

MOTION NO. 8506

A MOTION authorizing the executive to submit an application for 1991-1992 Washington Department of Community Development Growth Management Act grant funds and authorizing the executive to execute interlocal agreements with the Washington Department of Community Development and Municipal jurisdictions for the distribution of grant funds.

WHEREAS, the Growth Management Acts of 1990 and 1991 direct jurisdictions to prepare comprehensive plans which are consistent and require the adoption of countywide planning policies, and

WHEREAS, the Legislature has appropriated grant funds to assist local jurisdictions in implementing the requirements of the Growth Management Act, and

WHEREAS, King County jurisdictions as a region will receive \$2,290,066 in grant funds for the 1991-1992 fiscal year, and

WHEREAS, 60% of the county's general purpose governments representing 75% of the population must agree to a grant distribution formula and a regional work program in order to apply for the grant funds, and

WHEREAS, the King County Council adopted Motion 8087 in 1990 which approved the 1990-1991 grant distribution formula, regional work program and designation of King County as the fiscal agent to receive and distribute state growth management grant funds, and

WHEREAS, every King County city adopted a resolution approving the 1990-1991 grant distribution formula, regional work program, and fiscal agent designation, and

WHEREAS, the King County Council adopted Motion 8160 in 1991 authorizing the executive to enter into interlocal agreements with jurisdictions to distribute 1990-1991 growth management grant funds, and

WHEREAS, the King County Liaison Group, an interjurisdictional group of planning, public works, and finance officials has recommended a grant distribution formula, Joint Regional Strategy for 1992, and designation of King County as fiscal agent, and

WHEREAS, King County and municipal jurisdictions are authorized under RCW 39.34 to enter into interlocal agreements;

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1 NOW THEREFORE BE IT MOVED by the Council of King County:

2 A. The King County executive is authorized to apply for State of
3 Washington 1991-1992 Growth Management Act grant funds and execute resulting
4 agreements with the Washington Department of Community Development. The
5 application includes approval of the following:

6 1. 1992 Joint Regional Strategy.

7 2. Grant Allocation Formula which is governed by the following
8 provisions:

9 a. A total of \$332,000 is reserved to support regional efforts in
10 the form of Countywide Planning Policies (\$246,000) and Technical Forum and
11 Work Group staffing (\$86,000);

12 b. Each jurisdiction's \$35,000 base plus per capita allocation
13 is reduced by 14.5% to equally support the regional efforts;

14 c. Jurisdictions which are partially within King County and an
15 adjacent county will have their base amount adjusted based on the proportion
16 of their population located within King County; and

17 d. Unallocated funds shall be distributed according to the formula
18 described above.

19 3. Designation of the Liaison Group to oversee the accomplishment of
20 the Joint Regional Strategy for 1992.

21 4. Designation of King County as the fiscal agent for the purpose of
22 submitting the King County regional application in the form of adopted
23 resolutions from participating jurisdictions and receiving and distributing
24 grant funds according to the approved allocation formula.

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1 B. The King County executive is authorized to enter into interlocal
2 agreements, substantially in the form of Attachment A, with participating
3 jurisdictions for the purpose of distributing 1991-1992 State of Washington
4 Growth Management Act grant funds.

5 PASSED THIS 10th day of February, 19 92.

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7 KING COUNTY COUNCIL
KING COUNTY, WASHINGTON

8 Audrey Gruger
9 Chairman

10 ATTEST:

11 Gerald A. Peterson
12 Clerk of the Council

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ATTACHMENT A

8506

**A SERVICE AGREEMENT FOR THE DISTRIBUTION AND ADMINISTRATION OF CERTAIN
WASHINGTON DEPARTMENT OF COMMUNITY DEVELOPMENT GRANT FUNDS UNDER THE STATE OF
WASHINGTON GROWTH MANAGEMENT ACT OF 1990**

THIS AGREEMENT, signed this _____ day of _____,
199_____ by and between King County and the City/Town of _____
_____ ("the Municipal Jurisdiction").

WHEREAS, the Washington State Legislature passed the Growth Management Act of 1990 and 1991 (Chapter 17), hereinafter referred to as "the Act," which requires all jurisdictions in the County of King to prepare comprehensive plans consistent with new guidelines; and

WHEREAS, the Act requires that jurisdictions prepare these plans in cooperation with neighboring units of general government; and

WHEREAS, the State of Washington through the adoption and administration of the Act will make funds available to local jurisdictions through the State of Washington Department of Community Development, hereinafter referred to as DCD, for expenditure during the 1991-1992 funding years; and

WHEREAS, the Act directs DCD to establish funding levels for planning and technical assistance grants for counties and cities that plan under this Act and DCD has allocated approximately \$2.29 million dollars to King County jurisdictions; and

WHEREAS, King County and the municipal jurisdictions within King County have been designated together as a county region by DCD for the purpose of receiving DCD funds; and

WHEREAS, DCD requires King County and the municipal jurisdictions within King County to develop a regional work program, hereinafter referred to as a "Joint Regional Strategy," for the 1992 calendar year and beyond for implementation of the Act and for the purpose of receiving DCD funds and to designate an institutional framework to coordinate the accomplishment of the Joint Regional Strategy; and

WHEREAS, DCD requires King County and the municipal jurisdictions within King County to develop an allocation formula for receipt of the DCD grant funds within the county region and designate a fiscal agent to receive and distribute DCD funds according to the approved allocation formula; and

WHEREAS, DCD requires that the Joint Regional Strategy and allocation formula be approved by 60% of legislative authorities of the county and municipal jurisdictions within King County representing 75% of the total population of King County; and

WHEREAS, only King County and municipal jurisdictions which have adopted the Joint Regional Strategy and have agreed to the allocation formula by resolution, motion, or ordinance will be eligible to receive DCD grant funds; and

WHEREAS, in 1991 King County and municipal jurisdictions entered into interlocal agreements for the distribution of 1990-1991 DCD Growth Management Act grant funds which included approving a 1991 Joint Regional Strategy and grant allocation formula; and

WHEREAS, the King County Liaison Committee, which consists of Planning Directors, Public Works Directors and Finance Directors representing King County, the City of Seattle, and other municipal jurisdictions within King County, recommends the Joint Regional Strategy and the grant allocation formula contained herein; and

WHEREAS, King County has entered into a contract with DCD to serve as fiscal agent for the distribution of grant funds among King County and the municipal jurisdictions within King County; and

WHEREAS, in November 1991 the King County Council through the adoption of Ordinance #10182, Section 76, appropriated DCD funds for distribution to King County and the municipal jurisdictions within King County for the 1991-1992 funding year; and

WHEREAS, King County and the Municipal Jurisdiction enter into this Agreement pursuant to and in accordance with the State Interlocal Cooperation Act, RCW Chapter 39.34, for the purpose of distributing and administrating DCD funds and for the execution of activities in accordance with and under authority of the Act;

NOW, THEREFORE, IN CONSIDERATION OF THE FOREGOING CIRCUMSTANCES AND IN CONSIDERATION OF THE MUTUAL PROMISES HEREIN, IT IS AGREED THAT:

I. GENERAL AGREEMENT

King County and the Municipal Jurisdiction agree to comply with the provisions of the "Joint Regional Strategy," which is attached hereto as Attachment 1 and is incorporated herein as is fully set forth, by undertaking growth management activities, including coordination of planning efforts to achieve consistency, the development of a public participation process, and undertaking other coordinated planning activities as specified in the Growth Management Act of 1990 and 1991.

II. ENTITLEMENT

The parties agree that the allocation of funds appropriated by the State of Washington Department of Community Development ("DCD") among King County and the municipal jurisdictions within King County shall be governed by the following provisions as outlined in the Grant Allocation Formula, which is attached hereto as Attachment 2 and is incorporated herein as is fully set forth:

- A. By entering this Agreement the Municipal Jurisdiction is eligible to receive a direct share, hereinafter referred to as a pass-through, of DCD funds as calculated in the Grant Allocation Formula, which is based on the following principles:
1. Of the total DCD grant to King County, \$332,000 shall be reserved for county-wide efforts. This results in the Municipal Jurisdiction Share calculated under subsections A.2 and A.3 below being reduced by fourteen and one-half percent (14.5%).
 2. The pass-through shall include a minimum amount of \$35,000.
 3. The remainder of the funds shall be allocated on a per capita basis based on a proportional distribution of total population with King County as determined in the April 1991 estimate by the State of Washington Office of Financial Management.
 4. If the Municipal Jurisdiction is partially within King County and partially within an adjacent county, it shall have its base amount adjusted based on the proportion of its population which is located in King County.
- B. King County shall distribute any unallocated funds in the same manner as described in paragraph II(A)(2) above or in another manner approved by King County and a minimum of nineteen (19) municipal jurisdictions within King County. Together the population of unincorporated King County and the approving municipal jurisdictions must represent 75% of the total population of King County.

- C. This Agreement is contingent upon the adoption of a resolution, motion, or ordinance by the Municipal Jurisdiction approving the Joint Regional Strategy and Grant Allocation Formula for DCD grant funds and of a municipal work program which outlines the Municipal Jurisdiction's implementation of the Act or the Joint Regional Strategy.

III. REIMBURSEMENT PROVISIONS

The parties agree that King County is the designated fiscal agent for the distribution of DCD funds under the terms of this Agreement. Within ten (10) business days after receiving each quarterly warrant from DCD, King County shall issue a warrant to the Municipal Jurisdiction for an amount equal to one quarter (to the nearest dollar) of the total amount the Municipal Jurisdiction is entitled to receive according to the Grant Allocation Formula.

IV. USE OF FUNDS: GENERAL PROVISIONS

- A. Funds provided to the Municipal Jurisdiction under this Agreement shall be used solely for activities undertaken to fulfill the requirements of the Act and to implement the Joint Regional Strategy.
- B. The Municipal Jurisdiction agrees to conduct the appropriate citizen participation activities as required by the Act, Section 14. Such activities shall include the broad dissemination of proposals and alternatives, opportunity for written comments, public meeting after effective notice, provisions for open discussion, communication programs, information services, and consideration of and response to public comments.

V. ROLE OF THE LIAISON GROUP

The parties agree that the King County Liaison Group (Attachment 3), which consists of the planning directors, public works directors, and finance directors or their designees from King County, the City of Seattle, and other municipal jurisdictions within King County, shall serve as a joint forum for the review and recommendation of policy matters and state requirements to the legislative authorities of King County and the municipal jurisdictions within King County. The parties hereby agree that the Liaison Group shall prepare for DCD an annual regional progress report which describes accomplishments of the Joint Regional Strategy.

VI. RESPONSIBILITIES AND POWERS OF THE MUNICIPAL JURISDICTION

The Municipal Jurisdiction shall have the following responsibilities and powers:

- A. The Municipal Jurisdiction shall propose to its legislative authority a local work program which includes an examination of its role in recognizing and addressing regional or county-wide needs through a coordinated funding approach with King County and other municipal jurisdictions.
- B. The Municipal Jurisdiction shall prepare an annual progress report in accordance with the primary objectives and requirements of the Act, Section 19. The Municipal Jurisdiction's annual progress report shall be sent to the Office of the Manager, King County Planning and Community Development Division, 707 Smith Tower Building, 506 Second Avenue, Seattle, Washington 98104.
- C. The Municipal Jurisdiction shall exercise its discretion in determining the use of its pass-through funds in a manner consistent with the Act and the Joint Regional Strategy including the Municipal Jurisdiction's local policies.

- D. The Municipal Jurisdiction agrees to propose to its legislative authority activities and budgets for inclusion in the implementation of the Joint Regional Strategy.
- E. The Municipal Jurisdiction shall send representatives to participate actively in technical forums for the purpose of accomplishing the Joint Regional Strategy.
- F. The Municipal Jurisdiction shall prepare and submit to King County for transmittal to DCD a short written description of high priority growth management work program projects upon which the Municipal Jurisdiction intends to begin work during the period between July 1, 1991 and June 30, 1992. This description shall include reference to work program projects which implement the Joint Regional Strategy.
- G. The Municipal Jurisdiction undertaking activities and/or projects with DCD funds distributed under this Agreement retains full civil and criminal liability as though these funds were locally generated.
- H. The Municipal Jurisdiction shall fully comply with the State Environmental Policy Act.
- I. The Municipal Jurisdiction shall maintain accounts and records, including personnel, property, financial, and programmatic records, and other such records as deemed necessary, to ensure proper accounting for all project funds and compliance with this Agreement. All such records shall sufficiently and properly reflect all direct and indirect costs of any nature expended and services provided in the performance of this Agreement. These records shall be maintained until June 30, 1994, unless a longer retention period is required by law.

VII. RESPONSIBILITIES AND POWERS OF KING COUNTY

King County, by and through its employees, agents, and representatives, agrees to:

- A. Obtain and present to the Liaison Group all applicable State and DCD policy guidelines, special conditions, and format requirements related to the implementation of the Joint Regional Strategy and related to the administration of the grant funds distributed pursuant to the Act, Section 20.
- B. Prepare and present to DCD the annual progress report regarding the implementation of the Joint Regional Strategy as required by DCD pursuant to the Act, Section 19.
- C. Identify supplemental sources of funding to increase the ability of King County and the municipal jurisdictions within King County to carry out effective growth management activities.
- D. Prepare reports, organize meetings and technical forums/work groups as needed for the Liaison Group to assist in the implementation of the Joint Regional Strategy.

VIII. GENERAL TERMS

- A. This Agreement for the 1991-1992 fund distribution shall be effective July 1, 1991 through June 30, 1992. The parties acknowledge, however, that commitments to accomplish the Joint Regional Strategy do not terminate with this Agreement. The parties agree to use their best efforts to work with DCD to secure additional funding beyond the 1991-1992 funding period and to execute subsequent agreements.
- B. The King County Council through the adoption of Ordinance #10182, Section 76 appropriated DCD funds for distribution to King County

and the municipal jurisdictions within King County for the 1991-1992 funding year;

- C. It is recognized that amendments to this Agreement may become necessary, and such amendment shall take place only when the parties have executed a written addendum to this Agreement.

IX. EVALUATION AND MONITORING

- A. The records and documents with respect to all matters covered by this Agreement shall be subject to inspection, review, or audit by King County so authorized or as requested by DCD during the performance of this Agreement and until June 30, 1994, unless a longer retention period is required by law.
- B. The Municipal Jurisdiction agrees to cooperate with any monitoring or evaluation activities conducted by King County that pertain to the subject of this Agreement. The Municipal Jurisdiction agrees to allow King County, DCD, the State Auditor, and/or any of their employees, agents, or representatives to have full access to and the right to examine during normal business hours and as often as King County may deem necessary, all of the Municipal Jurisdiction's records with respect to all matters covered by this Agreement. King County and/or any of its employees, agents, or representatives shall be permitted to audit, examine, and make excerpts or transcripts from such records and to make audits of all invoices, materials, payrolls, and record of matters covered by this Agreement. King County will give advance notice to the Municipal Jurisdiction in the case of fiscal audits to be conducted.
- C. The results and records of said evaluation shall be maintained and disclosed in accordance with RCW Chapter 42.17.

X. HOLD HARMLESS

- A. King County assumes no responsibility for the payment of any compensation, wages, benefits, or taxes to or on behalf of the Municipal Jurisdiction, its employees, or others by reason of this Agreement. The Municipal Jurisdiction shall protect, indemnify and save harmless King County, its officers, agents, and employees from and against any and all claims, costs, and losses whatsoever occurring or resulting from (1) the Municipal Jurisdiction's failure to pay any such compensation, wages, benefits, or taxes; and (2) the supplying to the Municipal Jurisdiction of work, services, materials, or supplies by municipal employees or others in connection with or in support of the performance of this Agreement.
- B. The Municipal Jurisdiction further agrees that it is financially responsible for and shall repay King County all indicated amounts following an audit exception which occurs due to the negligence, intentional acts or failure for any reason to comply with the terms of this Agreement by the Municipal Jurisdiction, its officers, employees, agents, or representatives. This duty to repay King County shall not be diminished or extinguished by the prior termination of this Agreement pursuant to Section VIII or Section IX.
- C. The Municipal Jurisdiction shall protect, defend, indemnify, and save harmless King County and the State of Washington, their officers, employees, and agents from any and all costs, claims, judgments, or awards of damages, arising out of or in any way resulting from the negligent acts or omissions of the Municipal Jurisdiction, its officers, employees, or agents. The Municipal Jurisdiction agrees that its obligations under this subparagraph extend to any claim, demand, or cause of action brought by or on behalf of any employee of the Municipal Jurisdiction against King County, its officers, agents, or employees, and includes any judgment, award, and cost arising therefrom, including attorney fees.

King County shall protect, defend, indemnify, and save harmless the Municipal Jurisdiction, its officers, employees, and agents from any and all costs, claims, judgments, or awards of damages, arising out of or in any way resulting from the negligent acts or omissions of King County, its officers, employees, or agents. King County agrees that its obligations under this subparagraph extend to any claim, demand, or cause of action brought by or on behalf of any employee of King County against the Municipal Jurisdiction, its officers, agents, or employees, and includes any judgment, award, and cost arising therefrom, including attorney fees.

Claims shall include, but not be limited to, assertions that the use or transfer of any software, book, document, report, film, tape, or sound reproduction or material of any kind, delivered hereunder, constitutes an infringement or any copyright, patent, trademark, trade name, or otherwise results in unfair trade practice.

- D. The Municipal Jurisdiction shall provide King County with evidence of general liability insurance with limits of no less than \$1 million per occurrence to provide coverage for claims for injuries to persons or damages to property which may arise from, or in connection with the performance of work hereunder by the Municipal Jurisdiction, its agents, representatives, employees, or subcontractors. If the Municipal Jurisdiction is self-insured for this requirement, a certification of self-insurance shall constitute compliance with this section.

XI. TERMINATION

- A. This Agreement may be terminated without cause by King County, in whole or in part, prior to the date specified in Section VIII, upon thirty (30) days advance written notice of the termination to the Municipal Jurisdiction.
- B. If at any time during the term of this Agreement, either (1) the State of Washington terminates King County's DCD grant status, or otherwise acts to terminate, reduce, modify, or withhold its grant funding to King County, or (2) any necessary appropriations of funds for the Municipal Jurisdiction are not made to King County by the State of Washington, or are revoked or withheld, or (3) the King County Council does not appropriate DCD funds for distribution to the Municipal Jurisdiction, then King County may terminate this Agreement upon giving twenty (20) days' written notice to the Municipal Jurisdiction. The parties acknowledge that, except as otherwise specifically provided for herein, King County shall in no event be responsible for the payment of any funds to the Municipal Jurisdiction. King County, as the official fiscal agent, shall have the authority and responsibility to ensure that upon termination of this Agreement, any remaining DCD funds are made available in the manner described in paragraph II(C) above and in accordance with state regulations, or returned to DCD.
- C. Nothing herein shall limit, waive, or extinguish any right or remedy provided by this Agreement or law that either party may have in the event that the obligations, terms, and conditions set forth in this Agreement are breached by the other party.

XII. REDUCTION OF FUNDS

In the event that there is a reduction of funds by the State of Washington or DCD, and if such funds are the basis for this Agreement, then King County may unilaterally terminate all or part of this Agreement, or King County and the Municipal Jurisdiction may reduce their respective scopes of work or budgets under this Agreement.

XIII. 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.

XIV. RECAPTURE PROVISION

- A. In the event that DCD elects to recapture funds from either King County or the Municipal Jurisdiction for failure to expend grant funds in accordance with state law and/or the provisions of this Agreement, King County reserves the right to recapture such funds on behalf of DCD 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 this Agreement. Repayment by the Municipal Jurisdiction of such funds under this recapture provision shall occur within thirty (30) days of demand. Funds recaptured by King County shall be returned to DCD. In the event that King County is required to institute legal proceedings to enforce the recapture provision, or is required to participate in legal proceedings as a result of the Municipal Jurisdiction's noncompliance with the provisions of this Agreement, or is required to reimburse the State of Washington for the cost of legal proceedings, then King County shall be entitled to reimbursement of its costs from the Municipal Jurisdiction, including reasonable attorney's fees.

XV. NONDISCRIMINATION

There shall be no discrimination against any employee or independent contractor paid by any funds which are the subject of this Agreement or against any applicant for such employment because of race, religion, color, sex, age, sexual orientation, 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.

The Municipal Jurisdiction and any independent contractor paid by funds which are the subject of this Agreement shall comply with the requirements of Section 504 of the Rehabilitation Act of 1973, as amended.

XVI. RIGHTS TO OTHER PARTIES

It is understood and agreed that this Agreement is solely for the benefit of the parties hereto and conveys no right to any other party.

XVII. GOVERNING LAW AND FILING

This 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. This Agreement shall be filed with the city clerk of the Municipal Jurisdiction, the King County Records and Election Division, and the State of Washington Department of Community Development.

XVIII. ADMINISTRATION

- A. King County's representative shall be _____
 Address: _____

 Phone: _____

B. The Municipal Jurisdiction's representative shall be

Address: _____

Phone: _____

XIX. ENTIRE AGREEMENT/WAIVER OF DEFAULT

The parties agree that this Agreement is the complete expression of the terms hereto and any oral representations or understandings not incorporated herein are excluded. Both parties recognize that time is of the essence in the performance of the provisions of this Agreement. Waiver of any default shall not be deemed to be a waiver of any subsequent default. Waiver or breach of any provision of the Agreement shall not be deemed to be waiver of any other or subsequent breach and shall not be construed to be a modification of the terms of the Agreement unless stated to be such through written approval by King County, which shall be attached to the original Agreement.

KING COUNTY, WASHINGTON

MUNICIPAL JURISDICTION

King County Executive

Signature of
Designated Official

Official Title

City or Town

APPROVED AS TO FORM:

APPROVED AS TO FORM:

approved as to form only by
King County Prosecuting Attorney
per memo dated December 12, 1991

Official Title

GM2/gmagree7