

**STATE OF SOUTH DAKOTA
CONTRACT FOR PROFESSIONAL SERVICES**

AGREEMENT made and entered into this 6th day of August and between the **Office of the State Fire Marshal of the South Dakota Department of Commerce and Regulation**, a state agency, of 118 West Capitol, Pierre, SD, (the "State") and the **Rapid City Department of Emergency Services, 10 Main St, Rapid City, SD 57701**, (the "Contractor").

The State hereby enters into this Agreement for services with Contractor in consideration of and pursuant to the terms and conditions set forth herein.

1. The Contractor will present a 5-day class on "Consequence Management Building Collapse II" to a minimum of 20 emergency response students. The Contractor will provide instructors, classrooms, supplies, student manuals and protective equipment.

2. The Contractor's services under this Agreement shall commence on **9/24/01** and end on **9/28/01**, unless sooner terminated pursuant to the terms hereof.

3. The Contractor will not use State equipment, supplies or facilities. The Contractor's Employer Identification Number is **46-6000380**.

4. The State will make payment for services upon satisfactory completion of the services. The TOTAL CONTRACT AMOUNT is an amount not to exceed **\$15,000**. The State will not pay the contractor's expenses as a separate item.

5. The Contractor agrees to indemnify and hold the State of South Dakota, its officers, agents and employees, harmless from and against any and all actions, suits, damages, liability or other proceedings that may arise as the result of performing services hereunder. This section does not require the Contractor to be responsible for or defend against claims or damages arising solely from errors or omissions of the State, its officers, agents or employees.

6. The Contractor, at all times during the term of this Agreement, shall obtain and maintain in force insurance coverage of the types and with the limits as follows:

Commercial General Liability Insurance:

The Contractor through the City of Rapid City shall maintain occurrence based commercial based commercial general liability insurance or equivalent form with a limit of not less than **\$100,000** for each occurrence. If such insurance contains a general aggregate limit it shall apply separately to this Agreement or be no less than two times the occurrence limit. Such insurance shall include South Dakota state employees as additional insureds in the event a claim, lawsuit or other proceeding is filed against a state employee as a result of the services provided pursuant to this agreement.

Worker's Compensation Insurance:

The Contractor shall procure and maintain workers' compensation and employers' liability insurance as required by law.

Before beginning work under this Agreement, the Contractor shall furnish the State with properly executed Certificates of Insurance which shall clearly evidence all insurance required in this Agreement and which provide that such insurance may not be canceled, except on 30 days' prior written notice to the State. The Contractor shall furnish copies of insurance policies if requested by the State.

7. While performing services hereunder, the Contractor is a political subdivision of the State of South Dakota and not an officer, agent, or employee of the State of South Dakota.

8. This Agreement may be terminated by either party hereto upon thirty (30) days written notice. In the event the Contractor breaches any of the terms or conditions hereof, this Agreement may be terminated by the State at any time with or without notice. If termination for such a default is effected by the State, any payments due to Contractor at the time of termination may be adjusted to cover any additional costs to the State because of Contractor's default. Upon termination the State may take over the work and may award another party an agreement to complete the work under this Agreement. If after the State terminates for a default by Contractor it is determined that Contractor was not at fault, then the Contractor shall be paid for eligible services rendered and expenses incurred up to the date of termination.

9. This Agreement depends upon the continued availability of appropriated funds and expenditure authority from the Legislature for this purpose. If for any reason the Legislature fails to appropriate funds or grant expenditure authority, or funds become unavailable by operation of law or federal funds reductions, this Agreement will be terminated by the State. Termination for any of these reasons is not a default by the State nor does it give rise to a claim against the State.

10. This Agreement may not be assigned without the express prior written consent of the State. This Agreement may not be amended except in writing, which writing shall be expressly identified as a part hereof, and be signed by an authorized representative of each of the parties hereto.

11. This Agreement shall be governed by and construed in accordance with the laws of the State of South Dakota. Any lawsuit pertaining to or affecting this Agreement shall be venued in Circuit Court, Sixth Judicial Circuit, Hughes County, South Dakota.

12. The Contractor will comply with all federal, state and local laws, regulations, ordinances, guidelines, permits and requirements applicable to providing services pursuant to this Agreement, and will be solely responsible for obtaining current information on such requirements.

13. The Contractor may not use subcontractors to perform the services described herein without the express prior written consent of the State. The Contractor will include provisions in its subcontracts requiring its subcontractors to comply with the applicable provisions of this Agreement, to indemnify the State, and to provide insurance coverage for the benefit of the State in a manner consistent with this Agreement. The Contractor will cause its subcontractors, agents, and employees to comply, with applicable federal, state and local laws, regulations, ordinances, guidelines, permits and requirements and will adopt such review and inspection procedures as are necessary to assure such compliance.

14. Any notice or other communication required under this Agreement shall be in writing and sent to the address set forth above. Notices shall be given by and to Allen L Christie on behalf of the State, and by Gary Shepard, on behalf of the Contractor, or such authorized designees as either party may from time to time designate in writing. Notices or communications to or between the parties shall be deemed to have been delivered when mailed by first class mail, provided that notice of default or termination shall be sent by registered or certified mail, or, if personally delivered, when received by such party.

15. In the event that any court of competent jurisdiction shall hold any provision of the Agreement unenforceable or invalid, such holding shall not invalidate or render unenforceable any other provision hereof.

16. In the event that any court of competent jurisdiction shall hold any provision of this Agreement unenforceable or invalid, such holding shall not invalidate or render unenforceable any other provision hereof.

In Witness Whereof, the parties signify their agreement effective the date above first written by the signatures affixed below.

STATE

CONTRACTOR

BY: David Volk

BY:

Secretary-DCR *Date*

Mayor Rapid City *Date*

City Finance Officer *Date*

- State Agency Coding (MSA Center) 13155-00115.
- Object/subject MSA account to which voucher will be coded 5204060.
- Name and phone number of contact person in State Agency who can provide additional information regarding this contract Allen L Christie Phone: 773-3562.

APPROVED AS TO FORM
CITY ATTORNEY'S OFFICE



Attorney

8/9/01

Date