

**CONTRACT AGREEMENT  
FOR  
CITY OF KALAMA PLANNING ASSISTANCE**

**THIS AGREEMENT** dated for reference purposes January 1, 2015 is entered into by and between the Cowlitz-Wahkiakum Council of Governments, a municipal corporation (hereinafter referred to as “COG”), and City of Kalama (hereinafter “Agency”), collectively the “Parties” and individually the “Party.”

**RECITALS**

**WHEREAS**, COG is a regional planning agency organized under RCW 36.64.080 to serve general and special purpose governments in the Cowlitz-Wahkiakum region; and

**WHEREAS**, Agency has expressed the necessity for professional planning services as specified in the Scope of Work; and

**WHEREAS**, the COG is qualified to provide such professional planning services with experienced and skilled staff;

**NOW, THEREFORE, IT IS MUTUALLY AGREED AS FOLLOWS:**

**1. PURPOSE**

- 1.1 COG agrees to perform and complete the work as described in Exhibit A – Scope of Work (hereinafter referred to as “work”), attached hereto and by this reference made a part of this Agreement.
- 1.2 Agency agrees to reimburse COG for the work as provided in Section 3 of this Agreement and as defined in Exhibit B – Compensation Rate, attached hereto and by this reference made a part of this Agreement.

**2. COG and AGENCY RESPONSIBILITIES**

**2.1 COG RESPONSIBILITIES**

- 2.1.1 The COG shall provide to the Agency professional planning staff to fulfill the Scope of Work as outline in Exhibit A.

**2.2 AGENCY RESPONSIBILITIES**

- 2.2.1 The Agency shall provide COG staff with applicable guidance, ordinances, background information and related documentation in its possession deemed necessary to accomplish the work as set forth in the Scope of Work, Exhibit A.

**3. PAYMENT**

- 3.1 Agency, in consideration of the faithful performance of the services to be provided by COG as described in Exhibit A – Scope of Work, agrees to reimburse COG for actual direct and related indirect costs of the work to a not-to-exceed maximum amount of \$20,000.
- 3.2 The compensation rate for services to be provided by COG is marked Exhibit B – Compensation Rates, and is attached hereto and by this reference made a part of this Agreement.

- 3.3 Upon request of COG and upon COG's submission to Agency of invoices and supporting materials as deemed appropriate by the Agency, payment shall be made by Agency to COG for expenses reasonably and necessarily incurred in performing the work. COG shall request reimbursement not more than one time per calendar month from Agency.
- 3.4 COG's request for reimbursement to the Agency shall detail the work accomplished during the current billing period, as well as a summary of the total costs billed to date. The invoice shall summarize all COG staff time and expenses.
- 3.5 To ensure payment, COG shall mail via United States Postal Service invoices and appropriate supporting materials to:
 

City of Kalama  
PO Box 1007  
Kalama, WA 98625
- 3.6 Agency shall make payment in full to COG within thirty (30) calendar days after its receipt of an appropriate invoice and appropriate supporting materials from COG.
 

Cowlitz-Wahkiakum Council of Governments  
207 4<sup>th</sup> Avenue, N. / Admin Annex  
Kelso, WA 98626
- 3.7 If there is a change in scope of work to be performed by COG that results in an increase in costs in excess of the maximum amount allowed under section 3.1 herein, the Parties shall enter into an amendment to this Agreement to document the change in scope and to increase the maximum amount reimbursable under this Agreement.
- 3.8 COG agrees to submit a final invoice to Agency within sixty (60) calendar days after COG has completed the work. At the time of final billing, all necessary adjustments will be made and reflected in the final payment. In the event that such final review or audit reveals overpayment to COG or under billings to Agency, COG agrees to refund any overpayment to the Agency within thirty (30) calendar days after receipt of an invoice from Agency and Agency agrees to reimburse the under billed amount to COG within thirty (30) calendar days after Agency's receipt of an invoice.

**4. AMENDMENT**

This Agreement sets forth the entire agreement between the parties with respect to the subject matter hereof and understandings, agreements, representations not contained in this Agreement shall not be binding on either Party. Either Party may request changes to the provisions of this Agreement. Such changes that are mutually agreed upon shall be incorporated by written amendment to this Agreement. No variation or alteration of the terms of this Agreement shall be valid unless made in writing and signed by authorized representatives of the Parties hereto.

**5. TERM / TERMINATION**

- 5.1 The term of this Agreement shall begin January 1, 2015 and terminate December 31, 2015, or earlier if agreed to in writing by the Parties, except as set forth below in this section. The term of this Agreement may be modified and continued by amendment for work beyond this date at the discretion of the Parties.

- 5.2 Either Party may terminate this Agreement at any time in the event the other Party fails to perform a material obligation of this Agreement or fails to perform any of the requirements of this Agreement, including, but not limited to, if either Party fails to make reasonable progress on the work or other violation of this Agreement that endangers substantial performance of the work. The Parties shall serve written notice of a Party's intention to terminate this Agreement setting forth in detail the reasons for such termination. The Party receiving such notice of intent to terminate shall be given the opportunity to remedy the default within fifteen (15) calendar days of receipt of such notice. If the default is not cured within the designated time period, this Agreement may be terminated immediately by written notice of the aggrieved Party to the other.
- 5.3 Either Party may terminate this Agreement for convenience and without cause upon thirty (30) days written notice to the other Party. The Agency shall pay in full for all services provided up to the date of termination of this Agreement.

**6. PARTY CONTACTS**

All contact between the Parties, including, but not limited to, Agreement administration, will be between the representatives of each Party or their designee as follows:

<b>COG</b>	<b>AGENCY</b>
William A. Fashing, Executive Director <a href="mailto:bfashing@cwccog.org">bfashing@cwccog.org</a>	Pete Poulsen, Mayor <a href="mailto:wwtp@portofkalama.com">wwtp@portofkalama.com</a>
Financial/Contract Designee: Anisa Kisamore, Office Administrator <a href="mailto:akisamore@cwccog.org">akisamore@cwccog.org</a>	Financial/Contract Designee: Coni McMaster, Clerk/Treasurer <a href="mailto:cityclerk@kalama.com">cityclerk@kalama.com</a>
Planning Scope of Work Designee: Matt Buchanan, Community Development Plnr <a href="mailto:mbuchanan@cwccog.org">mbuchanan@cwccog.org</a>	Planning Scope of Work Designee: Adam Smee, City Administrator <a href="mailto:asmee@kalama.com">asmee@kalama.com</a>
207 4 <sup>th</sup> Avenue, N. / Admin Annex Kelso, WA 98626	PO Box 1007 Kalama, WA 98625
Telephone: (360) 577-3041 Facsimile: (360) 425-7760	Telephone: (360) 673-4561 Facsimile: (360) 673-4560

**7. NOTIFICATION**

Any notice required pursuant to this Agreement shall be in writing and shall be sent postage prepaid by U.S. Mail, return receipt requested, to the individual(s) identified in Section 6.1 herein unless otherwise indicated in writing by the Parties to the Agreement.

**8. INDEMNIFICATION**

- 8.1 Each Party to this Agreement shall protect, defend, indemnify, and hold harmless the other Party, its officers, employees, and agents, while acting within the scope of their employment as such, from any and all costs (including reasonable attorneys' fees and costs), claims,



judgments, and/or awards of damages (both to persons and/or property), arising out of, or in any way resulting from, each of the Party's own negligent acts or omissions with respect to the provisions of this Agreement. No party will be required to indemnify, defend, or save harmless the other Party if the claim, suit, or action for injuries, death, or damages (both to persons and/or property) is caused by the sole negligence of the other Party. Where such claims, suits, or actions result from the concurrent negligence of the Parties, the indemnity provisions provided herein shall be valid and enforceable only to the extent of the Party's own negligent acts or omission. Each Party waives its immunity under Title 51 RCW to the extent it is required to indemnify, defend and hold harmless the other Party and its agencies, officials, agents or employees.

8.2 The indemnification obligation described in this section shall survive the termination of this Agreement.

## 9. DISPUTES

The designated representatives herein under Section 6 of this Agreement shall use their best efforts to resolve disputes between the Parties. If these individuals are unable to resolve a dispute, the Parties shall agree upon a third party to provide non-binding mediation of the issue prior to institution of litigation. Each Party shall bear its own costs and one-half of the cost of the third party mediator.

## 10. VENUE

This Agreement shall be deemed to be made in the County of Cowlitz, State of Washington, and the legal rights and obligations of the Parties shall be determined in accordance with the laws of the State of Washington. All legal actions in connection with this Agreement shall be brought in the superior court situated in the County of Cowlitz, State of Washington.

## 11. ATTORNEY FEES and COSTS

In the event a suit, or other proceeding of any nature whatsoever, including without limitation any proceeding under the U.S. Bankruptcy Code, is instituted, or the services of an attorney are retained to interpret or enforce any provision of this Agreement or with respect to any dispute relating to this Agreement, the prevailing party shall be entitled to recover from the losing party its attorneys', paralegals', accountants', and other experts' fees and all other fees, costs, and expenses actually incurred and reasonably necessary in connection therewith. In the event of suit, action, arbitration, or other proceeding, the amount thereof shall be determined by the judge or arbitrator, and shall include fees and expenses incurred on any appeal or review, and shall be in addition to all other amounts provided by law.

## 12. SEVERABILITY

If any provision of this Agreement or its application is held invalid, the remainder of the Agreement or the application of the remainder shall not be affected.

## 13. ASSIGNMENT

Neither this Agreement nor any interest therein may be assigned by either Party without first obtaining the written consent of the other Party.

**14. NONDISCRIMINATION**

No person shall, on the grounds of race, creed, color, national origin, sex, sexual orientation or handicapped condition, be excluded from participation in, be denied the benefits of, or be otherwise subjected to discrimination under activities performed pursuant to this Agreement.

**15. RECORD RETENTION and AUDIT**

During the progress of the work and for a period of not less than six (6) years from the date of final payment to COG, the records and accounts pertaining to the services under this Agreement and accounting thereof shall be kept available for inspection and audit by the Parties, City, State and/or Federal Government, and copies of all records, accounts, documents, or other data pertaining to this Agreement will be furnished upon request. The Parties shall have full access to and right to examine and copy said records during normal business hours and as often as it deems necessary. The Parties agree that the services performed herein are subject to audit by either or both Parties.

**16. COPYRIGHTS**

Copyright of all material created by COG and paid for with funds as a part of this Agreement shall be deemed the property of the Agency authored by COG. Either Party may use the material and permit others to use such for any purpose consistent with the Party's respective mission. This material includes, but is not limited to, documents, reports, books, videos, pamphlets, sound reproductions, photographs, studies, surveys, tapes, and training material. Materials used to perform the services and create the deliverables of this Agreement that are not created for or paid for through this Agreement shall be owned by such party as determined by law. The legal owner thereof hereby grants a perpetual, unrestricted, royalty free, non-exclusive license to the other party to use and to permit others to use for any purpose consistent with the respective mission of said material.

**17. AUTHORIZED SIGNATURES**

The undersigned acknowledge that they are authorized to execute this Agreement and bind their respective agencies to the obligations set forth herein.

**18. COUNTERPARTS**

This agreement may be executed in two or more counterparts, each of which shall be deemed an original, but all such counterparts shall constitute one agreement.

IN WITNESS HEREOF, the Parties have subscribed their names hereto effective as of the year and date first written above.

**COWLITZ-WAHKIAKUM  
COUNCIL OF GOVERNMENTS**

*William A. Fashing*

By: William A. Fashing, Executive Director

Date: 1-13-15

**ATTEST**

*Anisa Kisamore*

By: Anisa Kisamore, Office Administrator

Date: 01 13 15

**CITY OF KALAMA**

By: Pete Poulsen, Mayor

Date: \_\_\_\_\_

**ATTEST**

By: Coni McMaster, Clerk/Treasurer

Date: \_\_\_\_\_

**APPROVED AS TO FORM**

By: \_\_\_\_\_, Attorney

Date: \_\_\_\_\_



**SCOPE OF WORK  
FOR  
CITY OF KALAMA PLANNING ASSISTANCE**

**1. PLANNING ASSISTANCE**

**1.1 WORK TASKS**

- 1.1.1 Attend regularly scheduled planning commission meetings as requested, and special workshops as necessary to transmit or develop a prioritized program; attend hearings and hearing examiner meetings; attend city council meetings and workshops upon request and when necessary to transmit planning commission recommendations with supporting rationale.
- 1.1.2 Prepare staff reports with findings and recommendations for planning commission consideration on applications and State Environmental Policy Act (SEPA) review for proposals such as subdivisions, rezonings, comprehensive plan amendments, street vacations, conditional and special uses, annexations, variances, critical areas permits, small lot developments, and shoreline permits.
- 1.1.3 Present staff reports at applicable public hearings and assist the planning commission and city council in answering concerns of applicants and the general public.
- 1.1.4 Assist with city ordinance and land use administration procedures; identify roles and responsibilities; and develop amendments as necessary. Maintain compliance with state and federal laws and other ordinances.
- 1.1.5 Assist city staff with the review of environmental documents and threshold determinations for proposals inside the city, as well as documents circulated by other agencies for proposals within and adjacent to the city.
- 1.1.6 Provide assistance to city staff and the public in response to questions concerning land use and development.
- 1.1.7 Provide general assistance for such activities as grant administration, researching special issues, attending special meetings and hearings on behalf of the city and attending city staff meetings as requested.
- 1.1.8 Assist the city in annexation requests, coordination and preparation for approval by city, county and state agencies.
- 1.1.9 Review land use permit applications, prepare staff report for city's use in making decisions for approval, disapproval, or approval with conditions on zoning requirements specified in the Kalama Municipal Code.

**1.2 COORDINATION OF WORK**

The staff planner will consult with the appropriate local, state and federal agencies and private interests affected by land use proposals.

### **1.3. DELIVERABLE(S)**

- 1.3.1 Planning staff attendance and participation at planning commission, hearings examiner and city council meetings, public hearings and workshops.
- 1.3.2 Written staff reports and oral presentations on land use applications and proposals as noted in Work Tasks.
- 1.3.3 Consultation with city staff, the public and applicants as required regarding planning assistance matters.

## **2. CODE UPDATES**

### **2.1 WORK TASKS**

- 2.1.1 Review the city's zoning and other land use rules as needed or requested and prepare proposed revisions designed to implement applicable plans and policies as directed by the City Administrator, planning commission and/or city council.
- 2.1.2 Hold public hearings on the draft code changes and facilitate discussion and public participation.
- 2.1.3 Make final text corrections based upon public comment as directed by the planning commission.
- 2.1.4 Submit proposed code changes to the city council. Conduct workshops and hearings with the council as necessary and make modifications as directed.

### **2.2 COORDINATION OF WORK**

Coordinate with local, state and federal agencies and interests affected by code changes.

### **2.3 DELIVERABLES**

- 2.3.1 Planning staff attendance and participation at planning commission and city council meetings, public hearings and workshops to review proposed code changes.
- 2.3.2 Drafting of final code changes, and facilitation of discussion and public participation at hearings and workshops.



**COMPENSATION RATES  
FOR  
CITY OF KALAMA PLANNING ASSISTANCE**

The following rates are applicable to the 2015 calendar year. Ranges include salary and benefit adjustments that may occur within the contract period.

**PROJECT LEAD:**

<i>Position</i>	<i>Rate</i>
Community Development Planner II, Matt Buchanan	\$48.34 - \$57.07

**SERVICE COORDINATION RATES:**

<i>Position</i>	<i>Rate Range</i>
Planning Manager	\$71.39 - \$106.69
Planner III	\$54.08 - \$64.63
Planner II	\$48.34 - \$57.07
Planner I / GIS	\$39.85 - \$48.63
Support Staff	\$34.95 - \$57.23