

**AGREEMENT  
BETWEEN THE  
TOWN OF TWISP AND  
HIGHLANDS ASSOCIATES**

**THIS AGREEMENT** made and entered into by and between the Town of Twisp, (hereinafter referred to as TOWN) and Kurt Danison, doing business as Highlands Associates (hereinafter referred to as CONSULTANT) witnesses that:

**WHEREAS** TOWN and CONSULTANT are desirous of entering into an agreement to formalize their relationship, and

**WHEREAS** it would be beneficial to TOWN to utilize CONSULTANT as an independent entity to accomplish the services set forth herein and such endeavor would tend to best accomplish the objectives of the local land use planning.

**NOW THEREFORE**, in consideration of the mutual promises, covenants, and provisions contained herein, and the mutual benefits to be derived therefrom, the parties hereto agree as follow:

**1. CONSULTANT'S Basic and Additional Services:**

A. The CONSULTANT agrees to provide the TOWN with an average of four (4) hours per week of Basic Services as described in Attachment A. The total number of hours shall not exceed 215 unless agreed to in writing.

B. The CONSULTANT will maintain office hours at Town Hall each Tuesday from 10:00 am until 1:00 pm unless approved by the Town Clerk.

C. Additional services beyond the CONSULTANT'S Basic Services may be provided if confirmed in writing through a separate agreement.

D. CONSULTANT agrees to provide its professional services in accordance with generally accepted standards of its profession.

**2. TOWN Responsibilities:**

A. The TOWN agrees to provide the CONSULTANT with all the information, surveys, comments, reports, and professional recommendations requested by the CONSULTANT in order to provide its professional services. CONSULTANT may reasonably rely on the accuracy and completeness of these items.

B. TOWN agrees to provide the items described in Article 2.A. and to render decisions in a timely manner so as not to delay the orderly and sequential progress of the CONSULTANT'S services.

**3. Agreement Period:** The effective date of this Agreement shall be January 1, 2012. The termination date of this Agreement shall be December 31, 2012.

**4. Compensation and Payments:**

A. The TOWN shall reimburse the CONSULTANT for the services described in Section 1 A above at a rate of \$65/hour plus 6% overhead and indirect unless otherwise agreed to by the CONSULTANT and TOWN. The total billed to the TOWN shall not exceed \$14,840 for said services unless otherwise agreed to in writing.

B. Additional Services: Additional services shall be defined as activities, studies and reports not directly related to the scope of work in Attachment A. Additional services shall be billed at the following rates unless otherwise agreed to by the CONSULTANT and TOWN.

<u>Staff Time (hourly rate):</u>		<u>Direct Charges:</u>	
Principal Planner	\$95.00	Mileage	\$0.55/mile
Senior Associate Planner	\$85.00	Copies	\$0.10/each (single-side)
Associate Planner	\$60.00	Faxes	\$1.00/page
Assistant Planner	\$50.00	Telephone	at cost
Clerical	\$45.00	meals, lodging	at cost
Overhead/Profit/Indirect Rate	6%	maps –	18x24 - \$10 24x36 - \$15 36x48 - \$20

C. The CONSULTANT shall prepare a monthly invoice requesting payment for and containing a description of basic services provided and, if appropriate, such invoice shall indicate the type of Additional Services rendered including hours used and direct charges. The TOWN shall, within 30 days of receipt of such invoice, remit a check to the CONSULTANT for the amount requested on the CONSULTANT'S invoice or statement unless otherwise agreed upon by both parties.

D. A service charge of 1.5% per month will be charged on all amounts due more than 30 days.

**5. Evaluation And Monitoring:**

A. The CONSULTANT shall prepare a monthly report indicating the type Basic Service services rendered, the amount of time provided, a summary of time spent to date, percent of total hours and average hours provided per week during the preceding month and for the contract period to date.

B. The CONSULTANT shall cooperate with and freely participate in any monitoring or evaluation activities conducted by the TOWN that are pertinent to the intent of this Agreement.

C. The TOWN or the State Auditor or any of their representatives shall have full access to and the right to examine during normal business hours and as often as the TOWN or the State Auditor may deem necessary, all of the CONSULTANT'S records with respect to all matters covered in this Agreement. Such representative 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. Equal Employment Opportunity:** The CONSULTANT agrees that it will not discriminate against any employee or applicant for employment because of race, religion, color, sex, age or national origin.

**7. Modifications:** The CONSULTANT and the TOWN may, from time to time, request changes in the Basic Services or add Additional Services to the duties to be performed by the CONSULTANT. Any such changes that are mutually agreed upon by the TOWN and the CONSULTANT 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, unless made in writing and signed by the parties hereto, shall not be binding.

**8. Assignability:** The CONSULTANT shall not assign nor transfer any interest in this contract without the prior written consent and approval of the TOWN.

**9. Status of CONSULTANT:** The CONSULTANT is an independent CONSULTANT operating for its own account, and is in no way and to no extent an employee or agent of the TOWN. The CONSULTANT shall have the sole judgement of the means, mode or manner of the actual performance of this Agreement. The CONSULTANT, as an independent CONSULTANT, assumes the entire responsibility for carrying out and accomplishing this Agreement.

**10. Records, Documents, And Reports:** The CONSULTANT shall maintain books, records, documents, and other evidence and accounting procedures and practices which sufficiently and properly reflect all hourly charges and direct costs of any nature expended in the performance of this Agreement. These records shall be subject at all reasonable times to inspection, review, or audit by TOWN personnel and other personnel duly authorized by the TOWN or the Office of the State Auditor. The CONSULTANT will retain all books, records, documents, and other material relevant to this Agreement for three years after expiration and the Office of the State Auditor, or any person duly authorized by the TOWN shall have full access to and the right to examine any of said materials during said period.

**11. Indemnity Agreement:**

A. The CONSULTANT shall hold the TOWN harmless from, and shall indemnify the TOWN against, any and all claims, demands, actions or liabilities caused by or occurring by reason of any negligent act or omission of the CONSULTANT, its agents, employees or sub-consultants, arising out of or in connection with the performance of this agreement.

B. The CONSULTANT shall be required to indemnify the TOWN in those cases where damages have been caused by the concurrent negligence of the TOWN and the CONSULTANT, its agents, employees or sub-consultants. In those cases, the liability of the CONSULTANT for

indemnifications shall be limited to that portion of the damages caused by the negligence of the CONSULTANT, its agents, employees or sub-consultants.

C. The CONSULTANT has no duty to indemnify the TOWN where damages were caused by the negligence of the TOWN.

**12. Special Provisions:**

A. This Agreement is the entire and integrated agreement between the TOWN and CONSULTANT and supercedes all prior negotiations, statements, or agreements, either written or oral. This Agreement may be amended only by written instrument signed by both the TOWN and CONSULTANT. Neither party may assign this Agreement without the other party's written permission.

B. Notwithstanding any other term in this Agreement, CONSULTANT shall not control or be responsible for another party's means, methods, techniques, schedules, sequences or procedures, or for construction safety or any other related programs.

C. The parties agree that in the event a civil action is instituted by either party to enforce any of these terms and conditions of this agreement, or to obtain damages or other redress for any breach hereof, the prevailing party shall be entitled to recover from the other party, in addition to its other remedies, its reasonable attorneys fees in such suit or action and upon any appeal therefrom.

D. The CONSULTANT shall provide evidence of comprehensive general liability insurance which includes but is not limited to, operations of the CONSULTANT, commercial general liability and blanket limited contractual liability with limits of not less than:

1. Comprehensive General Liability  
Bodily Injury and/or Property Damage: \$1,000,000.00 each occurrence
2. Automobile Liability  
Bodily Injury and/or Property Damage: \$300,000.00 each occurrence

The TOWN shall be named as an additional insured as respects to this agreement. In conjunction therewith, the CONSULTANT shall furnish a certificate of such insurance to the TOWN at the time of execution of this agreement.

2. Professional Liability  
The CONSULTANT shall provide Professional Errors and Omissions Liability insurance which shall provide coverage for any negligent professional acts, errors or omissions for which the CONSULTANT is legally responsible, with limits of not less than:

Professional Errors & Omissions \$1,000,000.00 each occurrence

The CONSULTANT shall furnish a certificate of such insurance to the TOWN at the time of execution of this agreement.

E. CONSULTANT reserves the right to include representations of documents, data and systems resulting from this Agreement in its promotional and professional materials.

**13. Agreement Termination:**

A. Termination: Either party may terminate this contract by providing written notice of such termination, specifying the effective date thereof at least thirty (30) days prior to such date. In such event the TOWN shall pay the CONSULTANT all amounts due for all work previously authorized and performed prior to the date of termination. In the event of termination, the CONSULTANT agrees to cooperate reasonably with any consultant thereafter retained by the TOWN in making available information developed as the result of work previously performed by the CONSULTANT. If no notice of termination is given, relationships and obligations created by this Agreement, unless otherwise expressly provided, shall be terminated upon all applicable requirements of this agreement. Such termination shall relieve both parties of all obligations under this contract subsequent to the effective date of such termination.

B. Breach or Default: In the event the TOWN alleges breach of this Agreement by CONSULTANT, TOWN shall give CONSULTANT ten (10) days written notice to cure any alleged breach prior to termination of this Agreement. If CONSULTANT fails to remedy the breach within ten (10) days after receipt of said notice, TOWN may terminate this Agreement.

**14. Ownership of Documents:**

A. All original reports and drawings prepared by the CONSULTANT, as provided under this Agreement, shall become the sole property of the TOWN upon payment to the CONSULTANT the fee as set forth in this agreement.

B. CONSULTANT reserves the right to include representations of the work performed under this Agreement in its promotional and professional materials.

**15. Dispute Resolution:** TOWN and CONSULTANT agree to mediate claims or disputes arising out of or relating to this Agreement. The mediation shall be conducted by a mediation service acceptable to the parties. A demand for mediation shall be made within a reasonable time after a claim or dispute arises. In no event shall any demand for mediation be made after such claim or dispute would be barred by the applicable law.

**16. Governing Law And Venue:** 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. Venue of any suit between the parties arising out of this Agreement shall be the Superior Court of Okanogan County, Washington.

**17. 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.

**18. Administration:**

- A. CONSULTANT'S representative shall be Kurt E. Danison.
- B. TOWN'S representative shall be the Town Clerk for the Town of Twisp.

**IN WITNESS WHEREOF**, the TOWN and CONSULTANT have executed this Agreement as of the date and year written below.

TOWN OF TWISP

CONSULTANT

BY \_\_\_\_\_  
Soo Ing-Moody, Mayor

BY \_\_\_\_\_  
Kurt E. Danison, Owner/Principal Planner  
Highland Associates  
P.O. Box 1431  
Okanogan, WA. 98840  
(509) 422-5030

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

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

**ATTACHMENT "A"  
STATEMENT OF WORK  
BASIC SERVICES**

The CONSULTANT's duties and responsibilities depend upon the specific priorities and needs of the TOWN include, but not limited to, the following as directed by the TOWN:

1. Identifying and preparing grants, loans and other resources and programs available to local governments.
2. Identifying and developing coordination opportunities with other communities and organizations.
3. Assist in the implementation of local land use ordinances, to include current land use applications and long term land use planning.
4. Where appropriate, act as a liaison between Town Hall and the local planning commission to assist in the implementation of local planning documents.
5. Other duties as are mutually agreed upon by the CONSULTANT and communities participating in the management assistance program.
6. Preparation and maintenance of geographic information system data and map layers for community and surrounding urban growth area.

**RESOLUTION #13-510**

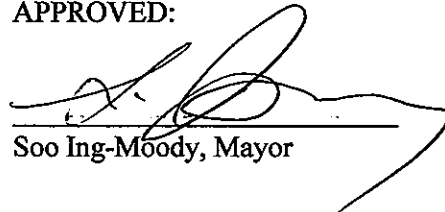
**RENEW THE PROFESSIONAL SERVICES AGREEMENT  
BETWEEN HIGHLANDS ASSOCIATES AND THE TOWN OF TWISP  
FOR PROFESSIONAL PLANNING SERVICES IN 2013**

**THE TOWN COUNCIL OF THE TOWN OF TWISP**, Washington do hereby resolve that the Professional Services Agreement, approved on January 10, 2012, between the **TOWN OF TWISP**, a municipal corporation and **KURT DANISON dba HIGHLANDS ASSOCIATES**, a private consultant; is hereby renewed with no context changes from January 1, 2013 through December 31, 2013. These services in 2013 are budgeted at \$15,000 for planning services.

**NOW, THEREFORE, BE IT RESOLVED**, this resolution is approved and the Mayor is hereby authorized and directed to execute the same for and on behalf of the TOWN; and that the TOWN Clerk is authorized and directed to attest her signature.


**INTRODUCED** and passed this 8th day of January, 2013.

APPROVED:



Soo Ing-Moody, Mayor

ATTEST:



Jackie Moriarty, Clerk/Treasurer