

Robert E. Shannon
City Attorney of Long Beach
333 West Ocean Boulevard
Long Beach, California 90802-4664
Telephone (562) 570-2200

AGREEMENT

29450

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3 THIS AGREEMENT is made and entered, in duplicate, as of January 3, 2006
4 for reference purposes only, pursuant to a minute order adopted by the City Council of the
5 City of Long Beach at its meeting on December 13, 2005, by and between CLAIMS
6 STAFFING SOLUTIONS, INC., a California corporation, with its principal office at Suite
7 203, 203 N. Golden Circle, Santa Ana, CA 92705 ("Contractor"), and the CITY OF LONG
8 BEACH, a municipal corporation, located at 333 West Ocean Boulevard, Long Beach,
9 California 90802 ("City");

10 WHEREAS, City required the services of temporary claims examiners for its
11 Workers' Compensation Division; and

12 WHEREAS, because the estimated expenditures for these services was
13 expected to be less than \$100,000 Purchase Order BPLB03000599 ("Purchase Order")
14 was issued by the City; and

15 WHEREAS, the expenditures by the City will exceed \$100,000 so that a
16 contract is now required;

17 NOW, THEREFORE, in consideration of the mutual covenants herein
18 contained, it is agreed as follows:

19 1. Contractor shall continue to furnish to the City the services of temporary
20 claims examiners as further described in the Purchase Order, attached to this Agreement
21 as Exhibit "A" and incorporated by this reference. City shall pay to Contractor an amount
22 not to exceed \$250,000.00. As of January 4, 2006, Contractor has already been paid
23 approximately \$96,736.57 for the current contract year. As a result, the total contract
24 amount (not to exceed \$250,000) shall be reduced by actual accumulated payments made
25 under the Purchase Order as of January 4, 2006.

26 2. The term of this Agreement shall commence on April 1, 2005 (which is the
27 commencement date of the extended term under the Purchase Order) and shall end on
28 May 31, 2006 provided, however, that City shall have the right to terminate this Agreement

1 without penalty and without cause by giving thirty (30) days prior notice to Contractor.

2 3. Any notice which, under the terms of the Agreement, must be given or
3 made by either party, shall be in writing and personally delivered or deposited in the U.S.
4 Postal Service, certified or registered mail, return receipt, addressed to the respective
5 parties as follows:

6 If to Contractor:

7 Claims Staffing Solutions, Inc.
8 Suite 203
9 203 N. Golden Circle
10 Santa Ana, CA 92705

11 If to City:

12 City Manager
13 City of Long Beach
14 333 W. Ocean Boulevard
15 Long Beach, CA 90802

16 Notice or other communication shall be deemed to have been given or made
17 on the date personal delivery is made or the date shown on the return receipt. Addresses
18 for notice may be changed at any time by giving thirty (30) days prior notice.

19 4. This Agreement may be changed only by a written amendment executed
20 by the authorized representative of the parties. No amendment or modification shall be
21 made by course of performance, course of dealing or usage of trade. This Agreement
22 shall be governed by the laws of the State of California, excluding those laws relating to
23 conflicts of laws.

24 5. Contractor shall not assign or transfer this Agreement without the prior
25 written consent of City. Any transfer or assignment without City's prior written consent shall
26 constitute a material default of this Agreement and shall be void ab initio.

27 6. If one or more of the provisions contained in this Agreement are, for any
28 reason, held to be unenforceable under the laws of California, such unenforceability shall
not effect any other provision of this Agreement.

7. In the performance of this Agreement, Contractor shall not discriminate
against any employee or applicant for employment because of race, religious creed, color,

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1 national origin, ancestry, physical handicap, medical condition, AIDS, HIV status, marital
2 status, sexual preference, sex, or age.

3 8. The acceptance of services or the payment of money by City shall not
4 operate as a waiver of any provision of this Agreement, or of any right to damages. The
5 waiver of a breach shall not constitute a waiver of any other or subsequent breach.

6 9. If there is any legal proceeding between the parties to enforce or interpret
7 this Agreement or to protect or establish any rights or remedies under this Agreement, then
8 the prevailing party shall be entitled to its reasonable attorney's fees and court costs.

9 10. If there is any conflict between the Purchase Order and this Agreement,
10 then this Agreement shall govern.

11 IN WITNESS WHEREOF, the parties have caused this Agreement to be duly
12 executed with all formalities required by law as of the date first stated above.

13 CLAIMS STAFFING SOLUTIONS, INC., a California
14 corporation

14 1/9 /, 2006

14 By Christina Martinis
15 President

16 1/9 /, 2006

16 By John Hanke
17 Secretary

18 "Contractor"

19 CITY OF LONG BEACH, a municipal corporation

20 1/13 /, 2006

21 By: Gregg S. ...
22 City Manager

23 "City"

24 This Agreement is approved as to form on January 12, 2006.

25 ROBERT E. SHANNON, City Attorney

26 By [Signature]
27 Senior Deputy

EXHIBIT "A"

**CITY OF LONG BEACH
PURCHASE ORDER – GENERAL CONDITIONS**

1. Issuance of this Purchase Order by the City constitutes acceptance of Supplier's offer on the terms and conditions stated herein, and forms a contract.
 2. City will not pay charges for taxes, transportation, boxing, packaging, crating or returnable containers unless separately stated hereon. All sales, use, excise or similar taxes to be paid by the City must be itemized separately hereon and on invoices. The City is exempt from payment of Federal Excise Tax under Certificate Number 95-730502K and supplier shall not charge this tax to the City.
 3. City's obligation to pay the sum herein stated for any one fiscal year shall be contingent upon the City Council appropriating the necessary funds. A fiscal year commences on October 1 and ends on September 30 of the following year. If the City Council fails to appropriate the necessary funds for any fiscal year, then the Purchase Order shall terminate at no additional cost or obligation to the City.
 4. Time is of the essence. If at any time the Supplier believes that goods, materials, equipment, supplies ("items"), labor, or services will not be made as scheduled, Supplier shall immediately give written notice stating the cause of the delay to the City. Deliveries must be prepaid. City will not accept COD shipments.
 5. City reserves the right at any time to make changes in drawings and specifications, in methods of shipment and packaging, and in place(s) of delivery. If necessary, there will be an equitable adjustment in price and time of performance mutually satisfactory to the Supplier and the City; but any claim by the Supplier for such an adjustment must be made in writing within thirty days after such change.
 6. Supplier warrants that the items delivered and the work or services performed shall conform to the specifications, drawings, or other description specified by the City and shall be fit and sufficient for the purpose intended, merchantable, of good materials and workmanship, in good working order and free from defect or faulty workmanship for a period of at least ninety days, after delivery. When defective items or faulty workmanship is discovered, Supplier shall provide all labor, materials, parts and equipment to correct such defect or make such replacement at no expense to the City. Defective items not meeting the City's specifications shall be held for the Supplier's instructions at the Supplier's risk and; if the Supplier so directs, will be returned at the Supplier's expense.
 7. Supplier shall defend, indemnify and hold the City, its officials and employees harmless from all loss, damage, liability, demands, claims, causes of action, costs and expenses (including reasonable attorneys' fees) for injuries to persons (including death) or damage or destruction to property connected with or arising from the negligent acts or omissions, willful misconduct, or misrepresentations of Supplier, its agents or employees in the performance of this Purchase Order or relating to a claim of infringement of a patent, trademark or copyright.
 8. City reserves the right to terminate this Purchase Order, or any part of it, at any time even though the Supplier is not in default. On receipt of notice of termination, Supplier shall, unless such notice otherwise directs, immediately *discontinue all work on the Purchase Order and deliver, if and as directed, to the City all completed and partially completed items and work in process.* This section shall not limit or affect the right of the City to terminate this Purchase Order immediately upon Supplier's breach.
 9. City reserves the right to terminate this Purchase Order or any part of it and reject delivery of items if delivery is not made when and as specified. The Supplier shall be charged for any direct losses, but not any consequential damages, sustained by the City by reason of such delay or failure, except losses caused by a delay for reasons beyond the Supplier's reasonable control. Direct losses shall include any costs to the City in excess of the Purchase Order price of obtaining items or services from other sources similar to those terminated or rejected.
 10. Supplier shall not substitute items without written approval of the City Purchasing Agent or designee.
 11. All license fees for the City's use of patented or copyrighted items for items furnished under this Purchase Order shall be included in the Purchase Order price.
 12. In cases where a price subject to escalation has been agreed upon, all claims for such price escalation must be received by the City within 60 days after date of final shipment. The price escalation shall be shown as a separate item on the invoice. Unless an escalator clause has been shown as a specific part of this Purchase Order, the Supplier shall not be entitled to reimbursement for costs incurred due to escalation.
 13. All items or services provided under this Purchase Order shall comply with the Safety Orders and Regulations of the California Division of Industrial Safety, Title 8, California Code of Regulations (CAL/OSHA) and all applicable OSHA regulations as well as all other applicable sections of California Code of Regulations. Supplier shall defend, indemnify and hold the City, its officials, and employees harmless from any loss, claim, cause of action, liability, cost or expense, including but not limited to fines, penalties, corrective measures, and attorney's fees, the City may sustain by reason of the Supplier's failure to comply.
 14. Supplier shall keep confidential and not disclose or use in any way confidential business or technical information that the City may disclose in conjunction with this Purchase Order or the Supplier may learn as a result of entering City property to deliver items or services or to perform work hereunder.
 15. Supplier shall not assign this Purchase Order or any part hereof or any payments due hereunder or delegate any duties without the City's prior written approval.
 16. The City's remedies herein are cumulative and additional to any other remedies at law or in equity. The waiver of any breach of this Purchase Order shall not be deemed a waiver of any other or subsequent breach. The City's failure to object to provisions contained in any communication from the Supplier shall not be deemed an acceptance of such provisions or a waiver of the provisions of this Purchase Order.
 17. This Purchase Order shall not be amended, modified or rescinded, except by written agreement signed by the parties and expressly referring to this Purchase Order.
 18. Any indebtedness of the Supplier to the City may, at the City's option, be credited against amounts owing by the City hereunder.
 19. The Supplier shall furnish further itemization and breakdown of the Purchase Order price when requested by the City.
 20. The Supplier and its subcontractor(s) shall not discriminate against any person in the performance of this Purchase Order on the basis of race, religion, national origin, color, age, sex, sexual orientation, AIDS, HIV status, handicap, or disabled, and shall comply with applicable federal and state equal employment opportunity laws, ordinances, rules, and regulations.
 21. The Supplier shall comply with all applicable federal, state, and local laws, rules, regulations and ordinances pertaining to the subject matter hereof, and obtain all necessary licenses and permits related to the items, work or services.
 22. The Supplier, its employees, and agents shall be considered independent contractors and not employees or agents of the City.
 23. City's purchases are based on its actual needs and requirements; City is obligated to purchase only those items and those quantities that City needs and requires, regardless of any estimated quantities provided to the Supplier.
 24. The issuance of this Purchase Order does not make Supplier the exclusive supplier of items or services that are the subject of this Purchase Order.
- THE FOLLOWING ADDITIONAL CONDITIONS APPLY WHEN THE SUPPLIER IS TO PERFORM WORK ON THE PREMISES OF THE CITY:**
25. If, during the work, the Supplier allows any indebtedness or lien to accrue for labor, equipment, or materials, which may become a claim against the City, the Supplier shall immediately pay such claim or indebtedness or cause such lien to be dissolved and discharged by giving a bond and, in case of failure to do so, the City may withhold any money due to Supplier until such claim, indebtedness or lien is paid or may apply such money toward the discharge thereof; or the City may, at its option, cancel this Purchase Order, take possession and control of the work, and complete the same or cause the same to be completed. Supplier shall pay to City the difference between the Purchase Order price and the actual cost to the City in completing or causing the work to be completed.
 26. The Supplier shall perform the work at Supplier's own risk until the same is fully completed and accepted and shall, in case of any accident, destruction or injury to the work or items before final completion and acceptance, repair or replace the work or items so injured, damaged or destroyed, at Supplier's own expense and to the satisfaction of the City. When items are furnished by others for installation or erection by the Supplier, the Supplier shall receive, unload, store, and handle same at site and become responsible therefore, as though such items were being furnished by the Supplier under the Purchase Order.
 27. Supplier shall obtain and maintain at its expense, until completion of performance and acceptance by City, from an insurer admitted in California or with a rating of or equivalent to A: VIII by A.M. Best, unless waived in writing by City's Risk Manager, the following insurance:
 - a. **COMPREHENSIVE GENERAL LIABILITY** naming City, its officials, employees and agents as additional insured's for injury to or death of persons or damage to or loss of property arising from or connected to Supplier's performance hereunder: \$1,000,000 combined single limit for each occurrence or \$2,000,000 general aggregate.
 - b. **AUTOMOBILE LIABILITY:** \$500,000 combined single limit per accident for bodily injury and property damage covering owned, non-owned and hired vehicles.
 - c. **WORKER'S COMPENSATION:** As required by the California Labor Code.
- Self-insurance and self-insured retention must be approved in writing by City and protect City in the same manner and extent as if the policies had not contained retention. Each policy must be endorsed to state that coverage shall not be cancelled by either party or reduced in coverage except after 30 days prior written notice to City. Supplier shall furnish to City before performance Certificates of Insurance and original endorsements, with the original signature of one authorized by the insurer to bind coverage on its behalf. This insurance shall not be deemed to limit Supplier's liability hereunder. Supplier shall require that its subcontractors comply with this Section. City reserves the right to require complete certified copies of policies. If Supplier fails to furnish said insurance, City may terminate the Purchase Order.
28. Supplier shall comply with the Standard Specifications for Public Works Construction, latest edition, and provide bonds required by the City.



City of Long Beach
City Purchasing Agent
333 W. Ocean Blvd./Plaza Level
Long Beach, CA 90802

PURCHASE ORDER

BPO ID: BPLB03000599

PRINT DATE: 01/04/2006

PAGE: 02

** REVISED **

THIS BLANKET PURCHASE ORDER IS BEING SENT TO YOU FOR YOUR FILES. EACH DEPT THAT USES THE BPO WILL CREATE THEIR OWN PO RELEASE AGAINST THE BPO. PO RELEASE WILL BE SENT TO YOU EITHER VIA US MAIL OR FAX. THE CITY PURCHASING AGENT'S SIGNATURE WILL NOT APPEAR ON THE RELEASE; AN AUTHORIZED PERSON IN THAT DEPT WILL SIGN THE RELEASE. SHIPMENT OR SERVICE SHALL BE MADE AGAINST THE RELEASE PO NUMBER.

THIS BPO NUMBER SHOULD NOT BE USED ON THE INVOICE.
ONLY THE PO NUMBER PROVIDED BY THE USING DEPT SHOULD BE USED.
FAILURE TO OBTAIN THE PO NUMBER AND PROVIDE THAT NUMBER TO THE CITY ON ALL INVOICES WILL RESULT IN DELAYS IN PAYMENT.

QUESTIONS REGARDING THIS BLANKET PURCHASE ORDER SHOULD BE DIRECTED TO THE BUYER AS SHOWN ON THE BPO.

ISSUANCE OF THE PURCHASE ORDER BY THE CITY CONSTITUTES ACCEPTANCE OF SUPPLIER'S OFFER ON THE TERMS AND CONDITIONS STATED HEREIN AND IN ANY ADDENDUM HERETO.

TOTAL ESTIMATED EXPENDITURES (CONTRACT AMOUNT) ARE NOTED HEREIN. THE CONTRACT AMOUNT SHALL NOT BE EXCEEDED, INCLUDING TAX, WITHOUT WRITTEN AUTHORIZATION.

PRICES SHALL BE IN ACCORDANCE WITH THOSE EXTENDED TO OTHER GOVERNMENTAL AGENCIES. APPLICABLE STATE AND COUNTY SALES TAX WILL BE ADDED TO INVOICE.

THIS PURCHASE ORDER AMOUNT IS ONLY AN ESTIMATE. THE CITY NEITHER WARRANTS NOR GUARANTEES THAT THE TOTAL PURCHASE ORDER AMOUNT WILL BE REACHED.

AUTHORIZED SIGNATURE: _____

DATE: _____

***** LAST PAGE *****

**CITY OF LONG BEACH
PURCHASE ORDER – GENERAL CONDITIONS**

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