

RESOLUTION No. 107 of 2014

Moved by: Wanda R.S. Wilkins

A Resolution approving a Staffing Services Agreement with Spherion Staffing, LLC for the placement of a temporary employee to fill the Secretarial position for the Chief of Police.

WHEREAS, the Secretary for the Chief of Police recently retired causing a vacancy in that position ("Position"); and

WHEREAS, the City has determined that the Position performs a critical function in support of the police mission and needs to be filled as soon as possible; and

WHEREAS, the City has further determined that the most expeditious way to temporarily fill the Position while a permanent replacement is sought, is to engage the services of a temporary employee by way of a temporary staffing agency; and

WHEREAS, the City has selected Spherion Staffing, LLC to provide a qualified temporary employee to fill the Position on a temporary basis; and

WHEREAS, Spherion Staffing, LLC ("Spherion") is a reputable and well established staffing agency with experience providing temporary placements for positions of this kind; and

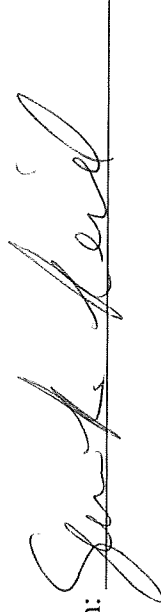
WHEREAS, Spherion proposes to provide its services to the City based on a fee structure of the hourly rate paid plus 45% and pursuant to the other terms and conditions set forth in a Staffing Services Agreement which is attached hereto as Exhibit "A"; and

WHEREAS, the City believes that the utilization of Spherion's services to fill the Position and any other temporary staffing needs that arise is in the City's best interest.

NOW, THEREFORE, BE IT RESOLVED BY THE COUCIL OF THE CITY OF HARRISBURG, that the Staffing Services Agreement with Spherion Staffing, LLC is hereby approved.

BE IT FURTHER RESOLVED that the Mayor, Controller, and other appropriate City officials are authorized to take all steps necessary to effectuate the purpose of this Resolution.

I second this resolution:



Attest the City Council this 23rd day of February 1914

Wm. R. Williams
President of City Council

R. J. [Signature]
City Clerk

YEAS	NAYS
<input checked="" type="checkbox"/> MR. ALLATT	
<input checked="" type="checkbox"/> MR. BALTIMORE	
<input checked="" type="checkbox"/> MS. DANIELS	
<input checked="" type="checkbox"/> MR. KOPLINSKI	
<input checked="" type="checkbox"/> MS. REID	
<input checked="" type="checkbox"/> MS. WILSON	
<input checked="" type="checkbox"/> MS. WILLIAMS	
YEAS <u>6</u>	
NAYS <u>0</u>	

Exhibit “A”

STAFFING SERVICES AGREEMENT

THIS STAFFING SERVICES AGREEMENT (this "Agreement") is dated this 12th day of September, 2014, by and between Spherion Staffing, LLC a Delaware limited liability company with its principal place of business at 2015 South Park Place, Atlanta, GA 30339 (hereinafter referred to as "Provider"), and the City of Harrisburg with its principal place of business located at 10 North Second Street, Suite 402, Harrisburg, PA 17101 (hereinafter referred to as "Client").

IN CONSIDERATION of the mutual agreements and covenants contained herein, Client and Provider agree as follows:

- 1. Term of Agreement.** This non-exclusive agreement shall commence as of the date set forth above, and shall continue in effect for a period of 2 years, unless earlier terminated by either party upon thirty (30) days prior written notice. Provider reserves the right to terminate this Agreement immediately in the event of non-payment for services rendered, if Client fails to pay undisputed past-due amounts within twenty (20) days of notice from Provider. The terms of this Agreement where the context so indicates shall survive any termination or cancellation of this Agreement.
- 2. Scope of Services.** Provider will provide to Client the flexible staffing services described in Attachment A (the "Services") and shall assign personnel to Client ("Supplemental Employees"). Client acknowledges that under this Agreement Provider is providing Supplemental Employees to perform work on a flexible staffing basis under the direction of Client, and that Provider makes no warranty regarding and expressly disclaims any responsibility for the delivery of any specific product or for completing any work associated with this Agreement within any specified time period, except as otherwise provided herein. Client will control the details of the work and will be responsible for the work product of the Supplemental Employees. This Agreement shall not apply with respect to any payroll service (as defined below) performed by Provider unless and until such time as the parties have executed a written amendment or separate agreement containing terms for such service. As used herein, "payroll service" means the performance of administrative payroll functions with respect to employees referred to Provider by Client ("Administrative Payrollees").
- 3. Restricted Tasks.** Client will not substantially change the Supplemental Employee's assignment or job duties without Provider's prior approval. Unless specifically authorized in Attachment A, and subject to Section 6 herein, Client agrees that Supplemental Employees will not be placed in any jobs involving the lifting of items weighing in excess of fifty (50) pounds individually; operation of motor vehicles (including forklifts/powered industrial trucks) without Provider's prior written approval or unguarded machinery; work six (6) feet above floor level or work below ground level; work involving extremes of temperature; work requiring use of a respirator; work on or around navigable bodies of water; handling of cash, negotiable instruments, social security numbers, bank account numbers, or other non-public personally identifiable information, credit card information, valuables, merchandise, or similar property, or work involving handling of hazardous substances (as defined by OSHA).
- 4. Rates and Invoicing:** Client agrees to verify the hours worked by Supplemental Employees. The rates and fees for the Services shall be as set forth in Attachment A. Provider will invoice Client weekly via Provider's eBilling and Client shall pay invoices within 60 days from the date of invoice. Client agrees to notify Provider of any disputed invoices already paid by Client within one hundred and eighty (180) days of the invoice date otherwise Client agrees that such invoice is correct and Client waives any dispute rights. Any past-due invoices shall bear interest at the rate of one and one-half percent (1½%) per month of the unpaid balance (Annual Percentage Rate of 18%), or the maximum legal interest rate, whichever is lower. In the event Client's account is in default and placed for collection, Provider will be entitled to recover its costs of collection, including reasonable attorneys' fees. Client agrees to pay any state or local sales or use tax imposed as a result of this Agreement. In the event Client voluntarily files a Chapter 11 bankruptcy petition (or becomes subject to an involuntary bankruptcy petition), it shall, as soon as practicable thereafter, seek entry of an Order from the U.S. Bankruptcy Court having jurisdiction over Client's bankruptcy case(s), in form and substance acceptable to Provider, (a) assuming this Agreement or (b) naming Provider as a "critical vendor" and authorizing the payment of Provider's pre-petition invoices. Client acknowledges that its failure to timely procure either such Order shall automatically serve as grounds for Provider's immediate rejection/termination of this Agreement. Client acknowledges that Provider is relying on this provision as an inducement to (a) enter into this Agreement, and (b) provide further services to Client from and after the date hereof.
- 5. Safety.** The parties shall comply with all applicable laws and ordinances relating to work site health and safety. Client shall provide a safe place to work, adequate supervision, and all necessary site-specific information, training, instructions and safety equipment. Where Supplemental Employees will be operating forklifts (powered industrial trucks) Client agrees to comply with the OSHA Powered Industrial Truck standard. Client agrees to include Supplemental Employees in any Client safety program and hazardous communication training program and to cover the cost of any safety or personal protective equipment, special badges, location-specific garments or uniforms.
- 6. Indemnification.** Each party (the "indemnifying party") will indemnify, defend and hold harmless the other party and its directors, officers, employees and agents (the "indemnified party") from and against all third-party claims, suits, demands, losses, damages or penalties, including reasonable attorneys' fees and costs (collectively "Liabilities"), attributable to bodily injury or property damage, to the extent caused by any negligent act or omission on the part of the indemnifying party. The foregoing or anything in this Agreement to the contrary notwithstanding, regardless of the negligence or fault of Supplemental Employees, Client will also release, indemnify, defend and hold harmless Provider and its directors, officers, shareholders, employees, agents and affiliates, from and against all claims, suits, demands, losses, penalties, including reasonable attorneys' fees and costs, arising from (A) the use of any motor vehicle, operation of forklifts, or access to or handling of social security numbers, bank account numbers, or other non-public personally identifiable information, cash, negotiable instruments, credit card information, valuables, merchandise, or similar information or property by Supplemental Employees in connection with the performance of services; (B) Client's failure to comply with its obligations or perform its responsibilities; and (C) Liabilities incurred by reason of Supplemental Employees providing services not covered by this Agreement. Client and Provider agree: (a) to notify each other in writing of any asserted claim within ten (10) days of either discovery of the occurrence upon which the claim may be based or learning of the claim, whichever occurs first, (b) to permit the

indemnifying party to defend the claim with counsel acceptable to the indemnified party, and (c) to cooperate fully in any investigation, defense or settlement negotiations.

7. Limitation of Liability. Client agrees that Provider's entire liability to Client for any cause of action under this Agreement, regardless of the form, shall in the aggregate be limited to direct damages not to exceed the fees paid by Client for the specific Services which are the subject of the alleged claim. IN NO EVENT SHALL EITHER PARTY BE LIABLE FOR ANY INCIDENTAL, CONSEQUENTIAL, EXEMPLARY, SPECIAL OR PUNITIVE DAMAGES OR EXPENSES OR LOST PROFITS (REGARDLESS OF HOW CHARACTERIZED AND EVEN IF SUCH PARTY HAS BEEN ADVISED OF THE POSSIBILITY OF SUCH DAMAGES) UNDER OR IN CONNECTION WITH THIS AGREEMENT, REGARDLESS OF THE FORM OR ACTION (WHETHER IN CONTRACT, TORT, NEGLIGENCE, STRICT LIABILITY, STATUTORY LIABILITY OR OTHERWISE).

8. Compliance with Law: Each party shall, at its own expense, comply with all laws, orders and regulations of federal, state and municipal authorities, and with any lawful direction of any public officer which shall impose any duty upon that party regarding the performance under this Agreement. The parties further agree to comply with all applicable state and federal employment laws, including, but not limited to, Title VII of the Civil Rights Act, the Americans with Disabilities Act, the Age Discrimination in Employment Act, the Fair Labor Standards Act, and the National Labor Relations Act.

9. Waivers: No waiver of any provision of this Agreement shall be effective unless it is in writing, signed by the party against whom it is asserted, and any such written waiver shall only be applicable to the specific instance to which is related and shall not be deemed to be a continuing or further waiver.

10. Severability: Each and every covenant and agreement herein shall be separate and independent from any other and the breach of any covenant or agreement shall in no way or manner discharge or relieve the performance of any other covenant or agreement. The unenforceability, invalidity or illegality of any provision of this Agreement shall not render the other provisions unenforceable, invalid or illegal.

11. Notices: Any notice or other communication provided under this Agreement shall be in writing and shall be effective either when personally delivered, via facsimile (with confirmation of delivery) or five (5) days following deposit of such notice or communication into the United States mail (certified mail, return receipt requested or first class postage prepaid).

12. Independent Relationship: Both parties agree that this Agreement is not intended to create nor shall be deemed or construed to create any relationship between the parties other than that of independent entities contracting with each other solely for the purpose of effecting the provisions of this Agreement. Neither the parties hereto, nor any of their respective employees, shall be construed to be the agent, employer, employee or representative of the other, nor will either party have any express or implied right of authority to assume or create any obligation or responsibility on behalf of or in the name of the other party.

13. Force Majeure: The obligations of Provider hereunder shall be excused during any period of delay caused by matters such as strikes, acts of God, shortages of raw material or power, governmental actions or compliance with governmental requirements, whether voluntary or pursuant to order, or any other matter beyond the reasonable efforts of Provider to control.

14. Governing Law: This Agreement shall be governed by and construed according to the laws of the State of Georgia.

15. Entire Agreement: This Agreement constitutes and represents the entire Agreement between the parties hereto and supersedes any prior understandings or agreements, written or oral, between the parties hereto respecting the subject matter herein except the Terms & Conditions of Service, as listed on the back of time cards, may be applicable if time cards are used. This Agreement may only be amended by an agreement in writing executed by all of the parties hereto. This Agreement shall inure to the benefit of and shall be binding upon the parties hereto and their respective heirs, personal representatives, successors and assigns, subject, however, to the limitations contained herein.

IN WITNESS WHEREOF, the parties have hereunto set their hands on the day and year first above written.

PROVIDER:

Name: Phillip L. Frassinelli

Signature: _____

Title: License Owner

Date: _____

CLIENT:

Name: _____

Signature: _____

Title: _____

Date: _____

Name: _____

Signature: _____

Title: _____

Date: _____

APPROVED FOR FORM & LEGALITY:

Attachment A

Flexible Staffing Services.

Temporary Talent Pricing:

Mark Up: 45% Example - Pay Rate will be \$14.50 per hour - bill rate will be \$21.03

Overtime will be billed at 1.5 X applicable hourly pay rate X markup. Overtime is defined by the requirements of local, state and federal law and may be hours worked by a Supplemental Employee in excess of 40 hours in a week or 8 hours in a day.

Hiring of Supplemental Employees by Client: If Client desires to hire any Supplemental Employees, Client will notify Provider and the following conversion terms shall apply:

Fees are based on realistic first-year earnings of the placed candidate, which may include bonuses, incentives, commissions, etc. Spherion employees assigned to temporary roles may be converted to a client's payroll based on the following fee schedule:

<u># Hours Employee Temps</u>	<u>Fee % of Annual Salary</u>
1 - 139 hours	25%
140 - 239 hours	15%
240 - 339 hours	10%
239 - 399 hours	7.5%
400 - 475 hours	5%
475 +	0%

Government Mandated Cost Increases. If at any time during the term of this Agreement, Provider is required to increase its employee's wages (due to increase in minimum wage rates or mandatory benefits requirement), or incurs an increase in its payroll burden costs (such as FICA, FUI, SUI or worker's compensation) as a direct result of any determination, order or action by a governmental authority or government insurance benefit program, Client agrees that Provider may increase the bill rates proportionately so as to place Provider in the same position it was in prior to such determination, order or action. Provider shall provide Client with a thirty (30) day notice of any such increase.

PROVIDER:

Name: Phillip L. Frassineli
Signature: _____
Title: License Owner
Date: _____

CLIENT:
Name: _____
Signature: _____
Title: _____
Date: _____

Name: _____
Signature: _____
Title: _____
Date: _____

APPROVED FOR FORM & LEGALITY:

INTER

MEMO

OFFICE

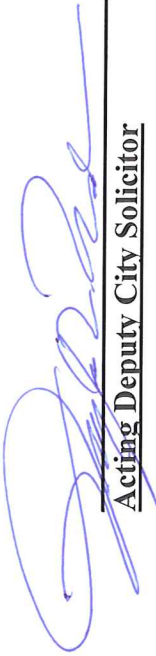
To: HARRISBURG CITY COUNCIL
From: Kirk Petroski, City Clerk
LEGISLATIVE APPROVAL FORM

Date: September 19, 2014

LEGISLATIVE APPROVAL FORM/CERTIFICATE OF ACCEPTANCE

BILL NO. -2014 RESOLUTION NO. 107-2014

THE ABOVE LISTED ITEM WAS WRITTEN AND PREPARED FOR FINAL INTRODUCTION AT THE HARRISBURG CITY SOLICITOR'S OFFICE ON:

 _____
Acting Deputy City Solicitor

9/19/14 _____
Date

Requested by Department/Bureau: Police Department

Department/Bureau Contact Person: Chief Carter

For Action on or before:

The attached was received in the Office of the City Clerk for introduction on

 _____
Received by: _____ Date: 9-19-14