

INTERGOVERNMENTAL AGREEMENT  
WASHINGTON STATE DEPARTMENT OF COMMUNITY, TRADE  
AND ECONOMIC DEVELOPMENT

CONTRACT NUMBER: 1-95-16606

This AGREEMENT, entered into by and between the City of Duvall (hereinafter referred to as the CITY) and the Washington State Department of Community Trade and Economic Development (hereinafter referred to as the DEPARTMENT), WITNESSES THAT:

WHEREAS, the DEPARTMENT has the statutory authority under RCW 43.63A.065 to cooperate with and provide assistance to local governments and local agencies serving the communities of the state, for the purpose of aiding orderly, productive, and coordinated development of the state; and

WHEREAS, the DEPARTMENT also has the responsibility to administer programs and projects assigned to the DEPARTMENT by the Governor or the Washington State Legislature; and

WHEREAS, the DEPARTMENT has the statutory responsibility under RCW 36.70A.190 (1) to establish a program of technical and financial assistance and incentives to counties and cities to encourage and facilitate the adoption and implementation of comprehensive plans and development regulations throughout the state; and

WHEREAS, the DEPARTMENT received a 1994 Supplemental Budget appropriation to facilitate innovative SEPA/GMA integration prototype projects at the local level; and

WHEREAS, the DEPARTMENT desires to engage the CITY to perform certain tasks as hereinafter agreed by both parties.

NOW, THEREFORE, in consideration of covenants, conditions, performances, and promises hereinafter contained, the parties hereto agree as follows:

1. FUNDING

The total funds to be disbursed to the CITY for the agreement period shall not exceed fifty thousand dollars (\$50,000.00).

2. SERVICE PROVISIONS

Funds provided to the CITY under this AGREEMENT shall be used solely for activities undertaken to fulfill the requirements of the Growth Management Act and State Environmental Policy Act and to implement integration of these two state laws, GMA and SEPA, as described in ATTACHMENT: SCOPE OF WORK, which, by this reference, is made a part of this AGREEMENT.

3. AGREEMENT PERIOD

The effective date of this AGREEMENT shall be August 1, 1994. The termination date shall be June 30, 1995.

4. DISBURSEMENT PROVISIONS

A. During the course of the AGREEMENT PERIOD the CITY shall submit five (5) invoice vouchers (Form A-19) to the DEPARTMENT to be paid in equal amounts. The first payment will be at the beginning of the AGREEMENT PERIOD. Each subsequent payment will be according to standard calendar quarters. The CITY must submit the first voucher upon execution of this AGREEMENT. Thereafter, the CITY must submit vouchers on or about the 10th day of the last month of each calendar quarter to ensure payment by the end of the quarter; except that the final voucher must be submitted by May 31, 1995. All funds must be disbursed by June 30, 1995. Within ten (10) days after receiving a voucher, if approved, the DEPARTMENT shall remit to the CITY a warrant for an amount equal to twenty percent (20%) of the total amount to be remitted to the CITY under this AGREEMENT subject to the provisions of section 4 (B) below.

B. Payments shall be contingent on compliance with the provisions of this agreement, including the tasks, products, deliverables and other work items specified in the ATTACHMENT: SCOPE OF WORK. Failure to fulfill the obligations specified in the ATTACHMENT: SCOPE OF WORK may, at the DEPARTMENT'S discretion, result in funds being withheld pending completion of the items outstanding at the end of each calendar quarter.

5. EVALUATION AND MONITORING

A. The CITY shall cooperate with and freely participate in any other monitoring or evaluation activities conducted by the DEPARTMENT that are pertinent to the intent of this AGREEMENT.

B. The DEPARTMENT or the State Auditor and any of their representatives shall have full access to and the right to examine during normal business hours and as often as the DEPARTMENT or the State Auditor may deem necessary, all the CITY'S records with respect to all matters covered in this AGREEMENT. Such representatives shall be permitted to audit, examine, and make excerpts or transcripts from such records and to make audits of all contracts, invoices, materials, payrolls, and records of matters covered by this AGREEMENT. Such rights last for three years from the date final payment is made hereunder.

6. EMPLOYMENT PROVISIONS

There shall be no discrimination against any employee who is paid by the funds indicated in the AGREEMENT or against any applicant for such employment because of race, religion, color, sex, age, handicap, or national origin. This provision shall include, but not be limited to the following: employment, upgrading, demotion, transfer, recruitment, advertising, lay-off or termination, rates of pay or other forms of compensation, and selection for training.

7. AGREEMENT MODIFICATIONS

The DEPARTMENT and the CITY may, from time to time, request changes in services to be performed with the funds. Any such changes that are mutually agreed upon by the DEPARTMENT and the CITY shall be incorporated herein by written amendment to this AGREEMENT. It is mutually agreed and understood that no alteration or variation of the terms of this AGREEMENT shall be valid unless made in writing and signed by the parties hereto, and that any oral understanding or agreements not incorporated herein, shall not be binding.

8. TERMINATION OF AGREEMENT

A. If, through any cause, the CITY shall fail to fulfill in a timely and proper manner its obligations under this AGREEMENT, or if the CITY shall violate any of its covenants, agreements or stipulations of this AGREEMENT, the DEPARTMENT shall thereupon have the right to terminate this AGREEMENT and withhold the remaining allocation if such default or violation is not corrected within twenty (20) days after submitting written notice to the CITY describing such default or violation.

B. Notwithstanding any provisions of this AGREEMENT, either party may terminate this AGREEMENT by providing written notice of such termination, specifying the effective date thereof, at least thirty (30) days prior to such date. Reimbursement for services performed by the CITY, and not otherwise paid for by the DEPARTMENT prior to the effective date of such termination, shall be as the DEPARTMENT reasonably determines.

9. SPECIAL PROVISION

The DEPARTMENT's failure to insist upon the strict performance of any provision of this AGREEMENT or to exercise any right based upon breach thereof or the acceptance of any performance during such breach, shall not constitute a waiver of any right under this AGREEMENT.

10. AMERICANS WITH DISABILITIES ACT

The DEPARTMENT and the CITY agree to comply with the Americans with Disabilities Act of 1990, 42 U.S.C. 12101 et seq. (ADA), and its implementing regulations in the areas of employment, public accommodations, state and local government services, and telecommunications.

11. HOLD HARMLESS

A. It is understood and agreed that this AGREEMENT is solely for the benefit of the parties hereto and gives no right to any other party. No joint venture or partnership is formed as a result of this AGREEMENT. Each party hereto agrees to be responsible and assumes liability for its own negligent acts or omissions, or those of its officers, agents, or employees to the fullest extent required by law, and agrees to save, indemnify, defend, and hold the other party harmless from any such liability. In the case of negligence of both the DEPARTMENT and the CITY, any damages allowed shall be levied in proportion to the percentage of negligence attributable to each party, and each party shall have the right to seek contribution from the other party in proportion to the percentage of negligence attributable to the other party.

B. This indemnification clause shall also apply to any and all causes of action arising out of the performance of work activities under this AGREEMENT. Each contract for services or activities utilizing funds provided in whole or in part by this AGREEMENT shall include a provision that the DEPARTMENT and the state of Washington are not liable for damages or claims from damages arising from any subcontractor's performance or activities under the terms of the contracts.

12. GOVERNING LAW AND VENUE

The AGREEMENT shall be construed and enforced in accordance with, and the validity and performance hereof shall be governed by, the laws of the state of Washington. Venue of any suit between the parties arising out of this AGREEMENT shall be the superior court of Thurston County, Washington.

13. SEVERABILITY

In the event any term or condition of this AGREEMENT or application thereof to any person or circumstances is held invalid, such invalidity shall not affect other terms, conditions or applications of this AGREEMENT which can be given effect without the invalid term, condition or application. To this end the terms and conditions of this AGREEMENT are declared severable.

14. RECAPTURE PROVISION

A. In the event that the CITY fails to expend state funds in accordance with state law and/or the provisions of this AGREEMENT, the DEPARTMENT reserves the right to recapture state funds in an amount equivalent to the extent of noncompliance.

B. Such right of recapture shall exist for a period not to exceed three (3) years following termination of the AGREEMENT. Repayment by the CITY of state funds under this recapture provision shall occur within thirty (30) days of demand. In the event that the DEPARTMENT is required to institute legal proceedings to enforce the recapture provision, the DEPARTMENT shall be entitled to its cost thereof, including reasonable attorney's fees.