

**RESOLUTION NO. 2015-7**

**A RESOLUTION OF THE TOWN OF NACHES, WASHINGTON,  
AUTHORIZING THE MAYOR TO SIGN THE PROFESSIONAL  
SERVICES AGREEMENT WITH THE YAKIMA VALLEY  
CONFERENCE OF GOVERNMENTS**

**WHEREAS**, the Town of Naches is in need of technical services to aid in updating its Growth Management Act provisions of the Town of Naches municipal code; and,

**WHEREAS**, Yakima County Conference of Governments has the technical capabilities and the specialized knowledge to aid the Town in updating its municipal code and complying with the requirements of the Growth Management Act; and,

**WHEREAS**, the Town of Naches does not have the capacity or specialized knowledge to complete the Growth Management Act updates in an effective and efficient manner; and,

**WHEREAS**, the Town Council of the Town of Naches finds that it is in the best interests of the residents of the Town, and the Town of Naches, to contract with Yakima Valley Conference of Governments to provide the services necessary to comply with the requirements under the Growth Management Act and update the Town's municipal code accordingly, as outlined in the Agreement and Scope of Work;

Now, therefore;

**BE IT RESOLVED BY THE TOWN COUNCIL OF THE TOWN OF NACHES, WASHINGTON, as follows:**

The Town Council of the Town of Naches authorizes the Mayor to sign the Yakima Valley Conference of Government's Professional Services Agreement and accept the Scope of Work as presented by the Yakima Valley Conference of Governments, a copy of which is attached hereto as Exhibit "1."

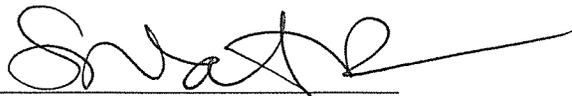
**PASSED BY THE TOWN COUNCIL OF THE TOWN OF NACHES,  
WASHINGTON, this 8th day of June, 2015.**

  
\_\_\_\_\_  
Rick Carney, Mayor

ATTEST:

  
\_\_\_\_\_  
Elvira Birrueta, Clerk/Treasurer

APPROVED AS TO FORM:

A handwritten signature in black ink, appearing to read 'Sara Watkins', written over a horizontal line. The signature is stylized and cursive.

Sara Watkins, Attorney

Naches, WA  
PROFESSIONAL SERVICE AGREEMENT

THIS AGREEMENT made and entered into by and between the Town of Naches, hereinafter referred to as the "Town", and the Yakima Valley Conference of Governments, hereinafter referred to as the "CONFERENCE",

WITNESSETH THAT:

WHEREAS, the Town and the Conference are desirous of entering into a contract to formalize their relationship; and

WHEREAS, it would be beneficial to the Town to utilize the Conference as an independent entity to accomplish the Scope of Work as set forth herein and such endeavor would tend to best accomplish the objectives of its local planning program.

NOW, THEREFORE, in consideration of the mutual promises, covenants, and provisions contained herein, and the mutual benefits to be derived there from, the parties hereto agree as follows:

1. Services to be Provided by the Parties:

- a. The Conference shall complete in a satisfactory and proper manner as determined by the Town the work activities described in the Scope of Work (Attachment #1 to the contract).
- b. The Town will provide such assistance and guidance as may be required to support the objectives set forth in the Scope of Work and will provide compensation for services as set forth in Section 3 below.

2. Time of Performance:

The effective date of this contract shall be the date the parties sign and complete execution of the contract. The termination date of the contract shall be **December 31, 2016**.

3. Consideration:

The Town shall reimburse the Conference in accordance with the Budget described in Attachment #1 of the contract for all allowable expenses agreed upon by the parties to complete the Scope of Work. In no event shall the total amount to be reimbursed by the Town exceed the sum of **\$17,472**. Reimbursement under this contract shall be based on billings, supported by appropriate documentation of costs actually incurred. It is expressly understood that claims for reimbursement shall not be submitted in excess of actual, immediate cash requirements necessary to carry out the purposes of the agreement.

4. Records:

The Conference agrees to maintain such records and follow such procedures as may be required as the Town may prescribe. In general, such records will include information pertaining to the contract, obligations and unobligated balances, assets and liabilities, outlays, equal opportunity, labor standards (as appropriate), and performance.

All such records and all other records pertinent to this contract and work undertaken under this contract shall be retained by the Conference for a period of three years after final audit of the Town's project, unless a longer period is required to resolve audit findings or litigation. In such cases, the Town shall request a longer period of record retention.

The Town and duly authorized officials of the state and federal government shall have full access and the right to examine any pertinent documents, papers, records, and books of the Conference involving transactions related to this local program and contract.

5. Relationship:

The relationship of the Conference to the Town shall be that of an independent consultant rendering professional services. The Conference shall have no authority to execute contracts or to make commitments on behalf of the Town and nothing contained herein shall be deemed to create the relationship of employer and employee or principal and agent between the Town and the Conference.

6. Suspension, Termination, and Close Out:

If the Conference fails to comply with the terms and conditions of this contract, the Town may pursue such remedies as are legally available, including, but not limited to, the suspension or termination of this contract in the manner specified herein:

a. Suspension - If the Conference fails to comply with the terms and conditions of this contract, or whenever the Conference is unable to substantiate full compliance with provisions of this contract, the Town may suspend the contract pending corrective actions or investigation, effective not less than seven (7) days following written notification to the Conference or its authorized representative. The suspension will remain in full force and effect until the Conference has taken corrective action to the satisfaction of the Town and is able to substantiate its full compliance with the terms and conditions of this contract. No obligations incurred by the Conference or its authorized representative during the period of suspension will be allowable under the contract except:

- (1) Reasonable, proper, and otherwise allowable costs which the Conference could not avoid during the period of suspension;
- (2) If upon investigation, the Conference is able to substantiate complete compliance with the terms and conditions of this contract, otherwise allowable costs incurred during the period of suspension will be allowed;

and

- (3) In the event all or any portion of the work prepared or partially prepared by the Conference be suspended, abandoned, or otherwise terminated, the Town shall pay the Conference for work performed to the satisfaction of the Town, in accordance with the percentage of the work completed.

b. Termination for Cause - If the Conference fails to comply with the terms and conditions of this contract and any of the following conditions exist:

- (1) The lack of compliance with the provisions of this contract is of such scope and nature that the Town deems continuation of the contract to be substantially detrimental to the interests of the Town;
- (2) The Conference has failed to take satisfactory action as directed by the Town or its authorized representative within the time period specified by same;
- (3) The Conference has failed within the time specified by the Town or its authorized representative to satisfactorily substantiate its compliance with the terms and conditions of this contract; then,

The Town may terminate this contract in whole or in part, and thereupon shall notify the Conference of the termination, the reasons therefore, and the effective date, provided such effective date shall not be prior to notification of the Conference. After this effective date, no charges incurred under any terminated portions of the Scope of Work are allowable.

c. Termination for Other Grounds - This contract may also be terminated in whole or in part:

- (1) By the Town, with the consent of the Conference, or by the Conference with the consent of the Town, in which case the two parties shall devise by mutual agreement, the conditions of termination, including effective date and in case of termination in part, that portion to be terminated;
- (2) If the funds allocated by the Town via this contract are from anticipated sources of revenue, and if the anticipated sources of revenue do not become available for use in purchasing said services;
- (3) In the event the Town fails to pay the Conference promptly or within sixty (60) days after invoices are rendered, the Town agrees that the Conference shall have the right to consider said default a breach of this agreement and the duties of the Conference under this agreement terminated. In such event, the Town shall then promptly pay the Conference for all services performed and all allowable expenses incurred; and
- (4) The Town may terminate this contract at any time giving at least ten (10)

days notice in writing to the Conference. If the contract is terminated for convenience of the Town as provided herein, the Conference will be paid for time provided and expenses incurred up to the termination date.

7. Changes, Amendments, Modifications:

The Town may require changes or modifications in the Scope of Work to be performed hereunder. Such changes, including any decrease or increase in the amount of compensation therefore, which are mutually agreed upon by the Town and the Conference shall be incorporated in written amendments to this contract.

8. Personnel:

The Conference represents that they have, or will secure at their own expense, all personnel required in order to perform under this contract. Such personnel shall not be employees of, or have a contractual relationship to the Town.

All services required hereunder will be performed by the Conference or under its supervision and all personnel engaged in the work shall be fully qualified and shall be authorized or permitted under state or local law to perform such services.

None of the work or services covered by this contract shall be subcontracted without prior written approval of the Town. Any work or services subcontracted hereunder shall be specified in written contract or agreement and shall be subject to each provision of this contract.

9. Assignability:

The Conference shall not assign any interest on this contract, and shall not transfer any interest on this contract (whether by assignment or novation), without prior written consent of the Town thereto: provided, however, that claims for money by the Conference from the Town under this contract may be assigned to a bank, trust company, or other financial institution without such approval. Written notice of any such assignment or transfer shall be furnished promptly to the Town by the Conference.

10. Reports and Information:

The Conference shall furnish the Town such periodic reports as the Town may request pertaining to the work or services undertaken pursuant to this contract, the costs and obligations incurred or to be incurred in connection therewith, and any other matters covered by this contract.

11. Findings Confidential:

All of the reports, information, data, etc., prepared or assembled by the Conference under this contract are confidential and the Conference agrees that they shall not be made available to any individual or organization without prior written approval of the Town unless otherwise subject to public records laws.

12. Copyright:

No reports, maps, or other documents produced in whole or in part under this contract shall be the subject of an application for copyright by or on behalf of the Conference.

13. Compliance with Local Laws:

The Conference shall comply with all applicable laws, ordinances, and codes of the state and local government and the Conference shall save the Town harmless with respect to any damages arising from any tort done in performing any of the work embraced by this contract.

14. Title VI of the Civil Rights Act of 1964:

Under Title VI of the Civil Rights Act of 1964, no person shall, on the grounds of race, color, creed, religion, sex, or national origin, be excluded from participation in, be denied the benefits of, or be subjected to discrimination under any program or activity receiving federal financial assistance.

15. Section 109 of the Housing and Community Development Act of 1974:

No person in the United States shall on the grounds of race, color, creed, religion, sex, or national origin be excluded from participation in, be denied benefits of, or be subjected to discrimination under any program or activity funded in whole or in part with funds made available under this title.

16. Interest of Members of the Town:

No member of the governing body of the Town and no other officer, employee, or agent of the Town who exercises any functions or responsibilities in connection with the planning or carrying out of the project, shall have any personal financial interest, direct, or indirect, in this contract; and the Conference shall also take appropriate steps to assure compliance.

17. Interest of Other Public Officials:

No member of the governing body of the locality and no other public official of such locality, who exercises any functions or responsibilities in connection with the planning or carrying out of the project, shall have any personal financial interest, direct or indirect, in this contract; and the Conference shall take appropriate steps to assure compliance.

18. Interest of Consultant and Employees:

The Conference covenants that it presently has no interest and shall not acquire interest, direct or indirect, in the study area or any parcels therein or any other interest which would conflict in any manner or degree with the performance of its services hereunder.

The Conference further covenants that in the performance of this contract, no person having such interest shall be employed.

19. Audits and Inspections:

The Town and State Auditor or their delegates shall have the right to review and monitor the financial and other components of the work and services provided and part of the project and this contract, by whatever legal and reasonable means are deemed expedient by the Town and the State Auditor.

20. Hold Harmless:

The Conference agrees to indemnify and hold harmless the Town, appointed and elective officers and employees, from and against all loss and expense, including attorney's fees and costs by reason of any and all claims and demands upon the Town, its elected and appointed officers and employees from damages sustained by any person or persons, arising out of or in consequence of the Conference's and its agents' negligent performance of work associated with this agreement. The Conference shall not be liable for property and bodily injury that may result from the negligence of any construction contractor or construction subcontractor.

This agreement contains all terms and conditions agreed to by the Town and the Conference. The Attachments to this agreement are identified as follows:

Attachment #1, Budget and Scope of Work, consisting of four pages.

IN WITNESS WHEREOF, the Town and the Conference have executed this contract agreement as of the date and year last written below.

TOWN OF SELAH  
WASHINGTON

YAKIMA VALLEY CONFERENCE OF  
GOVERNMENTS

by   
Rick Carney, Mayor

by \_\_\_\_\_  
James A. Restucci, YVCOG Chair

ATTEST:

ATTEST:

by   
Town Clerk

by \_\_\_\_\_  
Secretary

Date: June 8, 2015

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

APPROVED AS TO LEGAL FORM:

by   
Attorney for Town of Naches

**Attachment #1**

**Town of Naches GMA Periodic Update  
YVCOG Budget and Scope of Work**

	Tasks	Estimated Hours		
		<u>Sr. Planner</u>	<u>GIS Mgr</u>	<u>Est. Cost</u>
<b>Comprehensive Plan Update</b>				
<i>Administration Element/Summary</i>	1. Review and update existing element as needed to reflect current conditions and GMA changes. Includes consultation with town staff regarding direction on content. Provide draft to town staff for review.	4		\$252
	2. Draft public participation plan.	3		
	3. Revise as needed to reflect staff/Planning Commission comments.	1		\$63
	<i>Subtotal Hours and Cost</i>	8		\$315
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<i>Utilities Element</i>	1. Review and update existing info in capital facilities element as needed to reflect recent data, current conditions, and GMA changes. Draft utilities as stand-alone element. Includes consultation with town staff regarding direction on content and goals/policies. Provide draft to town staff for review.	4		\$252
	2. Revise as needed to reflect staff/Planning Commission comments.	1		\$63
	<i>Subtotal Hours and Cost</i>	5		\$315
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<i>Transportation Element *</i>	1. Complete town traffic count, with input on counter locations from town staff.	25		\$1,575
	2. Review and update existing element as needed to reflect recent data, current conditions, and GMA changes. Includes consultation with town staff regarding direction on content, goals/policies, and transportation priorities. Provide draft to town staff for review	25	10	\$2,295
	3. Revise as needed to reflect staff/Planning Commission comments.	6		\$378
	<i>Subtotal Hours and Cost</i>	56		\$4,248
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<i>Land Use Element</i>	1. Review and update existing element as needed to reflect recent data, current conditions, and GMA changes. Includes consultation with town staff regarding direction on content, goals/policies, and Future Land Use Map. Provide draft to town staff for review.	25		\$1,575
	2. Revise as needed to reflect staff/Planning Commission comments.	8		\$504

**Attachment #1**

*Subtotal Hours and Cost*    33            0            \$2,079

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	<b>Tasks</b>	<b>Estimated Hours</b>		
<i>Housing Element</i>	1. Review and update existing element as needed to reflect recent data, current conditions, and GMA changes. Includes meeting(s) with town staff regarding direction on content and goals/policies.	20		\$1,260
	2. Provide draft to town staff for review, and revise as needed.	5		\$315
	3. Revise as needed to reflect staff/Planning Commission comments.	2		\$126
	<i>Subtotal Hours and Cost</i>	27	0	\$1,701

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<i>Natural Environment Element</i>	1. Review and update existing element as needed to reflect recent data, current conditions, and GMA changes. Includes consultation with town staff regarding direction on content and goals/policies. Provide draft to town staff for review.	15	15	\$2,025
	2. Revise as needed to reflect staff/Planning Commission comments.	3		\$189
	<i>Subtotal Hours and Cost</i>	18	15	\$2,214

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<i>Capital Facilities Element *</i>	1. Review and update existing element as needed to reflect recent data, current conditions, and GMA changes. Includes consultation with town staff regarding direction on content and goals/policies. Provide draft to town staff for review.	15	5	\$1,305
	2. Revise as needed to reflect staff/Planning Commission comments.	6		\$378
	<i>Subtotal Hours and Cost</i>	21		\$1,683

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**Development Regulations Update**

1. Review and update development regulations as needed to comply with GMA requirements and ensure consistency with Comprehensive Plan updates. Provide draft to town staff for review.	15		\$945	
2. Revise as needed to reflect staff/Planning Commission comments.	6		\$378	
3. Rezone(s) as needed for consistency.	10		\$630	
	<i>Subtotal Hours and Cost</i>	31	0	\$1,953

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**Critical Areas Ordinance Update**

**Attachment #1**

1. Review and update existing ordinance and critical area maps as needed to reflect recent Best Available Science and other data, current conditions, and GMA changes. Provide draft to town staff for review.	10	\$630
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<b>Tasks</b>	<b>Estimated Hours</b>		
2. Revise as needed to reflect staff/Planning Commission/SEPA comments.	8		\$504
<i>Subtotal Hours and Cost</i>	<i>18</i>	<i>0</i>	<i>\$1,134</i>

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**Planning Commission/Outreach**

Comprehensive Plan open house - prepare maps and materials; staff	8	8	\$1,080
Present Admin and Utilities Elements - PC. Includes staff report, discussion preparation, and travel.	4		\$252
Present Natural Systems Element - PC. Includes staff report, discussion preparation, and travel.	4		\$252
Present Housing and Land Use Elements - PC. Includes staff report, discussion preparation, and travel.	4		\$252
Present Transportation and Capital Facilities Elements - PC. Includes staff report, discussion preparation, and travel.	4		\$252
Present Development Regulations and CAO - PC. Includes staff report, discussion preparation, and travel.	5		\$315
<i>Subtotal Hours and Cost</i>	<i>12</i>	<i>0</i>	<i>\$2,403</i>

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**Combined Process - Comp Plan, CAO, Development Regulations**

Complete SEPA checklist; respond to comments	4		\$236
Submit drafts to Department of Commerce for 60-day review	1		\$59
Revise drafts based on SEPA/Commerce comments	5		\$295
Draft adoption ordinances	5		\$295
Finalize drafts for Council consideration	5		\$295
Staff Town Council meeting(s)/public hearing	4		\$236
Submit adopted ordinances to Commerce	1		\$59
 Contract/billing admin @ \$330/month for 12 months			 \$3,960
Mileage			\$75
Copies and mailing			\$100

\* To complete at no charge to town using MPO/RTPO funds. **CREDIT \$6,183**

**TOTAL \$17,472**

**NOTES:**

1. Town's GMA Periodic Update (Comprehensive Plan, development regulations, and Critical Areas Ordinance updates) is due June 30, 2017 (RCW 36.70A.130(4)(c)).
2. Time estimates assume interaction with town staff to gather data, provide local knowledge, and review draft materials. Timely completion of tasks is dependent upon timely provision of requested information and review of materials by town staff.
3. Timelines for completion of these tasks will be dependent upon availability of town staff for responses and Planning Commission/Town Council schedules.

## **Attachment #1**

4. Hours to staff meetings include meeting preparation and travel to/from town.
5. Cost estimates per task include benefits and indirect costs.
6. Where the estimated cost for any given task is not completely used or necessary, those funds may be used for another task.