



# CONSULTANT SERVICES AGREEMENT

## between the City of Kent and

**Pat Ellis, Jr.**

THIS AGREEMENT is made between the City of Kent, a Washington municipal corporation (hereinafter the "City"), and Pat Ellis, Jr. organized under the laws of the State of Washington, located and doing business at 24821 234<sup>th</sup> Place SE, Maple Valley, WA 98038, telephone number 206-534-3918 (hereinafter the "Consultant").

### **I. DESCRIPTION OF WORK.**

Consultant shall perform the following services for the City in accordance with the following described plans and/or specifications:

Provide crisis intervention to individuals affected by events attendant to public safety emergencies, at the request of officers in the Kent Police and Fire Departments, as further described in the scope of work attached and incorporated as Exhibit A. These services are generally intended to comfort, support, and provide emotional relief to victims and to otherwise aid emergency workers. The Consultant shall be available 24 hours daily, 7 days a week, and will respond within 12 hours of being called.

Consultant further represents that the services furnished under this Agreement will be performed in accordance with generally accepted professional practices in effect at the time those services are performed.

**II. TIME OF COMPLETION.** The parties agree that work will begin on the tasks described in Section I above immediately upon the effective date of this Agreement. Upon the effective date of this Agreement, Consultant shall complete the work described in Section I by December 31, 2008.

### **III. COMPENSATION.**

A. The City shall pay the Consultant, based on time and materials, an amount not to exceed \$25,000 during the contract term for the services described in this Agreement. This is the maximum amount to be paid under this Agreement for the work described in Section I above, and shall not be exceeded without the prior written authorization of the City in the form of a negotiated and executed amendment to this agreement. The Consultant agrees that the hourly or flat rate charged by it for its services contracted for herein shall remain locked at the negotiated rate(s) for a period of one (1) year from the effective date of this Agreement.

B. The Consultant shall submit monthly payment invoices to the City for work performed, and a final bill upon completion of all services described in this Agreement. The City shall provide payment within forty-five (45) days of receipt of an invoice. If the City objects to all or any portion of an invoice, it shall notify the Consultant and reserves the option to only pay that

portion of the invoice not in dispute. In that event, the parties will immediately make every effort to settle the disputed portion.

**IV. INDEPENDENT CONTRACTOR.** The parties intend that an Independent Contractor-Employer Relationship will be created by this Agreement and that the Consultant has the ability to control and direct the performance and details of its work, the City being interested only in the results obtained under this Agreement.

**V. TERMINATION.** Either party may terminate this Agreement, with or without cause, upon providing the other party thirty (30) days written notice at its address set forth on the signature block of this Agreement. After termination, the City may take possession of all records and data within the Consultant's possession pertaining to this project, which may be used by the City without restriction. If the City's use of Consultant's records or data is not related to this project, it shall be without liability or legal exposure to the Consultant.

**VI. DISCRIMINATION.** In the hiring of employees for the performance of work under this Agreement or any subcontract, the Consultant, its subcontractors, or any person acting on behalf of the Consultant or subcontractor shall not, by reason of race, religion, color, sex, age, sexual orientation, national origin, or the presence of any sensory, mental, or physical disability, discriminate against any person who is qualified and available to perform the work to which the employment relates. Consultant shall execute the attached City of Kent Equal Employment Opportunity Policy Declaration, Comply with City Administrative Policy 1.2, and upon completion of the contract work, file the attached Compliance Statement.

**VII. INDEMNIFICATION.** Consultant shall defend, indemnify and hold the City, its officers, officials, employees, agents and volunteers harmless from any and all claims, injuries, damages, losses or suits, including all legal costs and attorney fees, arising out of or in connection with the Consultant's performance of this Agreement, except for that portion of the injuries and damages caused by the City's negligence.

The City's inspection or acceptance of any of Consultant's work when completed shall not be grounds to avoid any of these covenants of indemnification.

Should a court of competent jurisdiction determine that this Agreement is subject to RCW 4.24.115, then, in the event of liability for damages arising out of bodily injury to persons or damages to property caused by or resulting from the concurrent negligence of the Consultant and the City, its officers, officials, employees, agents and volunteers, the Consultant's liability hereunder shall be only to the extent of the Consultant's negligence.

IT IS FURTHER SPECIFICALLY AND EXPRESSLY UNDERSTOOD THAT THE INDEMNIFICATION PROVIDED HEREIN CONSTITUTES THE CONSULTANT'S WAIVER OF IMMUNITY UNDER INDUSTRIAL INSURANCE, TITLE 51 RCW, SOLELY FOR THE PURPOSES OF THIS INDEMNIFICATION. THE PARTIES FURTHER ACKNOWLEDGE THAT THEY HAVE MUTUALLY NEGOTIATED THIS WAIVER.

The provisions of this section shall survive the expiration or termination of this Agreement.

**VIII. INSURANCE.** The Consultant shall procure and maintain for the duration of the Agreement, insurance of the types and in the amounts described in Exhibit B attached and incorporated by this reference.

**IX. EXCHANGE OF INFORMATION.** The City will provide its best efforts to provide reasonable accuracy of any information supplied by it to Consultant for the purpose of completion of the work under this Agreement.

**X. OWNERSHIP AND USE OF RECORDS AND DOCUMENTS.** Original documents, drawings, designs, reports, or any other records developed or created under this Agreement shall belong to and become the property of the City. All records submitted by the City to the Consultant will be safeguarded by the Consultant. Consultant shall make such data, documents, and files available to the City upon the City's request. The city's use or reuse of any of the documents, data and files created by Consultant for this project by anyone other than Consultant on any other project shall be without liability or legal exposure to Consultant.

**XI. CITY'S RIGHT OF INSPECTION.** Even though Consultant is an independent contractor with the authority to control and direct the performance and details of the work authorized under this Agreement, the work must meet the approval of the City and shall be subject to the City's general right of inspection to secure satisfactory completion.

**XII. WORK PERFORMED AT CONSULTANT'S RISK.** Consultant shall take all necessary precautions and shall be responsible for the safety of its employees, agents, and subcontractors in the performance of the contract work and shall utilize all protection necessary for that purpose. All work shall be done at Consultant's own risk, and Consultant shall be responsible for any loss of or damage to materials, tools, or other articles used or held for use in connection with the work.

**XIII. MISCELLANEOUS PROVISIONS.**

A. Recyclable Materials. Pursuant to Chapter 3.80 of the Kent City Code, the City requires its contractors and consultants to use recycled and recyclable products whenever practicable. A price preference may be available for any designated recycled product.

B. Non-Waiver of Breach. The failure of the City to insist upon strict performance of any of the covenants and agreements contained in this Agreement, or to exercise any option conferred by this Agreement in one or more instances shall not be construed to be a waiver or relinquishment of those covenants, agreements or options, and the same shall be and remain in full force and effect.

C. Resolution of Disputes and Governing Law. This Agreement shall be governed by and construed in accordance with the laws of the State of Washington. If the parties are unable to settle any dispute, difference or claim arising from the parties' performance of this Agreement, the exclusive means of resolving that dispute, difference or claim, shall only be by filing suit exclusively under the venue, rules and jurisdiction of the King County Superior Court, King County, Washington, unless the parties agree in writing to an alternative dispute resolution process. In any claim or lawsuit for damages arising from the parties' performance of this Agreement, each party shall pay all its legal costs and attorney's fees incurred in defending or bringing such claim or lawsuit, in addition to any other recovery or award provided by law; provided, however, nothing in this paragraph shall be construed to limit the City's right to indemnification under Section VII of this Agreement.

D. Written Notice. All communications regarding this Agreement shall be sent to the parties at the addresses listed on the signature page of the Agreement, unless notified to the contrary. Any written notice hereunder shall become effective three (3) business days after the date of mailing by registered or certified mail, and shall be deemed sufficiently given if sent to the addressee at the address stated in this Agreement or such other address as may be hereafter specified in writing.

E. Assignment. Any assignment of this Agreement by either party without the written consent of the non-assigning party shall be void. If the non-assigning party gives its consent to any assignment, the terms of this Agreement shall continue in full force and effect and no further assignment shall be made without additional written consent.

F. Modification. No waiver, alteration, or modification of any of the provisions of this Agreement shall be binding unless in writing and signed by a duly authorized representative of the City and Consultant.

G. Entire Agreement. The written provisions and terms of this Agreement, together with any Exhibits attached hereto, shall supersede all prior verbal statements of any officer or other representative of the City, and such statements shall not be effective or be construed as entering into or forming a part of or altering in any manner this Agreement. All of the above documents are hereby made a part of this Agreement. However, should any language in any of the Exhibits to this Agreement conflict with any language contained in this Agreement, the terms of this Agreement shall prevail.

H. Compliance with Laws. The Consultant agrees to comply with all federal, state, and municipal laws, rules, and regulations that are now effective or in the future become applicable to Consultant's business, equipment, and personnel engaged in operations covered by this Agreement or accruing out of the performance of those operations.

**IN WITNESS, the parties below execute this Agreement, which shall become effective on the last date entered below.**

<p><b>CONSULTANT:</b></p> <p>By: _____  <i>(signature)</i></p> <p>Print Name: _____</p> <p>Its _____  <i>(Title)</i></p> <p>DATE: _____</p>	<p><b>CITY OF KENT:</b></p> <p>By: _____  <i>(signature)</i></p> <p>Print Name: <u>Suzette Cooke</u></p> <p>Its <u>Mayor</u>  <i>(Title)</i></p> <p>DATE: _____</p>
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<p><b>NOTICES TO BE SENT TO:</b></p> <p><b>CONSULTANT:</b></p> <p>Pat Ellis, Jr.  24821 234<sup>th</sup> Place SE  Maple Valley, Wa 98038</p> <p>206-534-3918 (telephone)</p>	<p><b>NOTICES TO BE SENT TO:</b></p> <p><b>CITY OF KENT:</b></p> <p>Jim Schneider, Fire Chief  City of Kent  220 Fourth Avenue South  Kent, WA 98032</p> <p>(253) 856-4300 (telephone)  (253) 856-6300 (facsimile)</p>
	<p><b>APPROVED AS TO FORM:</b></p> <p>_____</p> <p>Kent Law Department</p>

# DECLARATION

## CITY OF KENT EQUAL EMPLOYMENT OPPORTUNITY POLICY

The City of Kent is committed to conform to Federal and State laws regarding equal opportunity. As such all contractors, subcontractors and suppliers who perform work with relation to this Agreement shall comply with the regulations of the City's equal employment opportunity policies.

The following questions specifically identify the requirements the City deems necessary for any contractor, subcontractor or supplier on this specific Agreement to adhere to. An affirmative response is required on all of the following questions for this Agreement to be valid and binding. If any contractor, subcontractor or supplier willfully misrepresents themselves with regard to the directives outlines, it will be considered a breach of contract and it will be at the City's sole determination regarding suspension or termination for all or part of the Agreement;

The questions are as follows:

1. I have read the attached City of Kent administrative policy number 1.2.
2. During the time of this Agreement I will not discriminate in employment on the basis of sex, race, color, national origin, age, or the presence of all sensory, mental or physical disability.
3. During the time of this Agreement the prime contractor will provide a written statement to all new employees and subcontractors indicating commitment as an equal opportunity employer.
4. During the time of the Agreement I, the prime contractor, will actively consider hiring and promotion of women and minorities.
5. Before acceptance of this Agreement, an adherence statement will be signed by me, the Prime Contractor, that the Prime Contractor complied with the requirements as set forth above.

By signing below, I agree to fulfill the five requirements referenced above.

Dated this \_\_\_\_\_ day of \_\_\_\_\_, 200\_\_.

By: \_\_\_\_\_

For: \_\_\_\_\_

Title: \_\_\_\_\_

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

**CITY OF KENT  
ADMINISTRATIVE POLICY**

NUMBER: 1.2

EFFECTIVE DATE: January 1, 1998

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SUBJECT: MINORITY AND WOMEN  
CONTRACTORS

SUPERSEDES: April 1, 1996  
APPROVED BY Jim White, Mayor

POLICY:

Equal employment opportunity requirements for the City of Kent will conform to federal and state laws. All contractors, subcontractors, consultants and suppliers of the City must guarantee equal employment opportunity within their organization and, if holding Agreements with the City amounting to \$10,000 or more within any given year, must take the following affirmative steps:

1. Provide a written statement to all new employees and subcontractors indicating commitment as an equal opportunity employer.
2. Actively consider for promotion and advancement available minorities and women.

Any contractor, subcontractor, consultant or supplier who willfully disregards the City's nondiscrimination and equal opportunity requirements shall be considered in breach of contract and subject to suspension or termination for all or part of the Agreement.

Contract Compliance Officers will be appointed by the Directors of Planning, Parks, and Public Works Departments to assume the following duties for their respective departments.

1. Ensuring that contractors, subcontractors, consultants, and suppliers subject to these regulations are familiar with the regulations and the City's equal employment opportunity policy.
2. Monitoring to assure adherence to federal, state and local laws, policies and guidelines.

**CITY OF KENT**  
**EQUAL EMPLOYMENT OPPORTUNITY COMPLIANCE STATEMENT**

This form shall be filled out **AFTER COMPLETION** of this project by the Contractor awarded the Agreement.

I, the undersigned, a duly represented agent of \_\_\_\_\_ Company, hereby acknowledge and declare that the before-mentioned company was the prime contractor for the Agreement known as \_\_\_\_\_ that was entered into on the \_\_\_\_\_ (date), between the firm I represent and the City of Kent.

I declare that I complied fully with all of the requirements and obligations as outlined in the City of Kent Administrative Policy 1.2 and the Declaration City of Kent Equal Employment Opportunity Policy that was part of the before-mentioned Agreement.

Dated this \_\_\_\_\_ day of \_\_\_\_\_, 200\_\_\_\_.

By: \_\_\_\_\_

For: \_\_\_\_\_

Title: \_\_\_\_\_

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