

**BEFORE THE BOARD OF COUNTY COMMISSIONERS
OF LEWIS COUNTY, WASHINGTON**

IN RE:

APPROVAL OF AN INTERGOVERNMENTAL AGREEMENT)
BETWEEN THE OFFICE OF COMMUNITY DEVELOPMENT)
AND LEWIS COUNTY PROVIDING GRANT FUNDING FOR)
THE PRODUCTION OF AND ENVIRONMENTAL IMPACT)
STATEMENT FOR THE COMPREHENSIVE PLAN)

RESOLUTION NO. 01 - 142

WHEREAS, Lewis County adopted a Comprehensive Plan and Environmental Impact Statement (EIS) on June 1, 1999; and

WHEREAS, The Western Washington Growth Management Hearings Board has expressed concerns that the EIS adopted with the Comprehensive Plan was not adequate for compliance with the Growth Management Act; and

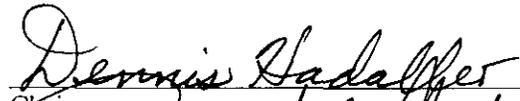
WHEREAS, Lewis County desires to comply with the GMA; and

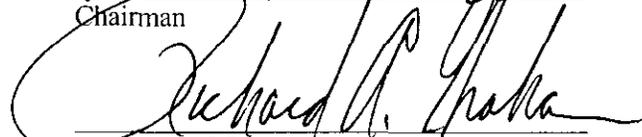
WHEREAS, the Washington State has indicated that it will provide funding of ten thousand dollars (\$10,000) for completion of an EIS;

NOW, THEREFORE, in consideration of covenants, conditions, performances, and promises hereinafter contained in the attached "Intergovernmental Agreement Washington State Department of Community, Trade and Economic Development, Contract Number s01-62900-055", the Board of County Commissioners approves the attached Intergovernmental Agreement.

DONE IN OPEN SESSION this 9 day of April, 2001.

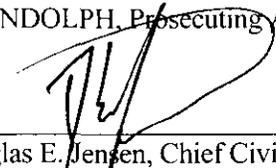
**BOARD OF COUNTY COMMISSIONERS
LEWIS COUNTY, WASHINGTON**


Chairman


Member


Member

APPROVED AS TO FORM:
JEREMY RANDOLPH, Prosecuting Attorney

By: 
Douglas E. Jensen, Chief Civil Deputy

ATTEST:


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

CONTRACT NUMBER: s01-62900-055

This AGREEMENT, entered into by and between Lewis County (hereinafter referred to as the COUNTY) 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 43.330.050(5) 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 financial assistance and incentives to counties, cities, and towns to encourage and facilitate the adoption and implementation of comprehensive plans and development regulations throughout the state; and

WHEREAS, the DEPARTMENT desires to engage the COUNTY to perform certain tasks as hereinafter specified.

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 COUNTY, for the agreement period shall not exceed ten thousand dollars (\$10,000).

2. AGREEMENT PERIOD
The effective date of this AGREEMENT shall be July 1, 2000. The termination date shall be June 30, 2001.

3. SERVICE PROVISIONS
Funds provided to the COUNTY under this AGREEMENT shall be used solely for activities undertaken to fulfill the mandates required by the Growth Management Act to implement the COUNTY'S growth management strategy as described in ATTACHMENT: SCOPE OF WORK, which, by this reference, is made a part of this AGREEMENT.

4. REIMBURSEMENT PROVISIONS

The COUNTY shall submit an invoice voucher (Form A-19) to the DEPARTMENT upon signing this AGREEMENT for an amount equal to seventy-five percent (75%) of the total amount of funds specified in this AGREEMENT. No later than June 15, 2001, the COUNTY shall submit an invoice voucher for the remainder of the total grant amount specified in this AGREEMENT. Upon submittal of and accompanying the final voucher to the DEPARTMENT for the remainder of the amount specified in this AGREEMENT the COUNTY shall submit to the DEPARTMENT a written report on the status of the activities set forth in ATTACHMENT: SCOPE OF WORK.

5. EVALUATION AND MONITORING

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 COUNTY'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 six 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 COUNTY may, from time to time, request changes to this AGREEMENT. Any such changes that are mutually agreed upon by the DEPARTMENT and the COUNTY 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. DISPUTES

Except as otherwise provided in this contract, when a bona fide dispute arises between the parties and it cannot be resolved through discussion and negotiation, either party may request a dispute hearing. The parties shall select a dispute resolution team to resolve the dispute. The team shall consist of a representative appointed by the DEPARTMENT, a representative appointed by the COUNTY and a third party mutually agreed by both parties. The team shall attempt, by majority vote, to resolve the dispute. The parties agree that this dispute process shall precede any action in a judicial or quasi-judicial tribunal.

9. TERMINATION OF AGREEMENT

- A. If, through any cause, the COUNTY shall fail to fulfill in a timely and proper manner its obligations under this AGREEMENT, or if the COUNTY 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 COUNTY 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 COUNTY, and not otherwise paid for by the DEPARTMENT prior to the effective date of such termination, shall be as the DEPARTMENT reasonably determines.

10. 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.

11. AMERICANS WITH DISABILITIES ACT

The DEPARTMENT and the COUNTY agree to comply with all the provisions of the Americans with Disabilities Act (Public Law 101-336), as amended and codified at 42 U.S.C. §§ 10201 et seq., and 28 CFR Part 35 and all other regulations interpreting or enforcing the Act.

12. 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 COUNTY, 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.

13. 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.

14. 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, and 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.

15. RECAPTURE PROVISION

A. In the event that the COUNTY fails to expend state funds in accordance with state law 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 COUNTY of state funds under this recapture provision shall occur within thirty (30) days after a final determination by the appropriate COUNTY official or a judicial authority that such funds must be repaid, whichever is earlier. In the event that the DEPARTMENT is required to institute legal proceedings to enforce the recapture provision, the DEPARTMENT shall be entitled to its costs therefor, including reasonable attorneys' fees. If the COUNTY prevails, the COUNTY shall be entitled to its costs therefor, including reasonable attorneys' fees.

16. 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.

17. ADMINISTRATION

The program manager for each of the parties shall be responsible for and shall be the contact person for all communications and billings regarding the performance of this Agreement.

The Program Manager for CTED is Peter Riley, 906 Columbia Street SW, PO Box 48350, Olympia, Washington 98504-8350. Phone: (360) 725-3059).

The Program Manager for the COUNTY is Robert Johnson, 350 North Market Boulevard, Chehalis, Washington 98532. Phone: (360) 740-2773.

**ATTACHMENT: SCOPE OF WORK
LEWIS COUNTY
CONTRACT s01-62900-055**

**Completion of a Supplemental Environmental Impact Statement
for the Lewis County Comprehensive Plan
and Implementing Development Regulations**

Lewis County is responsible for the presentation of all contract deliverables set forth below. The process and product shall be substantially consistent with the Jurisdiction's grant application submitted to the Department for this round of funding and with the requirements of the Growth Management Act. Deliverables will be provided to the Department in paper format. At the Department's or Lewis County's request, deliverables may be provided in electronic format.

Project Description: Lewis County is required by the Growth Management Act (GMA) to adopt a Comprehensive Plan and development regulations. These actions are subject to the requirements of the State Environmental Policy Act (SEPA). A combined plan and Environmental Impact Statement (EIS) was adopted under GMA and issued under State Environmental Policy Act (SEPA) in June of 1999. The adequacy of the EIS was challenged and the Western Washington Growth Management Hearing Board subsequently found it out of compliance. In the meantime, the County has been preparing separate *environmental documents for a number of separately adopted development regulations.*

It is the desire of the County to be fully compliant with the GMA and to provide the public and decision makers with a full and proper assessment of the anticipated impacts of the plan and implementing development regulations under SEPA. The County will contract with a consultant to prepare a single new EIS for the current comprehensive plan and development regulations. It is possible that the SEPA review could result in recommended *changes to the plan or development regulations as they currently exist.* The County will incorporate April 15, 2001 Hearings Board findings, if necessary and as appropriate, into this SEPA process.

Milestones:

March 2001—Contract with a consultant for the preparation of an EIS in association with the *Lewis County Comprehensive Plan and implementing development regulations.*

March through June 30, 2001—Consultant will perform necessary analysis and prepare a draft document for County review.

July 2001—County will circulate the Draft EIS and take comments.

August 2001—County will prepare *Final EIS for publication.*

October 2001—County will issue final EIS.

Deliverables: The completed project will result in a draft and final EIS. Although an issueable DEIS is not expected to be completed until late July, the deliverable for this contract

is a draft document that is substantially consistent with the SEPA requirements for a DEIS.

Resources: Lewis County planning staff will perform most of the functions necessary to complete the project. Most of the costs will be borne by Lewis County in the form of staff salaries, costs associated with publication, copying, rental of meeting rooms, etc. The County will also provide a cash contribution of \$20,000 for a consultant to prepare the draft and final documents.

Status Report: A brief status report will be sent on or about May 15, 2001, indicating progress on the project.

Close-out-Report: A brief contract close-out report will be submitted on or before June 30, 2001 highlighting project successes of the project to date.

Final Report: A brief final report will be submitted within 21 days of issuance of the FEIS to highlight project successes and to complete the OCD file.