

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.

15. REDUCTION IN FUNDS

The DEPARTMENT may unilaterally terminate all or part of this AGREEMENT, or may reduce its scope of work or budget under this AGREEMENT, if there is a reduction of funds by the source of those funds, and if such funds are the basis for this AGREEMENT.

16. ADMINISTRATION

- A. The DEPARTMENT'S representative shall be Peter Riley.
- B. The CITY'S representative shall be Linda Chapman.

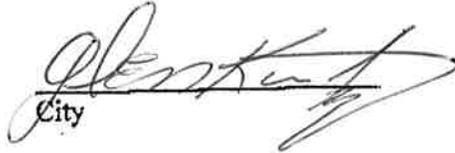
17. ENTIRE AGREEMENT

This contract represents all the terms and conditions agreed to by the parties. No other understandings oral or otherwise regarding the subject matter of this agreement shall be deemed to exist or to bind any parties hereto.

IN WITNESS WHEREOF, the DEPARTMENT and the CITY have executed this AGREEMENT as of the date and year written below.



 Stephen R. Wells, Assistant Director
 Department of Community, Trade
 and Economic Development

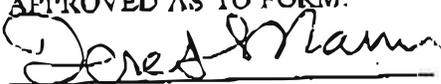


 City

Date: 8-23-94

Date: 8-22-94

Countersigned

APPROVED AS TO FORM:


 Assistant Attorney General

 City

Date: 8/10/94

Attest: _____

ATTACHMENT: SCOPE OF WORK CITY OF DUVALL GROWTH MANAGEMENT/SEPA INTEGRATION

The City of Duvall and/or its consultant will be responsible for preparing all deliverables which are produced in fulfillment of the project described in the grant application the City submitted to the State Department of Community, Trade and Economic Development (Department) on June 10, 1994 and which are listed below. The Department will provide review and comments on deliverables in the draft stage, will participate in the public process to the greatest extent possible, and will provide in-kind technical services identified below. The Department welcomes draft materials at any stage of the project. The City will, at the Department's request, make materials available where appropriate in both paper and an electronic format compatible with Wordperfect 5.1. The City agrees that the funds provided for this project will not be used to benefit any particular parcel or parcels of land in the City, or any particular owner or owners of land in the City, or *any particular proponent of development of land in the City*. The money provided by the State for this project is for the benefit of the entire community.

Milestone Dates for Deliverables:

First Milestone:	September 30, 1994
Second Milestone:	December 31, 1994
Third Milestone:	March 31, 1995
Final Milestone:	June 30, 1995

First Milestone Deliverables:

Item 1: Goal Statement

A statement of our objectives for the Development Guidelines and for the process of developing and testing them. This goal statement will guide our decision making throughout the process. The goal statement will be arrived at based on a SEPA Scoping session.

Department involvement: Department will participate in the Scoping session, and will review and comment on the goal statement.

Item 2: Research Paper on Comparative Development Guidelines

This will be a "review of the literature" on other jurisdictions' development regulations and guidelines that have been developed to date that may be of interest to Washington's GMA communities.

Department involvement: The Department will provide information and technical assistance in the preparation of this research paper.

Item 3: Selection of model(s) of development processes that Duvall would like to test, and begin DEIS process. (See Item 4)

Based on our "review of the literature" and our own experiences in land use regulation, the City will choose one or more *alternative* land use regulation processes to test.

Department involvement: Department will participate in the workshop session and/or team review, and will comment on the choices made.

Second Milestone Deliverables:

Item 4: Selection of fictitious prototype development sites and projects.

The prototype development projects are example of the types of development we have seen or are likely to see in Duvall. We will use these development examples to test the regulation process. The examples will include, at a minimum, an infill development, a re-development and a development on vacant land, and will vary the physical constraints, types of uses, etc.

Department involvement: Department will participate in the workshop session and/or team review, and will comment on the choices made.

Item 5: Draft Alternative Development Guidelines consisting of

- A. Zoning Code
- B. Land Use regulation processes, including subdivision regulations, SEPA, Annexations, Design Review, etc.
- C. Engineering Standards and Building Codes

These may be worked on simultaneously, and by other City staff and consultants (e.g., Hammond, Collier & Wade-Livingstone will be working on the Engineering Design Standards under the direction of the City Engineer).

Department involvement: The Department will provide information and technical assistance in the preparation of these development regulations.

The City will participate in at least one workshop sponsored by the Department and make a presentation regarding the project. The City will also be available to make informal reports as needed to facilitate communication between all CTED SEPA/GMA Integration grantees and to respond to requests for information from the executive and legislative branches of state government.

Third Milestone Deliverables:

Item 6: Publish a Draft EIS that evaluates the impacts of the No Action Alternative (Duvall's current land use regulations) and Alternative development processes.

Department involvement: The Department will provide information and technical assistance in the preparation of the Draft EIS.

Item 7: Public Review of DEIS and Development Guidelines

Department involvement: The Department will participate in the public review process, as desired.

Item 8: Publish Final EIS with responses to comments on the Draft EIS.

Department involvement: The Department will provide technical assistance and review of the Final EIS.

Item 9: Review of Development Guidelines by the Planning Commission and by City Council prior to adoption.

The Draft Development Guidelines will go through review by the Planning Commission and the City Council, and any modifications will be made to reach an ordinance that can be adopted by the City Council. *If modifications are substantial in nature, a supplemental environmental analysis may be necessary.*

Department involvement: The Department may participate in the public process as much as practicable, and may also provide technical assistance in the process of modifying the Draft Development Guidelines.

The City will participate in meetings and/or workshops mutually agreed upon by and between the Department and the City.

Fourth Milestone Deliverables:

Item 10: A research report on the results of the process that may be reviewed and used by other GMA communities.

The City will participate in meetings and/or workshops mutually agreed upon by and between the Department and the City.

Additional Department Responsibilities

The Department shall be responsible for the following:

1. The Department shall provide reasonable technical assistance to the project to be more specifically determined by the Department and the City as the project progresses.
2. The Department shall provide assigned staff to monitor progress and to participate in the project in a manner to be mutually agreed upon by and mutually beneficial to the Department and the City.
3. The Department will have primary responsibility for coordinating and communicating this project and its results to the executive and legislative branches of state government and to other state agencies. The City agrees to assist and participate in this effort.
4. The Department will participate in the development of deliverables to ensure Department objectives.
5. The Department will communicate directly with the City or its designee in all matters relating to deliverables.

AMENDMENT TO
INTERGOVERNMENTAL AGREEMENT

WASHINGTON STATE
DEPARTMENT OF COMMUNITY, TRADE AND ECONOMIC DEVELOPMENT

and the

CITY OF DUVALL

CONTRACT NUMBER: 1 - 95 - 16606

The purpose of this amendment is to change the services to be performed for the SEPA/GMA Integration Grant project to reflect revised timelines and deliverables. Milestone dates for deliverables are changed as indicated below. Items 4 and 5 below replace Items 4 and 5 in the original Attachment: Scope of Work. Items 7, 8, and 9 in the original Attachment: Scope of Work are deleted; Items 7 and 8 below are added to the Scope of Work.

Milestone Dates for Deliverables

- A. The City has submitted to the Department Items 1, 2, and 10 in the original Attachment: Scope of Work.
- B. Items 3 through 7 shall be submitted on or before June 30, 1995:

Item 3. Models of development processes that Duvall will test

Item 4. Definition and description of separate districts within the City that will be affected differently by land use regulations in the proposed Development Regulations (including Old Town, Mid-Town, and New Town)

Item 5: Draft proposed Development Regulations

Item 6: Draft Environmental Impact Statement (EIS) on the Proposed Development Regulations

Item 7: A description of the manner in which the public is notified of the availability of the draft proposed Development Regulations and the Draft EIS, and a description of the opportunities that citizens will have to review and comment on the documents.

- C. Item 8, the Final EIS and proposed Development Regulations, shall be submitted to the Department at the time of their publication.

Milestone Deliverables

Item 4: Definition and description of separate districts within the City that will be affected differently by land use regulations in the proposed Development Regulations. Each of the districts will be described in the Draft EIS, and the impacts of the proposed Development Regulations on each district and on the City as a whole will be analyzed.

These districts will include Old Town, an historic area where infill development and redevelopment on small parcels are likely to occur; Mid-Town/Brown Avenue, a newer section of town where infill development and redevelopment on larger parcels are likely to occur; and New Town/Big Rock Road, where development on large parcels of vacant land is likely to occur.

Department involvement: The Department will review and comment on the analysis in the EIS.

Item 5: Draft proposed Development Regulations consisting of:

- A. Procedures for application for and administration, review, and approval of development permits
- B. Zoning designations, permitted uses, and maps
- C. General development requirements including density, design, parking, signs, landscape, and critical areas requirements

Department involvement: The Department will provide information and technical assistance in the preparation of these development regulations.

Item 7: A description of the manner in which the public is notified of the availability of the draft proposed Development Regulations and the Draft EIS, and a description of the opportunities that citizens will have to review and comment on the documents. (See the SEPA Rules, WAC 197-11-455, -502(5), -510, and -535.) Submittals to the Department shall include:

- A. A copy of the SEPA notice of Draft EIS availability sent to the Department of Ecology
- B. A copy of any legal or other type of notice or story published in a newspaper of general circulation inviting comment on the proposed Regulations and the Draft EIS
- C. A list of all agencies with jurisdiction, organizations, and individuals to whom a notice was mailed
- D. Notices and agendas for any public meetings scheduled to invite comment on the proposed Regulations and Draft EIS

Department involvement: The information will be made part of the permanent grant file.

Item 8: The City agrees to cooperate with the Department after June 30, 1995, on matters relevant to the City's SEPA/GMA Integration Grant project funded by this contract by providing the Department with a copy of all comments on the Draft EIS, a copy of the Final EIS and responses to comments, and the final proposed Development Regulations at such time as the documents are published.

Department involvement: The comments, Final EIS, and final proposed Development Regulations will be made part of the permanent grant file.

NO OTHER PART OF ATTACHMENT: SCOPE OF WORK IS CHANGED BY THIS AMENDMENT.

THIS AMENDMENT SHALL BE READ IN CONJUNCTION WITH THE ORIGINAL CONTRACT. EACH AND EVERY PROVISION OF THE ORIGINAL CONTRACT, EXCEPT AS AMENDED HEREIN, SHALL REMAIN IN FULL FORCE AND EFFECT. THE ABOVE-REFERENCED CONTRACT AND ATTACHMENT ARE AMENDED TO REFLECT THE PROVISIONS OF THIS AMENDMENT AND ARE BY THIS REFERENCE INCORPORATED INTO THIS CONTRACT.

THE PARTIES TO THIS AGREEMENT HEREBY ACKNOWLEDGE AND ACCEPT THE TERMS AND CONDITIONS OF THIS AMENDMENT.

Steve Wells

Steve Wells, Assistant Director
Department of Community, Trade
and Economic Development

Date: 6-19-95

Ken Kuntz

Ken Kuntz, Mayor
City of Duvall

Date: 6/9/95

Approved as to form:

Assistant Attorney General

Date: _____