not take dollar rates that other taxing districts may lawfully claim and that will not cause the combined levies to exceed the constitutional and/or statutory limitations, and the additional levy, or any portion thereof, may also be made when dollar rates of other taxing units is released therefor by agreement with the other taxing units from their authorized levies."
- 1.4 Title 52 RCW authorizes the establishment of fire protection districts to provide fire protection and emergency services and to protect life and property. RCW 52.12.021 grants fire protection districts the "full authority to carry out their purposes" including the power to "enter into and to perform any and all necessary contracts ... and to do any and all lawful acts required and expedient" to carry proper district purposes.

RECEIVED  
 NOV 29 AM 11:17  
 CLERK  
 KING COUNTY

- 1.5 Pursuant to RCW 39.67.010, any agreement or contract between two taxing districts may be made contingent upon a particular property tax levy rate of an identified taxing district where such rate affects the regular property tax rate of one of the parties to the contract and therefore affects that party's resources with which to perform under the contract.
- 1.6 Pursuant to RCW 39.67.020, any taxing district may transfer funds to another taxing district where the regular property tax levy rate of the second district may affect the regular property tax levy rate of the first district and where such transfer is part of an agreement whereby proration or reduction of property taxes is lessened or avoided.
- 1.7 Pursuant to RCW 39.34.080, the Flood District, the County and the Fire Districts are each authorized to contract with one another to perform any governmental service, activity, or undertaking which each district is authorized to perform, and the legislature has declared "that it is a purpose of the state, counties, county road districts, cities and towns, public hospital districts, library districts, fire protection districts, metropolitan park districts, and other taxing districts to participate in the methods provided by [Laws of 1988, chapter 274] by which revenue levels supporting the services provided by all taxing districts might be maintained." Laws of 1988, ch. 274 §1.
- 1.8 In accordance with RCW 39.34.030(2), the terms of this Agreement have been approved by resolution of the governing bodies of the Flood District, the County and each of the Fire Districts.

## PART 2. AGREEMENT

### 2.1 Contingent Obligation of the Flood District.

2.1.1. *Triggering Conditions.* The Flood District shall make the payments in the amounts specified under Section 2.1.2 and the levies referred to in (a) and (b) of this section will be reduced in accordance with Section 2.3, if and only if:

- (a) Each Fire District includes in its levy resolution language substantially in the form attached as **Attachment A**, which provides that that Fire District's regular property taxes for collection in calendar year 2011 will not reduce the amount of the Flood District's regular property taxes levied for collection in calendar year 2011;
- (b) The County includes in its levy ordinance for the County levy under RCW 36.82.040 (the "County Levy") language substantially in the form attached as **Attachment B**, which provides that that property taxes levied under that resolution for collection in calendar year 2011 will not reduce the amount of the Flood District's regular property taxes levied for collection in calendar year 2011;

- (c) The levies of one or more of the Fire Districts or the County are reduced and the Flood District's regular property tax levy is not reduced under RCW 84.52.010; and
- (d) The aggregate of all payments to be made under Section 2.1.2 (a) and (b) does not exceed (i) \$5.5 million if all payments are made to Fire Districts, or (ii) \$8.5 million if any payment is made to the County or to a combination of the County and one or more Fire Districts.

2.1.2. *Amount Due.* If the above conditions are met, the Flood District agrees:

- (a) To pay to each Fire District an amount equal to the difference between (i) the amount actually levied for that Fire District due to a reduction of its levy under the provision conforming to paragraph 1.2 of Attachment A, and (ii) the levy amount that would otherwise have been levied under the levy resolution provision conforming to paragraph 1.1 of Attachment A; and
- (b) To pay to the County an amount equal to the difference between (i) the amount actually levied for the County Levy due to a reduction under the provision conforming to paragraph 1.2 of Attachment B, and (ii) the levy amount that would otherwise have been levied under the levy ordinance provision conforming to paragraph 1.1 of Attachment B.
- (c) To pay to each Fire District and to the County a payment compensating for a reduction in the new construction adjustment allowed under RCW 84.55.010 when calculating the maximum allowable 2012 levy, which payment shall be equal to the difference between (i) the amount of the new construction adjustment calculated based on the 2011 levy resolution provision conforming to paragraph 1.2 of Attachment A or B (as applicable); and (ii) the amount of the new construction adjustment which would have been calculated based on a 2011 levy resolution provision conforming to paragraph 1.1 of Attachment A or B (as applicable) but for this Agreement.

2.2 Manner of Payment/Late Payment. If the Flood District becomes obligated to make any payment specified in Section 2.1.2(a) or (b), each such payment obligation shall be satisfied by equal installments to be paid on May 15, 2011 and November 15, 2011. The payment under Section 2.1.2(c) shall be made in a single installment on or before March 31, 2012.

2.3 Procedures for Levy Reduction. Each party agrees that, if the Assessor is required to make any levy reductions under RCW 84.52.010, the procedures set forth in **Attachment C**, which is incorporated by this reference, should apply to the extent that it has adopted a levy resolution in conformance with this Agreement. Upon determining in the course of his normal duties that a levy reduction under RCW 84.52.010 is necessary, the Assessor shall complete each of the steps set forth in

Attachment C. Upon completion of these steps, the Assessor shall provide a report to each Party, describing the steps taken and showing the relevant calculations and resulting levy reductions (if any). The Parties shall have four (4) business days to review the calculations and, absent manifest error, shall be bound by the Assessor's calculations without further right to challenge the levy determination under this Agreement.

- 2.4 Attorneys Fees. At the request of any Fire District, the Flood District agrees to reimburse the Fire District for its reasonable attorneys' fees incurred in the negotiation and preparation of this Agreement upon submission to the Flood District of copies of billings for such services.

### PART 3. ADDITIONAL PROVISIONS

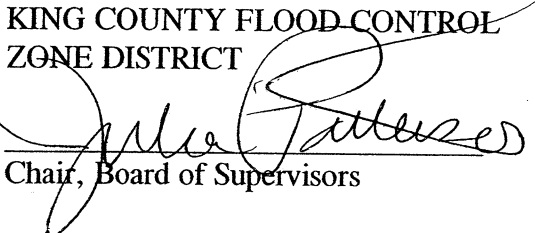
- 3.1 Term. Unless extended by mutual agreement of the Parties, this Agreement shall become effective as of the date and year first set forth above and shall expire on May 31, 2012.
- 3.2 Entire Agreement/Modification. This Agreement represents the entire agreement of the Parties with respect to the subject matter hereof and supersedes all prior negotiations or discussions with respect thereto. This Agreement may be amended or modified by written instrument signed by the Parties.
- 3.3 Assignment. No Party may assign its rights or obligations hereunder.
- 3.4 Counterparts. This Agreement may be executed in counterparts, each of which shall be an original but all of which taken together shall constitute but one and the same instrument.
- 3.5 Filing and Public Availability Requirements. The Flood District shall provide a true and complete copy of this Agreement to the King County Assessor and to the governing body of every taxing district that could have its tax levy adversely affected by this Agreement (if any).
- 3.6 Authorization. Each Party does hereby represent and warrant to the other that it is duly authorized to enter into and to carry out the terms of this Agreement.
- 3.7 Administration. For purposes of RCW 39.34.030(4)(a), the Flood District is designated as the administrator of this Agreement.
- 3.8 Indemnification/Hold Harmless. Each Party shall defend, indemnify and hold harmless the other Parties, and its officers, agents and employees, from and against any and all claims, including third party claims, costs, judgments or damages, including attorney's fees, arising out of the negligent acts or omissions of the indemnifying Party, its officers, agents and employees, in connection with this Agreement.

The Parties hereby waive, as to each other only, their immunity from suit under industrial insurance, Title 51 RCW. This waiver of immunity was mutually negotiated by the Parties. The provisions of this Section shall survive any termination or expiration of this Agreement.

3.9 Costs and Attorneys' Fees. If any Party shall institute a lawsuit to enforce another Party's obligations under this Agreement, the substantially prevailing Party shall be entitled to recover all costs of such a lawsuit, including reasonable attorneys' fees.

3.10 Automatic Termination. If the aggregate of all payments to be made under Section 2.1.2 (a) and (b) exceeds (i) \$5.5 million if all payments are made to Fire Districts, or (ii) \$8.5 million if any payment is made to the County or to a combination of the County and one or more Fire Districts, then this entire Agreement shall be null and void, save and except for the provisions of Sections 2.4 and 3.8.

IN WITNESS WHEREOF, the Parties hereby execute this Agreement as of the day and year first set forth above.

KING COUNTY FLOOD CONTROL  
ZONE DISTRICT  
  
Chair, Board of Supervisors

KING COUNTY, WASHINGTON  
\_\_\_\_\_  
County Executive

KING COUNTY FIRE PROTECTION  
DISTRICT NO. 20  
\_\_\_\_\_  
Chair, Board of Fire Commissioners

KING COUNTY FIRE PROTECTION  
DISTRICT NO. 25  
\_\_\_\_\_  
Chair, Board of Fire Commissioners

KING COUNTY FIRE PROTECTION  
DISTRICT NO. 27  
\_\_\_\_\_  
Chair, Board of Fire Commissioners

KING COUNTY FIRE PROTECTION  
DISTRICT NO. 34  
\_\_\_\_\_  
Chair, Board of Fire Commissioners

KING COUNTY FIRE PROTECTION  
DISTRICT NO. 38

---

Chair, Board of Fire Commissioners

KING COUNTY FIRE PROTECTION  
DISTRICT NO. 43

---

Chair, Board of Fire Commissioners

KING COUNTY FIRE PROTECTION  
DISTRICT NO. 39

*William T. Gates*  
Chair, Board of Fire Commissioners

KING COUNTY FIRE PROTECTION  
DISTRICT NO. 44

---

Chair, Board of Fire Commissioners

**Attachment A****Fire District Levy Resolution Language****Section 1. Regular Property Tax Levy.**

- 1.1 A regular property tax levy is authorized for collection in 2011 in an amount equal to \$\_\_\_\_\_, plus the new construction and similar adjustments allowed under chapter 84.55 RCW.
  
- 1.2 Notwithstanding paragraph 1.1, above, if the Fire District's levy would cause the combined lawful levies within any levy code area in the Fire District to exceed the constitutional and/or aggregate levy rate limitations under RCW 84.52.043, the Fire District instead levies a tax for collection in 2011 in an amount equal to the maximum amount which may be levied by the Fire District without causing any reduction to the levy of the Flood District under RCW 84.52.010. Any reduction to the Fire District's levy under this provision shall be in accordance with the Interlocal Levy Agreement attached to this resolution as Exhibit \_\_\_.

**Attachment B**

**County Levy Ordinance Language**

Section 1. County Levy.

- 1.1 Unincorporated / Roads Levy \$ \_\_\_\_\_
- 1.2 If the levy amount set forth in paragraph 1.1 would cause the combined lawful levies within any levy code area in the County that is located outside of the Fire Districts that are a party to the Interlocal Levy Agreement (which is on file with the County Assessor and is attached to this ordinance as Exhibit \_\_) to exceed the constitutional and/or aggregate levy rate limitations under RCW 84.52.043, the County instead levies this tax for collection in 2011 in an amount equal to the maximum amount which may be levied without causing any reduction to the levy of the Flood District due to those levy code areas under RCW 84.52.010, in accordance with the Interlocal Levy Agreement attached to this resolution as Exhibit \_\_.



## Attachment C

### Procedures for Levy Reduction

- Step 1. The Assessor shall calculate the total levy rates for each levy code area in the County using its standard procedures.
- Step 2. The Assessor shall identify any levy code areas in which the statutory or constitutional levy rate limitations are exceeded (the "Identified LCAs"), using its standard procedures.
- Step 3. For each Identified LCA that is located outside of a Fire District that is party to this Agreement, the Assessor shall calculate the amount of reduction to the County levy under RCW 36.82.040 ("County Levy") that is necessary to avoid any reduction to the Flood District levy in that Identified LCA.
- Step 4. For each Identified LCA located within a Fire District that is a party to this Agreement, the Assessor shall calculate the amount of Fire District levy reduction necessary to avoid any reduction to the Flood District levy in that Identified LCA.
- Step 5. The Assessor shall calculate the total amount of the Fire District levy reductions ("Aggregate FPD Payment") and the total County Levy reduction necessary to avoid any reduction to the Flood District in those Identified LCAs ("County Payment").
- Step 6. If no County Payment is necessary and the Aggregate FPD Payment is equal to or less than \$5.5 million, the Assessor shall reduce the affected Fire District levies as calculated. If a County Payment is necessary, then the Assessor shall reduce the County Levy and the affected Fire District levies as calculated only if the total of County Payment plus the Aggregate FPD Payment is equal to or less than \$8.5 million. If the Aggregate FPD Payment exceeds \$5.5 million (and no County Payment is necessary), or if a County Payment is necessary and the total of the Aggregate FPD Payment plus the County Payment exceeds \$8.5 million, then the Assessor shall disregard Steps 1-5 of this Attachment C and shall make reductions to taxing district levies only as required under and in accordance with RCW 84.52.010.