

# Purchase Order



State of West Virginia  
 Department of Administration  
 Purchasing Division  
 2019 Washington Street East  
 Post Office Box 50130  
 Charleston, WV 25305-0130

PURCHASE ORDER NO.  
**MOTL06BBB**

PAGE  
**1**

BLANKET RELEASE

CORRECT PURCHASE ORDER NUMBER  
 MUST APPEAR ON ALL PACKAGES,  
 INVOICES, AND SHIPPING PAPERS.  
 QUESTIONS CONCERNING THIS PUR-  
 CHASE ORDER SHOULD BE DIRECTED  
 TO THE BUYER AS NOTED BELOW

CHANGE ORDER

SEE REVERSE SIDE FOR  
 TERMS AND CONDITIONS

**AGENCY COPY**

INVOICE TO

ALL STATE AGENCIES  
 AND POLITICAL SUBDIVISIONS  
 VARIOUS LOCALES AS INDICATED  
 BY ORDER

VENDOR

\*70906132401      304-243-4063  
 OGLEBAY RESORT  
 ROUTE 88 N  
 WHEELING WV      26003

SHIP TO

ALL STATE AGENCIES  
 AND POLITICAL SUBDIVISIONS  
 VARIOUS LOCALES AS INDICATED  
 BY ORDER

DATE PRINTED <b>01/23/2006</b>	TERMS OF SALE <b>NET 30</b>	FEIN/SSN <b>556000957</b>	FUND
SHIP VIA <b>BEST WAY</b>	F.O.B.	FREIGHT TERMS <b>PREPAID</b>	ACCOUNT NUMBER <b>MUL - MUL</b>

LINE	QUANTITY	UOP	VENDOR ITEM NO.	UNIT PRICE	AMOUNT
	DELIVERY DATE	CAT NO.	ITEM NUMBER		
0001	1	EA	962-43	0.00000	0.00
	01/31/2006		HOTEL/MOTEL ACCOMMODATIONS		
PRICE AGREEMENT BLANKET STATEWIDE CONTRACT AGREEMENT ON PRICE FOR HOTEL/MOTEL SERVICE WITHIN THE STATE OF WEST VIRGINIA FOR OFFICIAL BUSINESS TRAVEL ONLY. SEE THE ATTACHED AGREEMENT.					
					WV STATE PURCHASING DIVISION ADMINISTRATION UNIT CERTIFIED ENCUMBERED  FEB 08 2006  <i>Beverly Toler</i>

IF APPROVAL AS TO FORM IS REQUIRED BY ATTORNEY GENERAL, CHECK HERE  *1-31-06*

.00  
 TOTAL

*Samuel Wayfield*

APPROVED AS TO FORM BY  
 ASSISTANT ATTORNEY GENERAL

BETTY FRANCISCO      304-558-0468  
 BY *Lucretia Davis*      *1/31/06*  
 PURCHASING DIVISION AUTHORIZED SIGNATURE

**GENERAL TERMS & CONDITIONS  
PURCHASE ORDER/CONTRACT**

1. **ACCEPTANCE:** Seller shall be bound by this order and its terms and conditions upon receipt of this order.
2. **APPLICABLE LAW:** The laws of the State of West Virginia and the *Legislative Rules* of the Purchasing Division shall govern all rights and duties under the Contract, including without limitation the validity of this Purchase Order/Contract.
3. **NON-FUNDING:** All services performed or goods delivered under State Purchase Orders/Contracts are to be continued for the terms of the Purchase Order/Contract, contingent upon funds being appropriated by the Legislature or otherwise being made available. In the event funds are not appropriated or otherwise available for these services or goods, this Purchase Order/Contract becomes void and of no effect after June 30.
4. **COMPLIANCE:** Seller shall comply with all Federal, State and local laws, regulations and ordinances including, but not limited to, the prevailing wage rates of the WV Division of Labor.
5. **MODIFICATIONS:** This writing is the parties final expression of intent. No modification of this order shall be binding unless agreed to in writing by the Buyer.
6. **ASSIGNMENT:** Neither this Order nor any monies due, or to become due hereunder may be assigned by the Seller without the Buyer's consent.
7. **WARRANTY:** The Seller expressly warrants that the goods and/or services covered by this order will: {a} conform to the specifications, drawings, samples or other description furnished or specified by the Buyer {b} be merchantable and fit for the purpose intended and/or {c} be free from defect in material and workmanship.
8. **CANCELLATION:** The Director or Purchasing may cancel any Purchase Order/Contract upon 30 days written notice to the seller.
9. **SHIPPING, BILLING & PRICES:** Prices are those stated in this order. No price increase will be accepted without written authority from the Buyer. All goods or services shall be shipped on or before the date specified in this Order.
10. **LATE PAYMENTS:** Payments may only be made after the delivery of goods or services. Interest may be paid on late payments in accordance with the *West Virginia Code*.
11. **TAXES:** The State of West Virginia is exempt from Federal and State taxes and will not pay or reimburse such taxes.
12. **RENEWAL:** Any reference to automatic renewal is hereby deleted. The Contract may be renewed only upon mutual written agreement of the parties.
13. **BANKRUPTCY:** In the event the vendor / contractor files for bankruptcy protection, this contract is automatically null and void, and is terminated without further order.
14. **HIPAA Business Associate Addendum -** The West Virginia State Government HIPAA Business Associate Addendum (BAA), approved by the Attorney General, and available online at the Purchasing Division's web site (<http://www.state.wv.us/admin/purchase/vrc/hipaa.htm>) is hereby made part of the agreement. Provided that, the Agency meets the definition of a Covered Entity (45 CFR ü160.103) and will be disclosing Protected Health Information (45 CFR ü160.103) to the vendor.

**AGREEMENT – MOTEL06**

**AGREEMENT:** This agreement between OGLEBAY RESORT and the State of West Virginia serves the purpose of providing the employees of the State of West Virginia guest rooms for state business travel purposes only. This agreement is for guest rooms for the year 2006. The negotiated individual rates for the State of West Virginia shall remain firm for the term of this agreement.

**(2005) Hotel Published Rates:**

<u>Room Types</u>	<u>Rates</u>
<del>Kings</del> (PREMIUM)	\$ 275.00
<del>Double/Doubles</del> (INTERMEDIATE)	\$ 180.00
<del>Singles</del> (STANDARD)	\$ 135.00

**Negotiated Rate for State of West Virginia**

<u>Room Types</u>	<u>Rates</u>
<del>Kings</del> (PREMIUM)	\$ 126.00
<del>Double/Doubles</del> (INTERMEDIATE)	\$ 96.00
<del>Singles</del> (STANDARD)	\$ 66.00

These rates are net non commissionable and are subject to all state and local occupancy taxes in effect at the time of arrival.

**RATE AVAILABILITY:** The above quoted negotiated rate will be subject to last room availability. **Blackout dates, if any:** WEEKENDS/HOLIDAYS

**EFFECTIVE DATES:** January 1, 2006 through and including December 31, 2006. Only exceptions are the Blackout dates listed above.

**ELIGIBILITY:** This rate will be available to all employees and guests of the **State of West Virginia** and affiliate companies as named by the State; In order to receive this special rate, all callers must identify themselves with the **State of West Virginia and the Department they represent. The Hotel reserves the right to verify their employment with the State.**

These rates are only valid for transient business or groups consuming nine rooms or less per night. All groups in excess of nine rooms per night will be negotiated independently.

**RESERVATIONS/PAYMENT:** Reservations may be made by contacting the hotel directly at telephone (304) 243-4090 and identify the State of West Virginia / Department to acquire this special rate.

All reservations are held until 6:00 p.m. on the day of arrival unless guaranteed for late arrival. Methods of guarantee include any major credit card or cash payment of the first night's room and tax. Guaranteed reservations that are not canceled with the hotel by 6:00 p.m. on the day of arrival will be charged the first night's room and tax.

**AGREEMENT – MOTEL06**

Unless otherwise stipulated, full payment of room, tax and incidental charges will be the full responsibility of the individual guest(s). If desiring direct bill privileges, the hotel must receive a signed request and approval from the person, and/or, department reserving the rooms.

**RESERVATION TRACKING:** The hotel will track reservations that are consumed and will provide quarterly documentation to the State of West Virginia upon written request.

**ACCOUNTABILITY:** Both the hotel and the State of West Virginia will inform all necessary individuals of this agreement. The State of West Virginia will make all reasonable efforts to inform any individuals and departments which may place INDIVIDUAL reservations of the special rates and this agreement.

**RENEWAL:** This contract may be renewed upon the mutual written agreement of the parties. Such renewal shall be in accordance with the terms and conditions of the original contract and shall be limited to two (2) one (1) year periods.

**TERMS OF CONTRACT/CANCELLATION:** Either party may terminate this agreement for any reason by stating intent in writing at least 30 days in advance of the proposed termination date.

This contract becomes effective January 1, 2006 and extends through and including December 31, 2006, for a period of one (1) year or until such "reasonable time" period shall not exceed twelve (12) months. During this "reasonable time" the vendor may terminate this contract for any reason upon giving the Director of Purchasing 30 day's written notice.

**AGREEMENT:** This agreement supersedes any prior agreement. This document represents the total agreement between the State of West Virginia and OGLEBAY RESORT. Signatures indicate understanding, acceptance, and empowerment of the aforementioned by the parties.

**ACCEPTED BY:**

WILSON LODGE  
(HOTEL/MOTEL)

SCOTT SCHENERLEIN  
(PLEASE PRINT CLEARLY)

*Scott Schenerlein*  
(SIGNATURE)

11-14-05  
(DATE)

304-243-4060                      304-243-4105  
(PHONE)                                      (FAX)

**AGREEMENT ADDENDUM**

In the event of conflict between this addendum and the agreement, this addendum shall control:

1. **ARBITRATION** - Any references to arbitration contained in the agreement are hereby deleted. Disputes arising out of the agreement shall be presented to the West Virginia Court of Claims.
2. **HOLD HARMLESS** - Any clause requiring the Agency to indemnify or hold harmless any party is hereby deleted in its entirety.
3. **GOVERNING LAW** - The agreement shall be governed by the laws of the State of West Virginia. This provision replaces any references to any other State's governing law.
4. **TAXES** - Provisions in the agreement requiring the Agency to pay taxes are deleted. As a State entity, the Agency is exempt from Federal, State, and local taxes and will not pay taxes for any Vendor including individuals, nor will the Agency file any tax returns or reports on behalf of Vendor or any other party.
5. **PAYMENT** - Any references to prepayment are deleted. Payment will be in arrears.
6. **INTEREST** - Should the agreement include a provision for interest on late payments, the Agency agrees to pay the maximum legal rate under West Virginia law. All other references to interest or late charges are deleted.
7. **RECOURPMENT** - Any language in the agreement waiving the Agency's right to set-off, counterclaim, recoupment, or other defense is hereby deleted.
8. **FISCAL YEAR FUNDING** - Service performed under the agreement may be continued in succeeding fiscal years for the term of the agreement, contingent upon funds being appropriated by the Legislature or otherwise being available for this service. In the event funds are not appropriated or otherwise available for this service, the agreement shall terminate without penalty on June 30. After that date, the agreement becomes of no effect and is null and void. However, the Agency agrees to use its best efforts to have the amounts contemplated under the agreement included in its budget. Non-appropriation or non-funding shall not be considered an event of default.
9. **STATUTE OF LIMITATION** - Any clauses limiting the time in which the Agency may bring suit against the Vendor, lessor, individual, or any other party are deleted.
10. **SIMILAR SERVICES** - Any provisions limiting the Agency's right to obtain similar services or equipment in the event of default or non-funding during the term of the agreement are hereby deleted.
11. **ATTORNEY FEES** - The Agency recognizes an obligation to pay attorney's fees or costs only when assessed by a court of competent jurisdiction. Any other provision is invalid and considered null and void.
12. **ASSIGNMENT** - Notwithstanding any clause to the contrary, the Agency reserves the right to assign the agreement to another State of West Virginia agency, board or commission upon thirty (30) days written notice to the Vendor and Vendor shall obtain the written consent of Agency prior to assigning the agreement.
13. **LIMITATION OF LIABILITY** - The Agency, as a State entity, cannot agree to assume the potential liability of a Vendor. Accordingly, any provision limiting the Vendor's liability for direct damages or limiting the Vendor's liability under a warranty to a certain dollar amount or to the amount of the agreement is hereby deleted. In addition, any limitation is null and void to the extent that it precludes any action for injury to persons or for damages to personal property.
14. **RIGHT TO TERMINATE** - Agency shall have the right to terminate the agreement upon thirty (30) days written notice to Vendor.
15. **TERMINATION CHARGES** - Any provision requiring the Agency to pay a fixed amount or liquidated damages upon termination of the agreement is hereby deleted. The Agency may only agree to reimburse a Vendor for actual costs incurred or losses sustained during the current fiscal year due to wrongful termination by the Agency prior to the end of any current agreement term.
16. **RENEWAL** - Any reference to automatic renewal is hereby deleted. The agreement may be renewed only upon mutual written agreement of the parties.
17. **INSURANCE** - Any provision requiring the Agency to insure equipment or property of any kind and name the Vendor as beneficiary or as an additional insured is hereby deleted.
18. **RIGHT TO NOTICE** - Any provision for repossession of equipment without notice is hereby deleted. However, the Agency does recognize a right of repossession with notice.
19. **ACCELERATION** - Any reference to acceleration of payments in the event of default or non-funding is hereby deleted.
20. **AMENDMENTS** - All amendments, modifications, alterations or changes to the agreement shall be in writing and signed by both parties. No amendment, modification, alteration or change may be made to this addendum without the express written approval of the Purchasing Division and the Attorney General.

**ACCEPTED BY:**

**STATE OF WEST VIRGINIA**

Spending Unit: Purchasing Div

Signed: [Signature]

Title: Asst Director

Date: 11/3/06

**VENDOR**

Company Name: OGLEBAY RESORT

Signed: [Signature]

Title: DIRECTOR OF SALES

Date: 11-14-05

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 OGLEBAY RESORT  
 ROUTE 88 N  
 WHEELING WV 26003      26003

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DATE PRINTED		TERMS OF SALE		FEIN/SSN		FUND	
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BEST WAY		DESTINATION		PREPAID		MUL-MUL	
LINE	QUANTITY	UOP	VENDOR ITEM NO.		UNIT PRICE		AMOUNT
	DELIVERY DATE	CAT NO	ITEM NUMBER				
RECEIPT TICKET FOR PURCHASE ORDER: MOTL06BBB							
LINE	CATNO	ITEM NUMBER	DESCRIPTION			QTY	DATE
0001	962-43		HOTEL/MOTEL ACCOMMODATIONS				
SIGNATURE _____				DATE _____			
IF APPROVAL AS TO FORM IS REQUIRED BY ATTORNEY GENERAL, CHECK HERE <input type="checkbox"/>							TOTAL

BETTY FRANCISCO

304-558-0468

BY \_\_\_\_\_  
 PURCHASING DIVISION AUTHORIZED SIGNATURE

APPROVED AS TO FORM BY  
 ASSISTANT ATTORNEY GENERAL