



**CONCESSION BID
C - 106 – 11R**

**CONCESSION BID
FOR THE INSTALLATION, OPERATION AND MAINTENANCE OF
MICROFILM-MICROFICHE READERS, MICROFILM-MICROFICHE
READER/PRINTERS, COPIER MACHINES AT THE:**

**RECORDS AND ARCHIVES CENTER
3101 MARKET STREET**

**RECORDS DOCUMENT RECORDING
ROOM 154, B54 & 163, CITY HALL**

**JOAN DECKER
RECORDS COMMISSIONER**

**HUGH ORTMAN
PROCUREMENT COMMISSIONER**

**PROCUREMENT DEPARTMENT
1ST FLOOR, MUNICIPAL SERVICES BUILDING
1401 JOHN F. KENNEDY BLVD.
PHILADELPHIA, PA 19102-1685**

**SEALED BIDS WILL BE OPENED AND PUBLICLY READ IN THE CITY OF PHILADELPHIA
PROCUREMENT DEPARTMENT, MUNICIPAL SERVICES BUILDING,
ROOM 170A, 10:30 AM, MONDAY, MAY 23, 2011**

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Attachment “A” Concession Agreement

Attachment “B” Philadelphia Reproduction Pricing Guide

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Attachment “D” Miscellaneous License Application

Attachment “E” Location and Equipment Listing

Attachment “F” Antidiscrimination Policy and Solicitation for Participation and
Commitment Form

BID SPECIFICATIONS

1. **Conditions of Bidding.** Bidders must satisfy the minimum qualifications set forth in these Bid Specifications. No bid shall be accepted from, or concession awarded to, any City employee or official, or any firm in which a City employee or official has a financial interest. No bid will be accepted from, or concession awarded to any person, firm, or corporation that is in arrears or is in default to the City of Philadelphia relating to any debt or contract or is a defaulter as surety or has failed to perform faithfully any previous contract with the City or has failed to execute a contract with the City. The Bidder, by signing and submitting its bid, expressly acknowledges and agrees to all terms and conditions contained in this bid specification.

Accompanying this bid is a check in the amount of Two-hundred-fifty dollars (\$250.00) payable to the City of Philadelphia (“Bid Surety”). Submission of Bid Surety is considered a condition of responsiveness to these bid specifications; failure to submit the proper Bid Surety may result in the rejection of an otherwise responsive bid. The Bidder, by signing and submitting its bid, expressly acknowledges and agrees that the Bid Surety shall be the property of the City as liquidated damages in the event the Bidder fails to execute the Agreement and comply with all of the provisions set forth in the Specifications concerning the requirements of a successful bidder. In the event the otherwise successful bidder does not so comply, the bid may be awarded to the next highest responsive, responsible bidder or all bids may be rejected. The Bid Surety submitted by the unsuccessful bidders shall be returned after a highest responsive, responsible bidder has been determined. The Bid Surety submitted by the successful bidder shall be returned upon full execution of the Agreement and the provision to the City of all necessary insurance certificates, permits, licenses, etc.

(Note: All Bid Surety must be submitted in the form of a: certified check, bank treasurer’s or cashier’s check, or U.S. Postal Money Order made payable to the City of Philadelphia. All Bid Surety checks will be deposited by the City in a commercial bank account maintained by the City. Bid Surety which is returned in accordance with the foregoing provisions shall be returned to bidder(s) without interest in the form of a check drawn by the City Treasurer).

2. **Reservation of Rights and Preparation of Bid.** Bids must be written in ink or typewritten and shall be made on the forms issued. No bid may be considered if received after the date and time for the opening of bids established by this invitation nor may any bid be modified after that date and time; the time of bid opening shall be determined by the time displayed on the City’s official Bid Opening Time Clock and in the event of any discrepancy between actual time and the official Bid Opening Time Clock, the latter shall be determinative of the time of bid opening. The Procurement Commissioner reserves the right to reject any and all bids and to re-solicit when it shall be in the best interest of the City to do so. The Procurement Commissioner reserves the right to reject as informal or non-responsive any concession bid that, in the Commissioner’s sole judgment, is not responsive to these bid specifications, is incomplete, obscure, conditional, unbalanced, which contains additions not called for, or irregularities of any kind, including alterations or erasures. The City of Philadelphia reserves the right to add or eliminate the number of machines at a location; or, increase or decrease the number of locations described in these specifications, at any time during the term of the concessionaires’ contract.
3. **Concession Agreement and Term.** The successful bidder shall be required to execute the *Concession Agreement*, (“Agreement”), which is attached to these Bid Specifications as Attachment “A”. The “Agreement” shall grant the privileges described in these Bid Specifications for an initial term of one (1) year commencing on the date the Notice to Proceed is issued by the City. The term of the concession may be renewed, at the City’s sole discretion for up to three (3) additional one (1) year terms. The signed Agreement, complete with required signatures and Corporate Seal, if applicable, must be returned with Bid.

4. **Concession Operations.** The Concessionaire shall agree, immediately upon issuance of a Notice to Proceed by the City to install, operate, and maintain the microfilm-microfiche reader/printer and copier equipment as detailed in this bid specification.
- a) Machines shall be installed and or removed at location by the Concessionaire at the Concessionaire's sole expense. Any damage caused by the movement of the machines shall be the sole responsibility and expense of the Concessionaire.
 - b) The pricing for all copies, microfilm-microfiche printouts, and purchase price of debit cards will be determined by the City of Philadelphia in accordance with the *Philadelphia Reproduction Pricing Guide* attached to these bid specifications as Attachment "B". Requests for changes to the Philadelphia Reproduction Pricing Guide during the term of the Concession Agreement must be made through the Records Department, subject to approval by the City of Philadelphia.
 - c) Concessionaire shall not make any arrangements for power, electrical, plumbing, or structural changes in or to the locations. Request for these changes must be made through the Department of Public Property, subject to approval and execution by the City of Philadelphia.
 - d) Concessionaire shall be responsible for the monthly payment of a Concession Fee based on a percentage of gross revenue generated by each machine. Gross Revenue does not include cash or credit refunds made to customers on transactions in the ordinary course of business. The Records Department shall monitor the Concession Fee which is owed on each machine via the *Monthly Concession Fee Form* attached to these bid specifications as Attachment "C". The Monthly Concession Fee Form must accompany the Concessionaire's check when remitted. Payment of the monthly Concession Fee is remitted to, and made payable to, the City of Philadelphia on or before the 30th of the month proceeding the sales period as described in the Concession Agreement.
 - e) Concessionaire is responsible to work with appropriate City personnel in each location to establish a refund program. The refund program shall include a procedure whereby notice is given to Concessionaire of mechanical and other problems with machines installed by the Concessionaire. The appropriate City personnel will record the name, amount lost in machine, date, time, microfilm-microfiche reader/printer or copy machine in which the malfunction occurred. All refunds must be reimbursed by the Concessionaire on the next visit to the location.
 - f) Concessionaire shall agree that during the term of the Agreement, to include any additional renewal period(s) if applicable, and for at least three (3) years thereafter, to keep and preserve at its office; balance sheets, statements of earnings, general ledger, receipts and disbursement journals, sales records, cleaning and service records, and other supporting documentation which shall disclose in detail all information required to permit the City of Philadelphia to verify contract performance and payment of all amounts due or required to be paid hereunder and which shall conform to and be in accordance with generally accepted accounting principles.
 - g) Concessionaire shall procure and maintain all necessary permits and licenses for the lawful operation of its business and the machines including, but not limited to, the procurement of a Department of Licenses and Inspections *Business Privilege License* as described in the instruction and application attached to these bid specifications as *Miscellaneous License Application*, Attachment "D".
 - h) Concessionaire shall be required to coordinate with appropriate City personnel to maintain sufficient levels of paper, toner, dispersant, change, debit cards, etc. in the various microfilm-microfiche readers, microfilm-microfiche reader/printers, copy machines, and debit card machines found in Attachment "E", *Location and Equipment Listing*, attached to these bid specifications. City facilities that are 8 hour-a-day, 5 day-a-week operations may require extensive (possibly daily) visits to the location(s) to keep microfilm-microfiche reader/printer, copy, and debit card machines operating at suitable product levels. It is the concession bidder's responsibility to insure that City facilities will have a continuous supply of microfilm-microfiche printout and copier services. It is also the responsibility of the concession bidder to reflect this condition in the percentage of gross revenue submitted with the bid.
 - i) The Concessionaire shall be solely responsible for any costs, liabilities, including, but not limited to any claims for loss of profits or interruption of business incurred as a result of any required relocation, if applicable.
5. **Equipment, Maintenance and Service.** The Records Department has established minimum equipment, maintenance and service standards for all concessionaires authorized to operate in the City of Philadelphia.

Requirements listed below should be taken into consideration for concession bid purposes. Meeting these requirements does not ensure acceptance of your concession bid. If your concession bid is accepted, you will be required to adhere to these standards upon issuance of the Notice to Proceed by the City. Verification of all concessionaires' adherence to these specifications is obtained through site visits completed following all installations.

The following types of reproduction equipment may be required of the concessionaire depending upon the specific needs of the location(s) as described in the *Location and Equipment Listing*, attached to these bid specifications.

Microfilm-Microfiche Readers
Microfilm-Microfiche Reader / Printers
Copy Machines
Bill Acceptors
Debit Card Machines

Equipment

All equipment will be in good condition. All equipment (with the exception of Bill Changers) will have non-resettable counters (meters) prior to installation. Microfilm-Microfiche Reader / Printers must have the capability to meter the viewing and printing of microfilm/microfiche separately. This provides a cash accountability system and must be reported on a monthly basis to the City of Philadelphia via the *Monthly Concession Fee Form*, an example of which is attached to these bid specifications, as Attachment "C".

- a) All Microfilm-Microfiche Reader / Printers will have "coin-operated" capability, and be equipped with dollar bill and debit card validators.
- b) All Microfilm-Microfiche Reader / Printers, with the exception of one (1), will have universal carriers with the capability to accommodate the following types and sizes of microfilm / microfiche:

Microfilm

16 millimeter positive roll microfilm
16 millimeter negative roll microfilm
35 millimeter positive roll microfilm
35 millimeter negative roll microfilm

Microfiche

16 millimeter positive jacketed microfiche - jacket size 4" x 6"
16 millimeter negative jacketed microfiche - jacket size 4" x 6"
16 millimeter positive jacketed microfiche - jacket size 2" x 5"
16 millimeter negative jacketed microfiche - jacket size 2" x 5"
35 millimeter positive jacketed microfiche - jacket size 4" x 9"
35 millimeter negative jacketed microfiche - jacket size 4" x 9"
35 millimeter positive jacketed microfiche - jacket size 4-1/4" x 8-5/8"
35 millimeter negative jacketed microfiche - jacket size 4-1/4" x 8-5/8"
35 millimeter positive jacketed microfiche - jacket size 2-5/8" x 8-3/4"
35 millimeter negative jacketed microfiche - jacket size 2-5/8" x 8-3/4"
35 millimeter positive jacketed microfiche - jacket size 2-5/8" x 8"
35 millimeter negative jacketed microfiche - jacket size 2-5/8" x 8"
Computer Output Microfiche - 4" x 6"

- c) All Copy Machines will have "coin-operated" capability, and be equipped with dollar bill and debit card validators. Bill acceptors must accept new format bills and be updated for this task as necessary. Should new format bills make the existing bill acceptors obsolete, the vendor will discuss the issue with the Records Department to determine if upgrading the bill acceptors is available. The Records Department will pay for necessary updates.

- d) All Debit Card machines will have dollar amount encoding ability on the original purchase and recharging ability on subsequent purchases. Debit Card Machines will also have “coin-operated” capability, and be equipped with dollar bill validators.
- e) Concessionaire must display their identification tag on all machines. This will identify their company name and a phone number to call for service or repairs. No signs, posters, or advertising shall be displayed on the machines. In the event that the Concessionaire subcontracts a portion of the vending activity to another microfilm-microfiche reader/printer or copier company, the Concessionaire’s identification tag must appear on the subcontracted machine(s). The City of Philadelphia reserves the right to place identification tags on machines in addition to those placed by the Concessionaire.

Maintenance

- f) Concessionaire shall be responsible for all routine technical maintenance related to the operation of the Concession. Records Department Staff will be responsible for loading paper and toner, emptying collection toner bottles and clearing paper jams. The Concessionaire must maintain all equipment installed by Concessionaire, and surrounding areas and fixtures, in a good, clean, and attractive condition and repair at all times.
- g) Concessionaire must maintain detailed records of cleaning schedules and service calls.
- h) The Concessionaire shall respond promptly to all requests for maintenance and/or service within 24 hours of request for all equipment installed by the Concessionaire. Resolution on maintenance and/or service requests on inoperable machines must be made within 48 hours of initial maintenance/service visit. In the event that the maintenance/service request on an inoperable machine cannot be resolved within 48 hours, the Concessionaire must notify the City and provide a suitable replacement machine within 96 hours of the initial maintenance/service request.
- i) Concessionaire shall provide a complete and proper arrangement at the Concession Premises, for the frequent and adequate sanitary handling and disposal of all trash, garbage, and other refuse caused as a result of the operation of the Concession, in a manner approved by the City of Philadelphia. Piling of boxes, cartons, barrels, pallets, or other similar items, in an unsightly or unsafe manner on or about the Concession Premises, is forbidden.

6. **Compliance with Laws.** The bidder is responsible for becoming familiar and adhering to pertinent statutes, ordinances (including, but not limited to, the Fair Practices Ordinance, Chapter 9-1100 of The Philadelphia Code), laws, rules, and regulations and licenses.

7. **Utilities.** Where appropriate, the City shall provide the following services to Concessionaire without charge, provided that the Concessionaire uses such services in reasonable amounts and in a reasonable manner acceptable to the City:

- (a) electricity
- (b) heat
- (c) ventilation
- (d) water and steam
- (e) elevator
- (f) lavatory

8. **Indemnification and Insurance.** Concessionaire agrees to defend, indemnify, and hold harmless the City, its officers, employees and agents from and against any and all losses, costs (including, but not limited to, litigation and settlement costs and counsel fees), claims, suits, actions, damages, expenses and liabilities, occasioned wholly or in part by Concessionaire's act or omission or negligence or fault or the act, omission, negligence or fault of Concessionaire's agents, Subcontractors, employees or servants in connection with the Concession, including, but not limited to, those in connection with loss of life, bodily injury, personal injury, damage to property, contamination or adverse effects on the environment, failure to pay such Subcontractors and suppliers, any breach of the Concession Agreement, and any infringement or violation of any proprietary right (including, but not limited to, patent, copyright, trademark, service mark and trade secret). The obligation to indemnify, defend and hold harmless City, its officers, employees and agents, shall survive the termination of the Concession Agreement. The Concessionaire shall, at its sole

cost and expense, obtain and maintain during the Term of this Agreement and for the period of time following the Term of this Agreement, as is required to fulfill Concessionaire's indemnification obligations hereunder, the following insurance policies in the following minimum amounts:

Workers' Compensation and Employers' Liability:

Workers' Compensation: Statutory limits

Employer's Liability:

\$500,000 each accident - bodily injury by accident;

\$500,000 each employee - bodily injury by disease;

\$500,000 policy limit - bodily injury by disease;

Other States' coverage and Pennsylvania Endorsement

General Liability Insurance:

Limit of Liability: \$1,000,000 per occurrence combined single limit for bodily injury (including death) and property damage liability; \$1,000,000 personal and advertising products and completed operations.

Coverage: Premises operations; blanket contractual liability; personal injury liability (employee exclusion deleted); products and completed operations; independent contractors; employees and volunteers as additional insureds; cross liability; and broad form property damage (including completed operations).

Automobile Liability

Limit of Liability: \$1,000,000 per occurrence combined single limit for bodily injury (including death) and property damage liability.

Coverage: Owned, non-owned and hired vehicles.

Property All Risk in an amount sufficient to cover Concessionaire's equipment.

All insurance shall be procured from reputable insurers authorized to do business in the Commonwealth of Pennsylvania and acceptable to the City. All insurance required herein shall be written on an "occurrence" basis and not a "claims-made" basis. In no event shall work be performed until the required evidence of insurance has been furnished. If Concessionaire fails to obtain or maintain the required insurance, the City shall have the right to treat such failure as a material breach of the Agreement and to exercise all appropriate rights and remedies. The insurance shall provide for at least (30) days prior written notice to be given to the City in the event coverage is materially changed, canceled, or non-renewed. The City of Philadelphia, its officers, employees, agents and representatives are to be named as additional insureds on the General Liability insurance policy. Also, an endorsement is required stating that the coverage afforded the City and its officers, employees, agents and representatives as additional insureds will be primary to any coverage available to them. Certificates of insurance evidencing the required coverage must specifically reference the City Contract number for which they are being submitted and shall be submitted to the operating department and the City's Risk Manager (1101 Market Street, Suite 888, Philadelphia, PA 19107) upon execution of the Agreement, and at least ten (10) days before any renewal date. The City reserves the right to require Concessionaire to furnish certified copies of the original policies of all insurance required under the Agreement at any time upon ten (10) days prior written notice to Concessionaire. The insurance requirements set forth herein are not intended and shall not be construed to modify, limit or reduce the indemnification made by Concessionaire to the City or to limit

Concessionaire's liability under the Agreement to the limits of the policies of insurance required to be maintained by Concessionaire. If the Concessionaire during the Term of the Agreement neglects or refuses to maintain any of the required insurance, or fails to submit proof of such insurance as required and fails to cure same after five (5) days written notice from the City informing Concessionaire of such default, then the City may terminate the Agreement immediately without liability on its part. In such event, the Concessionaire shall continue to be subject to any and all liabilities of the Concessionaire, actual or contingent, which may have arisen on or before such termination date, and City reserves to itself all of the remedies available in law or in equity or contained in these Bid Specifications or in the Agreement.

Business Privilege License. A Business Privilege License ("BPL") is required for every person desiring to engage in any business within the City of Philadelphia, whether or not such person maintains a place of business in the City. The Concessionaire will be required to furnish a BPL number at the time of award, but no later than before the Notice to Proceed is issued. A photocopy of the BPL will be required with the executed contract documents. In the event the Concessionaire has applied for but has not been issued a BPL, a photocopy of the application will be acceptable. The BPL is a one-time license (no expiration date). Only one license is needed for multiple locations or for multiple businesses for the same person. If you have never had a BPL assigned, you may request one by filing Miscellaneous License Application. The fee is \$200. In order to be assigned a BPL, it is necessary to have a Philadelphia Business Tax Account Number. This is a number assigned by the Philadelphia Revenue Department to identify tax accounts. If you have never had a number assigned, you may request one by filing an Application for Philadelphia Business Tax Account Number (83-T-5). Any tax account previously opened for you which is unsettled or delinquent will cause delay and may preclude the issuance of a new license. Applications may be obtained from the Department of Licenses and Inspections, License Issuance Unit, 1401 John F. Kennedy Boulevard, Municipal Services Building, Concourse Level, Philadelphia, PA 19102. For further information call (215)686-2491.

9. **Certification of Non-Indebtedness.**

- (a) Bidder, by submission of this bid, hereby certifies and represents that Bidder and Bidder's parent company(ies) and subsidiary(ies) are not currently indebted to the City and will not at any time during the term of the Agreement (including any extensions or renewals thereof) be indebted to the City, for or on account of any delinquent taxes (including, but not limited to, taxes collected by the City on behalf of the School District of Philadelphia), liens, judgments, fees, or other debts for which no written agreement of payment plan satisfactory to the City has been established. In addition to any other rights or remedies available to the City at law or in equity, Bidder acknowledges that any breach or failure to conform to this certification may, at the option of the City, result in the termination of this Agreement for default (in which case Concessionaire shall be liable for all excess costs and other damages resulting from the termination).
- (b) Bidder shall require all subcontractors performing work in connection with the Agreement to be bound by the following provision and Bidder shall cooperate fully with the City in exercising the rights and remedies described below or otherwise available at law or in equity:

Subcontractor hereby certifies and represents that Subcontractor and Subcontractor's parent company(ies) and subsidiary(ies) are not currently indebted to the City and will not at any time during the term of Concessionaire's Agreement with the City, including any extensions or renewals thereof, be indebted to the City, for or on account of any delinquent taxes (including, but not limited to, taxes collected by the City on behalf of the School District of Philadelphia), liens, judgments, fees, or other debts for which no written agreement or payment plan satisfactory to the City has been established. In addition to any other rights or remedies available to the City at law or in equity, Subcontractors acknowledges that any breach or failure to conform to this certification may, at the option and direction of the City, result in the termination of Subcontractor for default (in which case Subcontractor will be liable for all excess costs and other damages resulting from the termination).

11. Businesses Doing Business in Northern Ireland.

- (a) In accordance with Section 17-104 of The Philadelphia Code, Bidder by submission of this bid, certifies and represents that (i) Bidder (including any parent company, subsidiary, exclusive distributor or company affiliated with Bidder) does not have, and will not have at any time during the term of this Agreement (including any extensions thereof), any investments, licenses, franchises, management agreements or operations in Northern Ireland and (ii) no product to be provided to the City under this Agreement will originate in Northern Ireland, unless Bidder has implemented the fair employment principles embodied in the MacBride Principles.
- (b) In the performance of the Agreement, Concessionaire agrees that it will not utilize any suppliers, subcontractors, or subconsultants at any tier (i) who have (or whose parent, subsidiary, exclusive distributor or company affiliate have) any investments, licenses, franchisee, management agreements or operations in Northern Ireland or (ii) who will provided products originating in Northern Ireland unless said supplier, subconsultant or subcontractor has implemented the fair employment principles embodied in the MacBride Principles. Concessionaire further agrees to included the provisions of this subparagraph (b), with appropriate adjustments for the identity of the parties, in all subcontracts and supply agreements which are entered into in connections with the performance of the Agreement.
- (c) Bidder agrees to cooperate with the City's Directory of Finance in any manner which the said Director deems reasonable and necessary to carry out the Director's responsibilities under Section 17-104 of The Philadelphia Code. Bidder expressly understands and agrees that any false certification or representation in connection with this Paragraph 11 and/or any failure to comply with the provisions of this Paragraph 11 shall constitute a substantial breach of the Agreement entitling the City to all rights and remedies provided in the Agreement or otherwise available in law (including, but not limited to, Section 17-107 of The Philadelphia Code) or equity. In addition, it is understood that false certification or representation is subject to prosecution under Title 18 Pa.C.S.A. Section 4904.

- 12. Participation of Disadvantaged Business Enterprises. This Bid Specification and the Agreements are subject to the Mayor's Executive Order 02-05, and 14-08 relating to the participation of minority, woman and disabled businesses in City contracts. Bidders are required to respond to the requirements specified in Attachment "F" of this Bid Specification and should submit the "Solicitation for Participation and Commitment Form" (S & C Form) attached to this Bid Specification as Attachment B, identifying it's solicitations and any commitments made with M/W/DSE (defined in Attachment "F") to participate in the Concession Agreement. Bidder is also required to submit documentation of it's "Good Faith Efforts" (as more fully described in Attachment "F"), whether or not it has achieved any commitment with M/W/DBE's.**

CONCESSION BID FORM

Concession Bid # C - 106 – 11R

DATE: _____

**FOR THE INSTALLATION, OPERATION AND MAINTENANCE OF
MICROFILM-MICROFICHE READERS, MICROFILM-MICROFICHE
READER/ PRINTERS, COPIER MACHINES AT THE:**

**RECORDS AND ARCHIVES CENTER
3101 MARKET STREET**

**RECORDS DOCUMENT RECORDING
ROOM 154, B54 & 163, CITY HALL**

SUBMIT SEALED BIDS ON THIS FORM

BID FORM

1. The Bidder acknowledges that it has read the Concession Agreement (“Agreement”) attached to these Bid Specifications as Attachment “A” and agrees to fully execute the Agreement and deliver to the City, within the period of time specified in these Bid Specifications, such certificate(s) of insurance, fee(s), and other required documentation. The Bidder agrees to pay to the City of Philadelphia, on a monthly basis, a Concession Fee Percentage (“percentage”) of Gross Revenue, as defined in Section 4 of the Concession Agreement, according to the following schedule of Concession Fee Percentages.

1.1. **Microfilm-Microfiche Reader/Printers**

_____ percent (_____%) of Gross Revenue

1.2. **Copy Machines** _

_____ percent (_____%) of Gross Revenue

Bill Changer Machines are non-revenue generating, and will not require a Concession Fee Percentage based on the Gross Revenue.

Debit Card Machines are non-revenue generating, and will not require a Concession Fee Percentage based on the Gross Revenue.

2. The Bidder has submitted, with its bid, the proper Bid Surety, in the amount of \$250.00; as described in paragraph “1”, “**Conditions of Bidding**” of these bid specifications.

3. **Basis of Award.** The Bidder that submits the highest Concession Fee Percentages and is also responsive to all other conditions of this bid specification will be selected for award. The highest Concession Fee Percentages will be selected using the following weighted multiplication factors. The

weighted Concession Fee Percentages are for selection purposes only. Concessionaires will be required to remit Concession Fee Percentages according to the schedule of percentages submitted in section 1 of the Bid Form. In the event of a tie between two bidders, the Procurement Commissioner will select a concessionaire in the best interest of the City of Philadelphia.

3.1 Percentage of Gross Revenue entered in section 1.1 of the Bid Form _____% x .85 = _____

3.2 Percentage of Gross Revenue entered in section 1.2 of the Bid Form _____% x .15 = _____

Total of weighted Concession Fee Percentages (sum of section 3.1, 3.2) = _____

4. Bidder agrees to conform to the pricing provision set forth in the Bid Specifications, Attachment “A”, Philadelphia Reproduction Pricing Guide”, the service and maintenance schedule required per the Bid Specifications, the reproduction equipment schedule set forth in Attachment “C”, Location and Equipment Listing” to these Bid Specifications and any and all terms of these Bid Specifications and Agreement.
5. Bidder has attached the proper documentation and agrees to conform to the provisions set forth in the “PARTICIPATION OF MINORITY, WOMAN AND DISABLED OWNED BUSINESS ENTERPRISES IN CITY CONTRACTS INSTRUCTIONS, FORMS, AND CONTRACT PROVISIONS.” as described in Attachment “F”.
6. **Minimum Qualifications.** Bidders must meet all minimum qualifications and submit all required documentation in order to have their bids considered for award. The City reserves the right to request additional information or clarification regarding the required documentation to be submitted by bidders. Bidders must furnish the following information:
 - 6.1. **Previous Experience.** Bidder must document at least five (5) years experience, within the last seven (7) years, in the management of one (1) or more concession operations of: microfilm/microfiche readers; microfilm/microfiche reader/printers; and copier machines. Attach to bid submission the detailed description of these operations, dates of operations, locations, and the names, addresses and telephone numbers of clients associated with these operations. The previous concession operations described must be of comparable or greater volume and number of machines as presented in these specifications. If the bidder is a corporation formed within the last five (5) years, the experience must be met by at least one of the officers of the corporation having at least twenty percent (20%) voting interest in the corporation. If the bidder is a joint venture or partnership formed within the last five (5) years, the experience must be met by at least one general or joint venture partner.
 - 6.2. **Financial Qualifications:** Attach evidence of financial capability and stability. Include financial statements, for the bidder’s past three (3) fiscal years and which include, at a minimum, balance sheet, income statement, statement of changes in financial position, and notes to financial statements. It is understood that false certification is subject to prosecution under Title 18 Pa. C.S.A. § 4904.
 - 6.3. **Business References:** List below at least two (2) companies with whom you have had business dealings for two (2) years or more (e.g., suppliers, rental agencies, banks).

<u>COMPANY</u>	<u>ADDRESS</u>	<u>CONTACT NAME</u>	<u>PHONE No.</u>
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7. Business Structure:

NAME: _____
Corporation - Partnership - Individual - Trade Name

Address of Principal Office: _____

City: _____ State: _____ Zip Code: _____

Federal EIN or Social Security Number: _____

Phone Number: _____

Fax Number: _____

If the bidder is a corporation, partnership or joint venture, please provide the name and residence of principal office of each corporate officer, general or joint venture partner (attach additional pages if necessary):

Fictitious Name Registration (if any): _____

SIGNING OF BIDS

If bid is by an individual, a partnership or a joint venture, this form must be dated and signed here:

This _____ day of _____, 2011

Signature of Owner, Authorized General Partner
or Authorized Joint Venture Partner

Business Name of Bidder

Type or Print Name and Title

Address Including Zip Code

Area Code and Telephone Number

If bid is by a corporation, this form must be dated and signed here by (a) President or Vice President and (b) Secretary, Assistant Secretary, Treasurer or Assistant Treasurer. Kindly affix corporate seal in the space provided below.

If this form is not so signed, a duly certified corporate resolution authorizing form of execution used must be attached to bid.

CORPORATE SEAL:

This _____ day of _____, 2011

Corporate of Business Name of Bidder

Address Including Zip Code

Area Code and Telephone Number

Signature of President or Vice President

Signature of Secretary or Assistant Secretary,
or Treasurer or Assistant Treasurer

Type or Print Name and Title

Type or Print Name and Title

Concessionaire during the preceding calendar month ("Concession Fee"). Department shall set forth on a Monthly Route Card, the Concession Fee which is due for payment by Concessionaire generated by each vending machine. The Concessionaire's payment of the Concession Fee for the final calendar month or partial calendar month of the Term shall be made within thirty (30) days after the expiration or termination of the Agreement. The Concessionaire shall send Concession Fees by bank check, cashier's check, or certified check made payable to "City of Philadelphia" and mailed to Joan Decker, Commissioner, Records Department, City Hall, Room 156, Philadelphia, PA 19103.

(i) "Gross Revenue" means all revenue received by the Concessionaire or arising out of the Concession whether such revenue is received in the form of cash, credit, exchange or otherwise, without reserve or deduction for failure or inability to collect. No franchise or capital stock tax and no income or similar tax based on income or profits shall be deducted from Gross Revenue.

(ii) "Gross Revenue" does not include:

(a) Sales tax, provided that all such taxes are paid by the Concessionaire to the appropriate governmental authorities;

(b) Cash or credit refunds made to customers on transactions in the ordinary course of business, otherwise included in Gross Revenue.

(B) In addition to any of the rights and remedies set forth elsewhere in this Agreement or available in law or equity, in the event the Concessionaire fails to make payments as required herein on the due date, the City may impose an interest charge of one hundred and twenty-five percent (125%) per annum of the prime rate on all amounts due from the due date until paid.

5. Installation of the Equipment.

Immediately upon receipt of the Notice to Proceed, the Concessionaire shall install, without damage to the Concession Premises and at Concessionaire's sole expense, the equipment at the Concession Premises, in such locations as specified in the "Location and Equipment Listing," found in Attachment "E" to the Bid Specifications or in such locations as specified by the City.

6. Maintenance of the Equipment.

At its sole cost and expense, the Concessionaire shall maintain the equipment installed by the Concessionaire in a good, clean and attractive condition and repair at all times, and in accordance with Section 5 of the Bid Specifications.

7. Compliance with Laws.

Concessionaire shall observe and comply with all present and future laws, ordinances (including, but not limited to, the Fair Practices Ordinance, The Philadelphia Code, Chapter 9-1100), statutes, orders, rules, regulations, and requirements of all federal, state, and municipal governments, courts, departments, commissions, boards, or any other body exercising functions similar to those of any of the foregoing, which may be applicable to the Concessionaire. ("Applicable Laws").

8. Taxes.

The Concessionaire shall pay before delinquency all taxes, of any and all governmental authorities, that may be levied, assessed, or charged against the Concessionaire's interest in this Agreement, against the personal property of the Concessionaire within the Concession Premises, or upon the rights of Concessionaire to occupy the Concession Premises as provided in this Agreement or upon the Concessionaire's income from the operation of the Concession.

9. Prices.

All prices charged by Concessionaire shall be in conformity with the "Philadelphia Reproduction Pricing Guide," found in Attachment "B" to the Bid Specifications. Any changes to these prices shall be subject to the prior written approval of the City. The prices for printing, copying and viewing shall be determined as set forth in the Bid Specifications. The Concessionaire may change the prices only with the prior written approval of the City.

10. Insurance.

(A) The Concessionaire shall, at its sole cost and expense, obtain and maintain during the Term of this Agreement and for the period of time following the Term of this Agreement, as is required to fulfill Concessionaire's indemnification obligations hereunder, the following insurance policies in the following minimum amounts:

- (i) Workers Compensation and Employers' Liability:

(1) Workers Compensation: Statutory limits

(2) Employer's Liability:

\$500,000 each accident - bodily injury by accident;

\$500,000 each employee - bodily injury by disease;

\$500,000 policy limit - bodily injury by disease;

(3) Other States' coverage and Pennsylvania Endorsement

(ii) General Liability Insurance

(1) Limit of Liability: \$1,000,000 per occurrence combined single limit for bodily injury (including death) and property damage liability; \$1,000,000 personal and advertising products and completed operations.

(2) Coverage: Premises operations; blanket contractual liability; personal injury liability (employee exclusion deleted); products and completed operations; independent contractors; employees and volunteers as additional Insureds; cross liability; and broad form property damage (including completed operations).

(iii) Automobile Liability

(1) Limit of Liability; \$1,000,000 per occurrence combined single limit for bodily injury (including death) and property damage liability.

(2) Coverage: Owned, non-owned and hired vehicles.

(iv) Property All Risk in an amount sufficient to cover Concessionaire's equipment.

All insurance shall be procured from reputable insurers authorized to do business in the Commonwealth of Pennsylvania and acceptable to the City. All insurance required herein shall be written on an "occurrence" basis and not a "claims-made" basis. In no event shall work be performed until the required evidence of insurance has been furnished. If Concessionaire fails to obtain or maintain the required insurance, the City shall have the right to treat such failure as a material breach of contract and to exercise all appropriate rights and remedies. The insurance shall provide for at least thirty (30) days prior written notice to be given to the City in the event coverage is materially changed, cancelled or non-renewed. The City of Philadelphia, its officers, employees, agents and representatives are to be named as additional insureds on the General

Liability Insurance policy. Also, an endorsement is required stating that the coverage afforded the City and its officers, employees, agents and representatives as additional insureds will be primary to any coverage available to them.

Certificates of insurance evidencing the required coverages must specifically reference the City Contract number for which they are being submitted and shall be submitted to the operating department and the City's Risk Manager (1515 Arch St., 14th Floor, Philadelphia, PA., 19102) upon execution of the Agreement, and at least ten (10) days before each renewal date. The City reserves the right to require Concessionaire to furnish certified copies of the original policies of all insurance required under this Agreement at any time upon ten (10) days prior written notice to Concessionaire. The insurance requirements set forth herein are not intended and shall not be construed to modify, limit or reduce the indemnifications made by Concessionaire to the City or to limit Concessionaire's liability under this Agreement to the limits of the policies of insurance required to be maintained by Concessionaire. If the Concessionaire during the Term of the Agreement neglects or refuses to maintain any of the insurance required herein, or fails to submit proof of such insurance as required herein and fails to cure same after five (5) days written notice from the City informing Concessionaire of such default, then the City may terminate this Agreement immediately without any liability on its part. In such event, the Concessionaire shall continue to be subject to any and all liabilities of the Concessionaire, actual or contingent, which may have arisen on or before such termination date, and City reserves to itself all of the remedies available in law or in equity or contained in the Specifications or in this Agreement.

11. Indemnification of City.

Concessionaire agrees to defend, indemnify, and hold harmless the City, its officers, employees and agents from and against any and all losses, costs (including, but not limited to, litigation and settlement costs and counsel fees), claims, suits, actions, damages, expenses and liabilities, occasioned wholly or in part by Concessionaire's act or omission or negligence or fault or the act, omission, negligence or fault of Concessionaire's agents, Subcontractors, employees or servants in connection with the Concession, including, but not limited to, those in connection with loss of life, bodily injury, personal injury, damage to property, contamination or adverse effects on the environment, failure to pay such Subcontractors and suppliers, any breach of the Concession Agreement, and any infringement or violation of any

proprietary right (including, but not limited to, patent, copyright, trademark, service mark and trade secret). The obligation to indemnify, defend and hold harmless City, its officers, employees and agents, shall survive the termination of this Agreement.

12. Entry on Concession Premises by the City.

The City may enter the Concession Premises at all times, for any purpose, including, but not limited to:

- (A) Inspecting the Concession Premises in order to determine whether the Concessionaire has complied or is complying with the terms and conditions of this Agreement;
- (B) Exercising any matters pursuant to the City's governmental functions;
- (C) Carrying out any purpose necessary, incidental, or connected with the performance of the City's obligations hereunder;
- (D) Making any repairs to the Concession Premises.

13. Destruction of Concession Premises.

(A) If all or any part of the Concession Premises is destroyed by fire or other casualty, so that the Concessionaire is unable to provide the services required by this Agreement, the City may, in its sole discretion, either (i) terminate this Agreement without liability on the part of the City, or (ii) repair damage after the occurrence of the casualty. The City shall notify the Concessionaire of its election in a reasonable period of time after the occurrence of the casualty.

(B) If the City elects to terminate this Agreement, the Concessionaire shall be liable to the City for the Concession Fees for the month in which the casualty occurred, in an amount equal to the Concession Percentage times the Gross Revenue received by the Concessionaire in the portion of the calendar month before the occurrence of the casualty.

(C) If the City elects to repair the damage, the obligation of the Concessionaire to pay the Concession Fees shall be suspended from the date of the casualty until the City has notified the Concessionaire that the Concession Premises are ready for resumption of the Concession.

(D) The Concessionaire hereby releases the City from any and all claims for damage, loss, or compensation, including, but not limited to claims for interruption of business or loss of profits, arising from the destruction of or damage to the Concession Premises by fire,

flood, or other casualty, whether or not such casualty was insured or insurable.

14. Records; Inspection.

(A) Maintenance of Records

The Concessionaire shall keep and preserve at its office during the term of this Agreement, to include any additional renewal periods, if applicable, and for at least three years after the termination or expiration of this Agreement, balance sheets, statements of earnings, general ledger, receipts and disbursement journals, sales records, cleaning and service records and other supporting documentation which shall disclose in detail all information required to permit City to verify contract performance and payment of all amounts due or required to be paid under this Agreement. All financial records maintained by Concessionaire shall be in accordance with generally accepted accounting principles.

(B) Inspection.

The City shall have the right to inspect and review the Concessionaire's books of account, and other records maintained as required by this Agreement, at all reasonable times and at such place as the City may prescribe.

15. Surrender of Concession Premises.

The Concessionaire shall on the last day of the Term or upon any earlier termination of this Agreement, immediately vacate the Concession Premises without delay, leaving said Concession Premises in good order, condition and repair and free and clear of all lettings, occupancies, liens, and encumbrances other than those, if any, created by the City. No further notice to vacate the Concession Premises shall be required. The Concessionaire shall remove any and all equipment installed by the Concessionaire. The Concessionaire shall cooperate with the succeeding concessionaire prior to the last day of the Term in order to effectuate a smooth, orderly, and uninterrupted transition in the operation of the Concession.

16. Default and Termination of the Agreement.

(A) Any failure by Concessionaire to comply with any provision of the Agreement may, in the sole discretion of the City, constitute an event of default. In the event of a default by Concessionaire, City shall give Concessionaire written notice of such default and permit Concessionaire, within a period of five (5) days thereafter, or such additional cure period

as City may authorize, to correct the default; provided, however, that no such notice from City shall be required nor shall City permit any period for cure if the event of default creates an emergency which requires, in City's sole discretion, immediate exercise of City's rights or remedies. After providing such notice and grace, the City may terminate the Agreement if Concessionaire, in the City's sole judgment, has failed to satisfactorily cure such default. No extension or indulgence granted to Concessionaire shall operate as a waiver of any of City's rights in connection with the Agreement. The right to terminate the Agreement shall not be exclusive and is in addition to any other rights or remedies available to City under this Agreement, at law or in equity.

(B) If the Agreement is terminated, the Concession Fees for the entire unexpired balance of the Term, as well as all other charges, payments, costs, and expenses herein agreed to be paid by the Concessionaire or, at the option of the City, any part thereof, in addition to any and all installments of the Concession Fees already due and payable and in arrears shall be taken to be immediately due and payable by the terms and provisions of this Agreement.

17. Covenants of Concessionaire.

(A) Concessionaire covenants that it will not:

(i) Occupy the Concession Premises in any way, or for any purpose, other than as herein provided.

(ii) Assign, mortgage, pledge, encumber, underlet, or sublet the Concession Premises or any part thereof.

(iii) Vacate the Concession Premises or remove there from any goods or property otherwise than in the ordinary and usual course of the Concessionaire's operation, service, and maintenance of the equipment without having first paid and satisfied the City in full for all Concession Fees and other charges then due or thereafter becoming due until the expiration of the then current Term.

(iv) Furnish, maintain, store, or cause or permit to be furnished, maintained or stored, gasoline, fuels, lubricants, or other flammable materials at the Concession Premises without the prior written consent of the City.

(B) The Concessionaire covenants that it will:

(i) Keep the Concession Premises in good repair, maintenance and condition at all times during the Term, at its sole cost and expense. The Concessionaire shall keep all equipment, fixtures and furnishings of any nature used in connection with its operation, whether owned by the Concessionaire or the City, in good condition, order and repair at all times. Should damage occur, repair, and/or replacement shall be made by the Concessionaire at its own expense at the election and to the satisfaction of the City, in accordance with specifications approved in writing by the City. All equipment, fixtures, and furnishings of any nature which, in the opinion of the City, are worn or damaged so as not to present a good appearance, or become incapable of being kept in good working order, must be removed and replaced by the Concessionaire upon receipt of written notice to that effect from the City, in accordance with specifications approved in writing by the City.

(ii) Use every reasonable precaution against fire.

(iii) Furnish good, prompt, and efficient service, adequate to meet all the demands for its service at the Concession Premises, furnish said service on a fair, equal, and nondiscriminatory basis to all users thereof.

(iv) Maintain quality equipment to meet the reasonable needs and requests of the City and maintain the highest degree and standards of service.

(v) Give to the City without demand within three (3) days of such occurrence, notice of any theft, accident, fire, or damage occurring on, or to, the Concession Premises.

(vi) Peaceably deliver up and surrender possession of the Concession Premises to the City at the expiration or other termination of this Agreement in as good order and condition as the same now are or may hereafter be improved by the Concessionaire or the City, all to the satisfaction of the City.

18. Force Majeure.

Anything in this Agreement to the contrary notwithstanding, the City shall not be responsible or liable for failure to fulfill any of its obligations set forth in this Agreement (including the Bid Specifications) occasioned by acts of God, acts of public enemy, riot, freight embargo, strike, other work stoppage, government action, breakdown or failure of apparatus, equipment or machinery employed in supplying required services or any act or condition beyond

the reasonable control of the City.

19. Assignment and Transfer.

(A) The Concessionaire

The Concessionaire may not transfer or assign this Agreement, either in whole or in part, without the prior written consent of the City. If the City approves any transfer or assignment of this Agreement, the Concessionaire will, nevertheless, remain liable for the performance of all the obligations of the Concessionaire under this Agreement. The Concessionaire will require any transferee or assignee to execute and deliver to the City an assumption of liability agreement, in form satisfactory to the City, including without limitation, the assignee's ratification of and agreement to be bound by all of the provisions of this Agreement. The consent of the City to one or more assignments or transfers of this Agreement shall not be construed as consent to any other assignment or transfer of this Agreement.

(B) The City

The City may assign, transfer, or encumber the City's interest in this Agreement at any time without notice to the Concessionaire. The Concessionaire waives any requirements under the laws of the Commonwealth of Pennsylvania regarding the witnessing or execution of assignments.

20. Concession not Lease.

This Agreement creates a personal contractual obligation of Concessionaire. Nothing in this Agreement shall be construed as granting a leasehold interest in the Concession Premises to the Concessionaire. Concessionaire is an independent contractor and not an agent, partner, or employee of the City.

21. Condemnation.

If the Concession Premises or any parts of the Concession Premises are taken under condemnation proceedings by any government authority, the City may, at the City's option, terminate this Agreement as of the date of the taking. All damages awarded for such taking shall belong to and become the property of the City. The Concessionaire shall have no claim against the City by reason of such taking or termination and shall not have any claim or right to any portion of the amount that may be awarded or paid to the City as a result of any such taking.

22. Complete Agreement; Governing Law.

This Agreement sets forth all the promises, agreements, conditions, and understandings between the City and the Concessionaire relating to the subject matter thereof. There are no promises, agreements, conditions, or understandings, either oral or written, between the City and the Concessionaire other than those set forth in this Agreement. This Agreement may only be amended, modified, or supplemented by agreement in writing signed by both the City and the Concessionaire. This Agreement is governed by the laws of the Commonwealth of Pennsylvania.

23. Agreement Binding.

This Agreement is binding upon the parties, their heirs, executors, administrators, successors, and assigns, subject to the provisions of Section 19 of this Agreement.

24. Notices; Approvals.

All notices, requests, and other communications under this Agreement shall be in writing and shall be sent by United States registered or certified mail, return receipt requested, postage prepaid, addressed as follows:

If intended for the City:

Commissioner
Records Department
City Hall, Room 156
Philadelphia, PA 19103

If intended for the Concessionaire:

25. Captions and Section Numbers.

The captions, article numbers, and paragraph numbers appearing in this Agreement are inserted only as a matter of convenience and in no way shall be construed as defining or limiting the scope or intent of the provisions of this Agreement nor in any way affecting this Agreement.

26. Partial Invalidity.

If any term, covenant, or condition of this Agreement or the application thereof to any party or circumstance shall, to any extent, be held invalid, or unenforceable, the remainder of

this Agreement or the application of such term, covenant or condition to parties or circumstances other than those to which the Agreement was held invalid or unenforceable, shall not be affected thereby and each remaining term, covenant, or condition of this Agreement shall be valid and be enforced to the fullest extent permitted by law.

27. No Third Party Beneficiary.

Nothing contained in this Agreement is intended to or shall be deemed to confer a third party beneficiary right upon any person, firm, or corporation.

28. Nondiscrimination.

(A) This Agreement is entered into under the terms of the Philadelphia Home Rule Charter and, in its performance; the Concessionaire shall not discriminate nor permit discrimination against any person because of race, color, sex, religion, national origin, or ancestry. In the event of such discrimination, the City may terminate this Agreement forthwith.

(B) In accordance with Chapter 17-400 of The Philadelphia Code, the Concessionaire agrees that its payment or reimbursement of membership fees or other expenses associated with participation by its employees in a exclusionary private organization, insofar as such participation confers a employment advantage or constitutes or results in discrimination with regard to hiring, tenure of employment, promotions, terms, privileges, or conditions of employment on the basis of race, color, sex, sexual orientation, religion, national origin, or Ancestry constitutes a substantial breach of this Agreement entitling the City to all rights and remedies provided in this Agreement or otherwise available in law or equity.

(C) The Concessionaire agrees to include the immediately preceding paragraph, with appropriate adjustments for the identity of the parties, in all subcontracts which are entered into for supplies or work to be performed pursuant to this Agreement. The Concessionaire further agrees to cooperate with the Commission on Human Relations of the City of Philadelphia in any manner which the said Commission deems reasonable and necessary for the Commission to carry out its responsibilities under Chapter 17-400 of The Philadelphia Code. Failure to so cooperate shall constitute a substantial breach of this Agreement entitling the City to all rights and remedies provided herein or otherwise available in law or equity.

29. Participation of Minority, Woman and Disabled Owned Business Enterprises in City Contracts

29.1 The Concession Agreement is subject to Mayor’s Executive Order, No. 2 – 05 relating to the participation of minority-owned, women-owned, and disabled-owned business (collectively, “M/W/DSBEs”) in City contracts. Bidders are required to respond to the requirements specified in Attachment “F” of this bid and should submit the “Solicitation for Participation and Commitment Form” (the “S & C Form”) attached to this bid in Attachment “F” to identify it’s solicitations and any commitments made with M/W/DSBE firm. Bidders are also required to submit documentation of their “Good Faith Efforts” (as more fully described in Attachment “F”), whether or not they have achieved any commitments with M/W/DSBEs. The City may, in it’s sole discretion, reject any proposal that does not include a completed S & C Form.

29.2 The Concessionaire shall submit to the City quarterly reports that summarize the Concessionaire’s activities related to their M/W/DSBE contracts. The reports will serve as a mechanism to ensure the Concessionaire is in compliance with the commitments provided in the S & C Form. Please see Attachment “F” for a sample reporting form.

IN WITNESS WHEREOF, the City and the Concessionaire have executed this Agreement as of the date first above written and intend to be legally bound thereby.

THE CITY OF PHILADELPHIA

By: _____
Procurement Commissioner

CORPORATE SEAL:

CONCESSIONAIRE

By: _____
President/Vice President

Attest: _____
Secretary/Treasurer

EXHIBIT "1"

Antidiscrimination Contract Provisions Relating to the Participation of Disadvantaged Minority, Woman and Disabled Owned Business Enterprises (M-DBE/W-DBE/DS-DBE) in City Contracts

1. M-DBE/W-DBE/DS-DBE commitments are to be maintained throughout the term of the contract. Any change in the commitments set forth in the Agreement, including but not limited to substitutions for the listed firm(s), changes or reductions in the work and/or listed dollar/percentage amounts, must be pre-approved in writing by the Minority Business Enterprise Council ("MBEC").
2. Concessionaire shall maintain all books and records relating to its M-DBE/W-DBE/DS-DBE commitments (e.g. copies of subcontracts, joint venture agreement, correspondence, canceled checks, invoices, telephone logs) for a period of three (3) years following acceptance of final payment under this Agreement. These records shall be made available for inspection by the MBEC and/or other appropriate City officials.
3. The City reserves the right to conduct post-award review(s) to ensure that Concessionaire fulfills its M-DBE/W-DBE/DS-DBE commitment(s). Concessionaire shall cooperate with the City in its review(s) and agrees to submit reports and other documentation required by the City to ascertain Concessionaire's fulfillment of its M-DBE/W-DBE/DS-DBE commitments specified herein. Unreasonable failure or refusal to furnish information or to cooperate in the City's review may constitute a substantial breach of the Agreement.
4. The Concessionaire's compliance with the requirements of Executive Order 02-05, including the fulfillment of any M-DBE/W-DBE/DS-DBE commitments, is material to this Agreement. Any failure to comply with these requirements may constitute a substantial breach of this Agreement. It is further understood and agreed that in the event the Director of Finance determines that the Concessionaire hereunder has failed to comply with these requirements the City may, in addition to any other rights and remedies the City may have under this Agreement, any bond filed in connection therewith or at law or in equity, exercise one or more of the following remedies which shall be deemed cumulative and concurrent:
 - (a) Terminate this Agreement, in whole or in part.
 - (b) Suspend the Concessionaire from bidding on and/or participating in any future City contracts for a period of up to three (3) years.
 - (c) Recover as liquidated damages, one percent of the total dollar amount of the Concession Fee(s) for each one percent (or fraction thereof) of the commitment shortfall. No amount recovered as liquidated damages herein shall reduce Concessionaire's liability for payment of the Concession Fee(s) due City under the Agreement.

**ATTACHMENT “B”
PHILADELPHIA REPRODUCTION PRICING GUIDE**

MICROFILM/MICROFICHE READERS

VIEWING AT ALL LOCATIONS NO CHARGE

MICROFILM/MICROFICHE READER/PRINTER

VIEWING \$0.25 for each 15 minutes

PRINTING \$0.75 PER PAGE

COPIERS

STANDARD (8.5 X 11) COPIES \$0.50 PER PAGE

(11 X 17) COPIES \$1.00 PER PAGE

FIRST TIME DEBIT CARD ACTIVATION CHARGE* \$1.00

COPY VOLUME

The City provides the following as an estimate of service level(s) to be applied by the concession bidder when preparing bid submittals. Copy Volume on all Microfilm-Microfiche Reader/Printers at the City Hall and 3101 Market Street locations is estimated as follows:

	12 months usage from current reports	Estimated daily usage based on 12 months usage divided by 250 working days per year
<u>Copier, 170 City Hall</u>		
Regular copies	1040	4
Large copies	1506	6
<u>Total for all Readers, B54 City Hall</u>		
Viewing units of 15 minutes each	457	2
<u>Total for all Reader/Printers, B54 City Hall</u>		
Printer-copies	7187	29
Viewing units of 15 minutes each	1176	5
<u>Total for all Reader/Printers, 154 City Hall</u>		
Printer-copies	12866	51
Viewing units of 15 minutes each	1886	8
<u>Total for all Readers, Archives, 3101 Market St.</u>		
Viewing units of 15 minutes each	1149	5
<u>Total for all Reader/Printers, Archives, 3101 Market St</u>		

Printer-copies	10825	43
Viewing units of 15 minutes each	3325	13

Copier, Archives, 3101 Market St.

There is no concession copier at the Archives at present, so the volumes for City Hall can be used as an estimate.

The City of Philadelphia makes no representation that the Copy Volume estimates are a guarantee of business volume. The Copy Volume estimates are to be utilized as a tool for the compilation of the prospective concession bidder's bid. It is the responsibility of the prospective concession bidder to use its own expertise in submitting bids for locations of this size and scope. Bidders are strongly encouraged to arrange site visits to conduct marketing studies of potential use of this concession and additionally to observe the large numbers of the general population that frequent the facilities contained in this concession bid.

Site Visits for 3101 Market Street and City Hall must be coordinated through the office of Joan Decker, Commissioner, Records Department, (215) 686-2261.

*First Time Activation Charges for Debit Cards are a one-time charge to the debit card customer. Reactivation charges are not permitted. First Time Activation Charges are not to be included in the count of monthly gross revenues under performance of the concession contract.

ATTACHMENT "C"

CITY OF PHILADELPHIA
 MONTHLY CONCESSION FEE FORM
 SALES FOR THE PERIOD:

Vendor name:
 Vendor Address:
 Vendor phone:
 Vendor fax:

Location	Room or Address	Machine ID	Equipment/ service	Beginning Meter	Ending Meter	# of Units	Price per unit	Gross revenue	Concession Fee %	Concession Fee amount
City Hall	163	1	Copier 8.5 x 11 copies							
City Hall	163	1	Copier 11 x 17 copies							
City Hall	B54	1	Reader/Printer - viewing							
City Hall	B54	1	Reader/Printer - printing							
City Hall	B54	2	Reader/Printer - viewing							
City Hall	B54	2	Reader/Printer - printing							
City Hall	B54	3	Reader/Printer - viewing							
City Hall	B54	3	Reader/Printer - printing							
City Hall	B54	4	Reader/Printer - viewing							
City Hall	B54	4	Reader/Printer - printing							
City Hall	B54	5	Reader/Printer - viewing							
City Hall	B54	5	Reader/Printer - printing							
City Hall	B54	1	Reader							
City Hall	B54	2	Reader							
City Hall	B54	3	Reader							
City Hall	B54	4	Reader							
City Hall	154	1	Reader/Printer - viewing							
City Hall	154	1	Reader/Printer - printing							
City Hall	154	2	Reader/Printer - viewing							
City Hall	154	2	Reader/Printer - printing							
Archives	3101 Market	1	Reader/Printer - viewing							
Archives	3101 Market	1	Reader/Printer - printing							
Archives	3101 Market	2	Reader/Printer - viewing							
Archives	3101 Market	2	Reader/Printer - printing							
Archives	3101 Market	3	Reader/Printer - viewing							
Archives	3101 Market	3	Reader/Printer - printing							
Archives	3101 Market	1	Reader							
Archives	3101 Market	2	Reader							
Archives	3101 Market	3	Reader							
Archives	3101 Market	4	Reader							
Archives	3101 Market	5	Reader							
Archives	3101 Market	6	Reader							
Archives	3101 Market	7	Reader							
Archives	3101 Market	8	Reader							
Archives	3101 Market	1	Copier - 8.5 x 11 copies							
Archives	3101 Market	1	Copier - 11 x 17 copies							

Total concession fee amount _____

Make checks payable to the "City of Philadelphia." Checks are due on or before the 30th. of the month following the sales period.

ATTACHMENT “D”

MISCELLANEOUS LICENSE APPLICATION



CITY OF PHILADELPHIA • DEPARTMENT OF LICENSES AND INSPECTIONS

LICENSE APPLICATION MISCELLANEOUS

**Follow instructions listed on the Instruction Sheet.
For further information call (215) 686-2490.**

WHEN COMPLETED MAIL TO: **DEPARTMENT OF LICENSES AND INSPECTIONS**

LICENSE ISSUANCE UNIT • PSC
MSB - 1401 JOHN F. KENNEDY BOULEVARD
PHILADELPHIA, PA 19102

USE A SINGLE CHECK, OR MONEY ORDER FOR ALL FEES PAYABLE TO "CITY OF PHILADELPHIA".

1. NAME OF OWNER (SEE 13)		2. BUSINESS NAME	
3. LOCATION OF LICENSED ACTIVITY (INCLUDE ZIP CODE)		ZIP CODE	4. TELEPHONE NUMBER
5. BILLING ADDRESS		CITY	STATE ZIP CODE
6. PHILADELPHIA BUSINESS TAX NUMBER	7. PHILADELPHIA BUSINESS PRIVILEGE NUMBER	8. FEDERAL TAX ID OR SOCIAL SECURITY NUMBER	
9. DESCRIPTION OF ACTIVITY/BUSINESS			
10. DESCRIPTION (OTHER)			

11. LICENSE TYPE	FEE	REVENUE CODE	EXPIRATION DATE	LICENSE NUMBER
<input type="checkbox"/> BUSINESS PRIVILEGE	\$ 250.00	3702	NONE	
<input type="checkbox"/> DRY CLEANERS	75.00	3503	12/31/	
<input type="checkbox"/> DEALER IN PRECIOUS METALS	45.00	3524	4/30/	
<input type="checkbox"/> FINISHING SHOP	75.00	3316	12/31/	
<input type="checkbox"/> LAUNDRY, SELF SERVICE * (\$40 + _____ MACH. @ \$4.00 EACH)	*	3387	6/30/	
<input type="checkbox"/> PAWN BROKER	200.00	3381	12/31/	
<input type="checkbox"/> HANDBILL DISTRIBUTION	30.00	3418	8/31/	
<input type="checkbox"/> WEIGHING AND MEASURING DEVICE RETAIL MOTOR FUEL DISPENSER * (_____ FUELING POINTS @ \$35.00 EACH)	*	3820	9/30/	
<input type="checkbox"/> VEHICLE TANK METER * (_____ METERS @ \$90.00 EACH)	*	3821	9/30/	
<input type="checkbox"/> LOAD RACK METER * (_____ METERS @ \$90.00 EACH)	*	3821	9/30/	
<input type="checkbox"/> SCALE 0—50 LBS. * (_____ SCALES @ \$25.00 EACH)	*	3822	9/30/	
<input type="checkbox"/> SCALE 51—3,000 LBS. * (_____ SCALES @ \$125.00 EACH)	*	3823	9/30/	
<input type="checkbox"/> SCALE, OVER 3,000 LBS. * (_____ SCALES @ 200.00 EACH)	*	3824	9/30/	
<input type="checkbox"/> SCALE HOPPER/CRANE * (_____ SCALES @ \$250.00 EACH)	*	3825	9/30/	
<input type="checkbox"/> ELECTRONIC SCANNER 6 OR MORE	\$ 525.00	3826	9/30/	
<input type="checkbox"/> ELECTRONIC SCANNER 1 TO 5	\$ 250.00	3827	9/30/	

← PLEASE BE SURE TO READ OTHER SIDE AND COMPLETE WHERE NECESSARY →

	FEE	REVENUE CODE	EXPIRATION DATE	LICENSE NUMBER
<input type="checkbox"/> SPRAY PAINT	50.00	3395	12/31/	
<input type="checkbox"/>				
<input type="checkbox"/> ATTACHMENTS (Specify)				

13. OWNER CORPORATION AND PARTNERSHIP (LIST THREE PRINCIPALS OR PARTNERS)

14. ADDITIONAL INFORMATION (ATTACH ANOTHER SHEET IF NECESSARY)

I hereby certify that the statements contained herein are true and correct to the best of my knowledge and belief. I understand that if I knowingly make any false statement herein I am subject to the possible revocation of any licenses issued as a result of my false application, and such other penalties as may be prescribed by law.

Applicant's Signature _____ Date _____

OFFICE USE ONLY				
PREREQUISITES (LIST THOSE CHECKED DURING PROCESSING)				
REMARKS:				
<input type="checkbox"/> APPROVED <input type="checkbox"/> REFUSED				
	REVIEWED BY	NUMBER	DATE	AUDIT

MISCELLANEOUS LICENSE APPLICATION

ZONING

All buildings must be in compliance with Philadelphia zoning laws. This includes change of use in existing buildings.

CERTIFICATE OF OCCUPANCY

New buildings and existing buildings where alterations were made must conform to the Philadelphia Building Code and may require that you obtain a Certificate of Occupancy. This determination is made by the L & I Building Unit at 686-2470 or 686-2473.

LOCATIONS THAT ARE CURRENTLY LICENSED FOR THE SAME USE, NEED NO FURTHER ZONING APPROVAL OR CERTIFICATE OF OCCUPANCY.

Zoning Unit, Municipal Services Building, Public Service Concourse, 1401 John F. Kennedy Boulevard, 686-2435.

HOW TO COMPLETE THIS FORM

1) NAME OF OWNER (LICENSEE) — Fill in the name of person, corporation or partnership to whom the license should be issued. Full names must be used. Initials and a last name cannot be accepted. Also complete section 13.

4) PHONE NUMBER — Fill in the daytime (9:00 AM — 5:00 PM) telephone number of the person responsible for or knowledgeable of activity.

6) PHILA. BUSINESS TAX ACCOUNT NUMBER — This is a number assigned by the Philadelphia Revenue Department to identify tax accounts. If you have other licenses from the City the one tax number serves for all. If you have never had a number assigned, leave blank and please fill out the enclosed Revenue Dept. **Application for Philadelphia Business Tax Account Number** (83-T-5). Any tax account previously opened for you which is unsettled or delinquent, will cause delay and may preclude the issuance of new licenses.

7) PHILA. BUSINESS PRIVILEGE LICENSE NUMBER — Fill in the license number if you already have one. Leave blank, if you are applying for one as part of this application.

8) FEDERAL TAX IDENTIFICATION NUMBER — For individuals it is the same as your Social Security Number. For other taxable or tax exempt entities, it is a number assigned by the Internal Revenue Service (IRS) for reporting purposes. **YOUR FEDERAL TAX IDENTIFICATION NUMBER OR YOUR SOCIAL SECURITY NUMBER MUST BE FILLED IN OR THE APPLICATION CANNOT BE PROCESSED.**

10) DESCRIPTION OTHER — This space may be used for other descriptions if required for the license you wish to acquire.

11) LICENSE TYPE — Place an "x" in the box in front of the name of each license applied for and attach all required data.

A) Phila. Business Privilege License (3702)

Required for every person desiring to engage in any business within the City of Philadelphia, whether or not such person maintains a place of business in the city. This is a one-time license. Fill in the license number if you already have one. (*Only one license is needed for multiple locations or multiple businesses for the same person.*)

1) A Philadelphia Business Tax Number required. If you have never had a number assigned, fill out the enclosed Revenue Department application requesting a tax number.

B) Dry Cleaners License — (3503)

Required of anyone operating any dry cleaning and dyeing plant.

C) Dealer in Precious Metals — (3524)

Required of anyone who purchases or makes appraisals of precious metals and their alloys for resale to refiners, brokers, or the public. Precious metals are defined as items of gold, silver, platinum, and their alloys, including jewelry but excluding coins and bullion. The Licensee must notify License & Inspections, in writing, within seventy-two (72) hours of any changes in the information supplied to the Department. Zoning and C O check required with each application.

- 1) Provide the following:
 - a. name, home & business address and telephone number of dealer.
 - b. exact location(s), if other than the business address of the dealer, where transactions in precious metals are to be conducted.
 - c. former business address of dealer for proceeding three (3) years.
 - d. two photographs approx. 2 inches squared of principal (*President, if corporation*), or each partner if partnership.

- 2) Weighing devices requirements:
 - a. all scales must be of a type approved for commercial use in the Commonwealth of Pennsylvania and must be inspected and sealed by the Bureau of Weights and Measures:
 - b. no weighing device is to be removed from one location to another without notification to the Department of Licenses and Inspections Bureau of Weights and Measures, 990 Spring Garden Street, 3rd Floor, Philadelphia, PA 19123 - (215) 685-3719.

3) Price Posting — The dealer shall post a conspicuous sign in proximity to the place where weighing is made, quoting the prices offered for the various units and fineness of precious metals. Prices shall be posted on a sign at least twelve inches in height and at least twelve inches

in width, stating clearly and legibly in lettering at least one inch in height, the prices offered for the various units and fineness of precious metals.

4) Records Require — All dealers shall maintain records of each transaction in which they purchase precious metals from the public or **give a statement of appraisal**. Such records shall be retained for a period of two years from the date of the transaction and shall be available at the place of issuance for inspections by Weights and Measures during reasonable working hours. These records shall include:

- a. the date of the transaction.
- b. a description of the precious metal or metals involved in the transaction including:
 - .1) net weight in terms pounds Troy, ounces Troy, pennyweight (*Troy*) or kilograms/grams.
 - .2) fineness in terms "karat" for gold and "sterling" for silver.
- c. legal name and address of the purchaser or appraiser.
- d. the seller's name and address.
- e. the seller's motor vehicle operator's number or social security number, or other comparable identification number.
- f. the seller's left thumbprint.

D) Finishing Shop License — (3316)

Required for any structure where more than one gallon of flammable liquid finish is applied per day by means of spraying, dipping, flow coating or any other method. Not applicable to auto repair shops.

E) Laundry, Self Service — (3387)

Required of anyone operating a self service laundry. A yearly license fee for each premises and for each washing machine and for each dryer on the premises must be paid.

Requirements:

1) In section 10 (*Description, other*) give physical description of premises where the self-service laundry will be located; number of washing machines and dryers to be used.

2) Site inspection is required for new license or for change of ownership of a location that is currently licensed.

a. Post prominently on the premises the name, address and telephone number of the owner or operator of the laundry.

A public telephone is required to be on the premises in a conspicuous location.

b. Any dryer located on the premises for use in connection with such washing machines shall be so constructed that it may be opened from the inside as well as from the outside.

Prohibitions: No licensee shall:

a. operate during hours of 1 AM and 6 AM.

b. permit lights outside of the premises to remain lighted after 12 Midnight.

F) Pawn Broker License — [3381]

Required of anyone in the business of lending money on the deposit or pledge of personal property, securities or written evidence of indebtedness; or purchasing personal property with an expressed or implied agreement or understanding to sell it back at a subsequent time at a stipulated price; or lending money upon goods, wares or merchandise pledges, stored or deposited as collateral security fee. The Police Department will review application annually.

1) Requirements:

a. Police investigation.

b. Every pawnbroker shall turn over to the Police Department at the end of each day a copy of every pawn ticket furnished to any pledges.

2) Prohibitions:

a. No pawnbroker shall transact any business on Sunday.

b. No pawnbroker shall accept any pledge or effect any redemption before 8:30 AM or after 5 PM, except that pawn brokers may accept pledges or effect redemptions until 9 PM on Friday and until 6 PM on Saturday.

3) Penalty:

a. The penalty for acting as a pawnbroker without a license is a fine of \$300.00 together with imprisonment not exceeding 90 days if the fine and costs are not paid within 10 days.

b. The penalty for violation of above requirements or any other provision of Section 9-603 of the Philadelphia Code, or any term or condition of a license is, in addition to any other sanctions, a fine not exceeding \$50.00 for each offense together with imprisonment not exceeding 10 days if the fine and costs are not paid within 10 days.

G) Handbill Distribution

Required of any person or business which distributes or causes commercial handbills to be distributed on its behalf.

1) Requirements:

a. Phila. Business Tax Number

b. Business Privilege License

2) Delivery to premises.

a. No person shall place a handbill on private property unless the handbill has been securely placed:

1) in the door (mail) slot.

2) between storm door and house door.

3) on railing.

4) on door grill.

5) or affixed to the door to door handle by string, rubber band or adhesive.

b. Notwithstanding the foregoing, a handbill package may be placed on the top step or on the porch. If placement on the top step or porch is not feasible, and if placement pursuant to the preceding subsection 2(A) (1)-(5) is not feasible, then a handbill package may be placed against the main door at sidewalk level. For purposes of these regulations, a handbill package shall be multiple handbills secured either by rubber band or string or placed in a bag, and weighing cumulatively at least 2 oz. If bagged, handbills must be completely in bag.

c. The Department of Licenses & Inspections shall maintain a "Handbill Non-Delivery List, identifying all properties requesting non-delivery. The Handbill Non-Delivery List shall be available for public inspection during normal working hours. It shall be the responsibility of any distributor, distribution business or person distributing handbills to insure that no handbills are delivered to such properties.

H) Weighing & Measuring Device License — [3820 thru 3825]

Required for all persons engaged in the business of operating or maintaining a weighing or measuring device for commercial purposes.

- 1) State number of metering devices to be used.
- 2) Retail Motor Fuel Dispensers (3820) — Legislation has verified the Retail Motor Fuel Dispenser License as the number of fueling points to be licensed.
 - a. A fueling point is defined as a location where a single vehicle is fueled at one time.

I) Electronic Scanner — (3826 & 3827)

Required of all retail food stores that use electronic terminal scanners or similar checkout systems.

J) Sale of Spray Paint containers and Indelible Markers (3395)

Required of anyone who sells or offer for sale, transfer or offer for transfer any spray paint containers and/or indelible markers.

Please do not mail cash. Cash payments cannot be accepted.

Personal checks, money orders or cashier checks are acceptable.

13) OWNER, CORPORATION AND PARTNERSHIP — Corporate applicants must identify the president, secretary and treasurer. Complete with the name, title, and home address. If one individual serves as multiple or sole officer, so state. If partnership, must obtain a Federal Identification Number for the partnership and include social security number of each partner.

14) ADDITIONAL INFORMATION — This space is provided for any additional data you wish to submit.

ATTACHMENT "E" – LOCATION & EQUIPMENT LISTING

<u>LOCATION ADDRESS</u>	<u>ROOM / SUITE</u>	<u>QTY</u>	<u>EQUIPMENT TYPE</u>
CITY HALL Records Document Recording Broad & Market Streets Philadelphia, PA	Room B54	2	Microfilm/Microfiche Reader/Printers with Universal Carriers*
		2	Microfilm/Microfiche Readers/Printers with Roll Film Carriers*
		1	Microfilm/Microfiche Reader/Printer with Fiche Carrier
		4	Microfilm/Microfiche Readers with Fiche Carriers
		1	Debit Card Machine
		1	Bill Changer Machine
	Room 111	1	Coin Operated Copier Capable of Producing Standard 8.5X11 and Legal 11X17 Size Copies
	Room 154	1	Microfilm/Microfiche Reader/Printer with Universal Carrier*
		1	Microfilm/Microfiche Reader/Printer with Fiche Carrier
	RECORDS & ARCHIVES CENTER 3101 Market Street Philadelphia, PA	Room 170	1
		2	Microfilm/Microfiche Reader/Printers with Universal Carriers*
		1	Microfilm/Microfiche Reader/Printer with Roll Film Carrier
		4	Microfilm/Microfiche Readers with Roll Film Carriers
		2	Microfilm/Microfiche Readers with Fiche Carriers*
		1	Debit Card Machine
		1	Bill Changer Machine

* For Microfilm/Microfiche Reader/Printers, vendor will provide appropriate magnification lenses to accommodate pages, and will provide accommodations for 16mm/35mm rolls and microfiche.

ATTACHMENT F

**CITY OF PHILADELPHIA
OFFICE OF ECONOMIC OPPORTUNITY
ANTIDISCRIMINATION POLICY- MINORITY, WOMAN AND DISABLED OWNED
BUSINESS ENTERPRISES
FORMS, INSTRUCTIONS AND SPECIAL CONTRACT PROVISIONS
(SEALED BID CONTRACTS)**

Under the authority of Executive Orders No. 02-05, as reauthorized, and 14-08, the City of Philadelphia has established an antidiscrimination policy (“Policy”) relating to the participation of Minority (MBE), Woman (WBE) and Disabled (DSBE) Owned Business Enterprises in City contracts. Executive Order 14-08 disestablished the Minority Business Enterprise Council and transferred its administrative functions under Executive Order 02-05 to the Office of Economic Opportunity (“OEO”).

The purpose of this Policy is to provide equal opportunity for all businesses and to assure that City funds are not used, directly or indirectly, to promote, reinforce or perpetuate discriminatory practices. The City is committed to fostering an environment in which all businesses are free to participate in business opportunities without the impediments of discrimination and participate in all City contracts on an equitable basis. In accordance with the contracting requirements of the City, the City’s Policy is applicable to this Invitation and Bid (hereinafter, “Bid”).

The Office of Economic Opportunity has approved the following projected ranges of participation for this Bid which serve as a guide in determining each bidder’s responsibility:

MBE Good Faith Efforts
WBE Good Faith Efforts
DSBE Good Faith Efforts

These ranges represent the percentage of MBE, WBE, DBE¹ and/or DSBE (collectively, “M/W/DSBE”) participation that should be attained by M/W/DSBEs from business opportunities existing in the available market absent discrimination in the solicitation and selection of these businesses. These ranges are based upon an analysis of factors such as the size and scope of the contract and the availability of certified M/W/DSBEs to perform various elements of the contract. The submission of a Solicitation For Participation and Commitment Form and any supporting documentation (more fully discussed below) is an element of responsiveness to the Bid and failure to submit the required information will result in rejection of your bid.

Bidder hereby verifies that all forms, information and documentation submitted to the OEO are true and correct and is notified that the submission of false information by Bidder is subject to the penalties of 18 Pa.C.S. Section 4904 relating to unsworn falsification to authorities. Bidder also acknowledges that if it is awarded a contract resulting from this Invitation and Bid, it is a felony in the third degree under 18 Pa.C.S. Section 4107.2(a)(4) if, in the course of this contract, it fraudulently obtains public moneys reserved for or allocated or available to minority business enterprises or women’s business enterprises.

A. M/W/DSBE PARTICIPATION

1. MBE, WBE, DBE and DSBE shall refer to certified businesses so recognized by the City of Philadelphia through its OEO. Only the work or supply effort of firms that are certified as M/W/DSBEs by an OEO approved certifying agency² at the time of bid opening will be eligible to receive credit towards the participation ranges. In order to be counted, certified firms must successfully complete and submit to the OEO an application to be included in the OEO Registry which is a list of registered M/W/DSBEs maintained by the OEO and available online at www.phila.gov/oEO/directory.

¹ “DBE” or “Disadvantaged Business Enterprise” means a socially and economically disadvantaged minority or woman owned business that is certified under 49 C.F.R. Part 26. If Bidder makes solicitation(s) and commitment(s) with a DBE, Bidder shall indicate which category, MBE or WBE, is submitted for credit.

²A list of “OEO approved certifying agencies” can be found at www.phila.gov/oEO

If bidder or bidder's subcontractor(s) is certified by an approved certifying agency, a copy of that certification should be furnished with the bid.

2. No bidder that seeks to meet the participation range(s) for participation by entering into subcontracts with any M/W/DSBE subcontractor shall be considered to meet the range(s) if the M/W/DSBE subcontractor does not perform a commercially acceptable function ("CAF"). A M/W/DSBE is considered to perform a CAF when it engages in meaningful work or supply effort that provides for a distinct element of the subcontract (as required by the work to be performed in accordance with the Bid), where the distinct element is worthy of the dollar amount of the subcontract and where the M/W/DSBE carries out its responsibilities by actually performing, managing and supervising the work involved; M/W/DSBE subcontractors must perform at least twenty percent (20%) of the cost of the subcontract (not including the cost of materials, equipment or supplies incident to the performance of the subcontract) with their own employees. The OEO may evaluate the amount of work subcontracted, industry practices and any other relevant factors in determining whether the M/W/DSBE is performing a CAF. If it is determined during the review of your Solicitation and Commitment Form that the work described on the Form does not constitute a CAF, your bid may be rejected. For example, a Bidder using an M/W/DSBE non-stocking supplier (i.e., a firm that does not manufacture or warehouse the materials or equipment of the general character described by the Bid specifications and required under the contract) to furnish equipment or materials will only receive credit towards the participation ranges for the fees or commissions charged, not the entire value of the equipment or materials furnished.

3. In order to maximize opportunities for as many businesses as possible, a firm that is certified in two or more categories (e.g. MBE and WBE and DSBE or WBE and DSBE) will only be credited toward one participation range as either an MBE or WBE or DSBE. The firm will not be credited toward more than one category. Bidders will note with their submission which category, MBE or WBE or DSBE, is submitted for credit.

4. An MBE/WBE/DSBE submitting as the prime bidder is required, like all other bidders, to submit a bid that is responsive to the Policy and will only receive credit toward the relevant participation ranges (e.g., MBE range or WBE range or DSBE range) for the amount of its own work or supply effort on this Bid. In addition, the participation of an

M/W/DSBE partner, as part of a joint venture created for this bid, may be credited towards the participation ranges only to the extent of the M/W/DSBE partner's ownership interest in the joint venture in accordance with the following criteria:

- The MBE, WBE or DSBE partner(s) must be identified in the OEO Registry prior to contract award;
- The M/W/DSBE partner(s) must derive substantial benefit from the arrangement;
- The M/W/DSBE partner(s) must be substantially involved in all phases of the contract including planning, staffing and daily management;
- The business arrangement must be customary (i.e., each partner shares in the risk and profits of the joint venture commensurate with their ownership interest, contributes working capital and other resources, etc).

5. In listing participation commitments on the Solicitation for Participation and Commitment Form, bidders are required to list a detailed description of the work or supply effort, the dollar amount of the quotation, and percentage of the contract the participation represents. In calculating the percentage amount, bidders may apply the standard mathematical rules in rounding off numbers. The OEO reserves the right to request clarifying information in the event of an inconsistency or ambiguity in the Solicitation For Participation and Commitment Form.

B. RESPONSIVENESS

1. A Bid responsive to the Policy is one which contains documentary evidence of the M/W/DSBEs that have been solicited and that will be used by the Bidder on the contract, if awarded; where the Bid satisfies the M/W/DSBE participation ranges for that contract, the Bidder is rebuttably presumed not to have discriminated in its selection of contract participants.

2. Bidders must submit documentary evidence of MBEs, WBEs and DSBEs who have been solicited and with whom commitments have been made in response to the participation ranges included in this Bid. Failure to submit the Solicitation For

Participation and Commitment Form will result in the rejection of the Bid as nonresponsive, although the City, at its sole discretion, may allow Bidders to submit or amend the Solicitation For Participation and Commitment Form at any time prior to award. The Solicitation For Participation and Commitment Form must contain the following information:

- Documentation of all solicitations (regardless of whether commitments resulted therefrom) as well as all commitments made on the enclosed document entitled "Solicitation For Participation and Commitment Form". Bidders should only make actual solicitations of M/W/DSBEs whose work or materials are within the scope of this Bid. Mass mailing of a general nature to M/W/DSBEs or similar methods will not be deemed solicitation, but rather will be treated as informational notification only. A reasonable period of time should be given to all solicited firms to ensure that they have sufficient time to adequately prepare their quotes/subproposals. The bidder's listing of a commitment with an M/W/DSBE constitutes a representation that the Bidder has made a legally binding commitment to contract with such firm, upon receipt of a contract award from the City.

- If the Bidder has entered into a joint venture with an MBE, WBE and/or DSBE partner, the bidder is also required to submit along with the Solicitation For Participation and Commitment Form, a document entitled "Joint Venture Eligibility Information Form," available at OEO, for the City's review and approval of the joint venture arrangement.

3. If Bidder does not fully meet each of the range(s) for participation established for this Bid, Bidder must explain what efforts the bidder made to achieve the M/W/DSBE participation ranges. Bidder must demonstrate, through the submission of documentary evidence, that it took all necessary steps and made reasonable efforts to achieve the M/W/DSBE participation ranges, even if these efforts were not fully successful. OEO will evaluate the scope, intensity and appropriateness of these efforts to ascertain whether they could reasonably be expected to achieve M/W/DSBE participation commensurate with the ranges. Failure to submit the documentary evidence will result in rejection of the bid as nonresponsive, although the City, at its sole discretion, may

allow bidders to submit or amend their evidentiary submission at any time prior to award. The submission shall contain and discuss, at a minimum, the following:

- Provide reasons for not committing with any M/W/DSBEs that submitted a quote/subproposal, regardless of whether the quote/subproposal was solicited by Bidder.
- Provide list of all certifying directories used to solicit participation for this Bid.
- Provide any additional evidence pertinent to Bidder's conduct relating to this Bid including sufficient evidence which demonstrates to the OEO that Bidder has not engaged in discriminatory practices in the solicitation of and commitment with contract participants. In describing Bidder's efforts to achieve participation within the ranges, Bidder may submit any corroborating documentation (e.g., copies of advertisements for participation).

The bidder's documentary evidence will be reviewed by the OEO to ascertain whether discrimination has occurred in the solicitation or selection of contract participants. The review will include consideration of the following:

- Whether the bidder's actions were motivated by considerations of race or gender or disability. The OEO may investigate the bidder's contracting activities and business practices on similar public and private sector contracts. For example, if bidder rejects any M/W/DSBE based on price, bidder must fully document its reasons for the rejection and also demonstrate that bidder subjects non-M/W/DSBEs to the same pricing standards. OEO will investigate whether there was any attempt at good faith negotiation of price.

- Whether M/W/DSBEs were treated equally as other businesses in the solicitation and commitment process. For example, the OEO will investigate whether M/W/DSBEs are given the same information, access to the plans and requirements of the contract and given adequate amount of time to prepare a quote/subcontract as others who were solicited by bidder. The OEO will also investigate whether M/W/DSBEs were accorded the same level of outreach as non-M/W/DSBEs, for example whether bidder short listed M/W/DSBEs for participation or solicited M/W/DSBEs at any pre-bid meetings.

- Whether the bidder's contracting decisions were based upon policies which disparately affect M/W/DSBEs. OEO will ascertain whether bidder selected portions of work or material needs consistent with the capacity of available M/W/DSBE subcontractors and suppliers. OEO will consider whether bidder employed policies which facilitate the participation of M/W/DSBEs on City contracts such as segmentation of the contract or prompt payment practices.

4. After review of the bidder's submission and other information the OEO deems relevant to its evaluation, the OEO will make a written determination that will be forwarded to the awarding City Department.

- If the bid is determined nonresponsive by the OEO, the applicant will be notified and may file a written appeal with the OEO within forty-eight (48) hours of the date of notification. The decision of the OEO may be appealed in writing within forty-eight (48) hours of the date of the OEO's decision to the Chief Operating Officer of the Commerce Department or his/her designee whose decision shall be final.

C. RESPONSIBILITY

1. Upon award, the completed Solicitation For Participation and Commitment Form and accompanying documents regarding solicitation and commitments with MBEs, WBEs and DSBEs become part of the contract. M/W/DSBE percentage commitments are to be maintained throughout the term of the contract and shall apply to the total contract value (including amendments). Any change in commitment, including but not limited to substitutions for the listed firm(s), changes or reductions in the work and/or listed dollar/percentage amounts, must be pre-approved in writing by the OEO.

2. The Successful Bidder shall, within five (5) business days after receipt of a payment from the City for work performed under the contract, deliver to its M/W/DSBE subcontractors the proportionate share of such payment for work performed (including the supply of materials) by its M/W/DSBE subcontractors. In connection with payment of its M/W/DSBE subcontractors, the Successful Bidder agrees to fully comply with the City's payment reporting process which may include the use of electronic payment verification systems.

3. No privity of contract exists between the City and any M/W/DSBE subcontractor identified in any contract resulting from this Bid. The City does not intend to give or confer upon any such M/W/DSBE subcontractor(s) any legal rights or remedies in connection with the subcontracted services under Executive Orders 2-05 and 14-08 or by reason of any contract resulting from the Bid except such rights or remedies that the M/W/DSBE subcontractor may seek as a private cause of action under any legally binding contract to which it may be a party.

4. If the OEO determines that the bidder has discriminated against a M/W/DSBE at any time during the term of the contract, the OEO may recommend to the Procurement Commissioner the imposition of sanctions on the Bidder including debarment of the bidder from submitting and/or participating in future City contracts for a period of up to three (3) years.

D. ACCESS TO INFORMATION

1. The OEO shall have the right to make site visits to the Bidder's place of business and/or job site and obtain documents, such as quotations, and information from any Bidder, subcontractor, supplier, manufacturer or contract participant that may be required in order to ascertain a Bidder's responsiveness and responsibility.
2. Failure to cooperate with the OEO in its review may result in a recommendation to terminate the contract.

E. RECORDS AND REPORTS

1. The Successful Bidder shall maintain all books and records relating to its M/W/DSBE commitments (e.g. copies of quotations, subcontracts, joint venture agreement, correspondence, cancelled checks, invoices, telephone logs) for a period of at least three (3) years following acceptance of final payment. These records shall be made available for inspection by the OEO and/or other appropriate City officials. The Successful Bidder agrees to submit reports and other documentation to the OEO as deemed necessary by the OEO to ascertain the successful bidder's fulfillment of its M/W/DSBE commitments.

F. REMEDIES

1. The Successful Bidder's compliance with the requirements of Executive Orders 2-05 and 14-08, including the fulfillment of any M/W/DSBE commitments, is material to the contract. Any failure to comply with these requirements constitutes a substantial breach of the contract. It is further understood and agreed that in the event the City determines that the Successful Bidder hereunder has failed to comply with these requirements the City may, in addition to any other rights and remedies the City may have under the contract, any bond filed in connection therewith or at law or in equity, exercise one or more of the following remedies, as deemed applicable, which shall be deemed cumulative and concurrent:

- a. Withhold payment(s) or any part thereof until corrective action is taken.
- b. Terminate the contract, in whole or in part.
- c. Suspend/Debar the Successful Bidder from proposing/bidding and/or participating in any future City contracts for a period of up to three (3) years.
- d. Recover as liquidated damages, one percent of the total dollar amount of the contract for each one percent (or fraction thereof) of the commitment shortfall. (NOTE: The “total dollar amount of the contract” shall include approved change orders, amendments and for requirements contracts shall be based on actual quantities ordered by the City. For Concessions, the “total dollar amount of the contract” shall mean the Concession Fee paid to the City.)

The remedies enumerated above are for the sole benefit of the City and City’s failure to enforce any provision or the City’s indulgence of any non-compliance with any provision hereunder, shall not operate as a waiver of any of the City’s rights in connection with any contract resulting from this Bid nor shall it give rise to actions by any third parties including identified M/W/DSBE subcontractors.

SOLICITATION FOR PARTICIPATION AND COMMITMENT FORM (CONCESSION) <i>Minority (MBE), Women (WBE), and Disabled (DSBE) Business Enterprises</i>				COMMERCE DEPARTMENT <i>OFFICE OF ECONOMIC OPPORTUNITY (OEO)</i>						
BID TITLE - Operation & Management of Vending Program				Name of Respondent		Proposal Submission Date				
List below ALL MBE/WBE/DSBEs that were solicited regardless of whether a commitment resulted therefrom. - Photocopy this form as necessary.										
<input type="checkbox"/> MBE		<input type="checkbox"/> WBE		<input type="checkbox"/> DSBE		Work to be Performed	Date Solicited	Commitment Made	Give Reason(s)	
Company Name						By Phone	By Mail	Yes (If Yes, give date)	NO	If No Commitment
Address										
Contact Person										
Telephone Number		Fax #				Quote Received		Amount Committed To		
YES		NO				Dollar Amount				
MBEC CERTIFICATION #						\$		Percent of Total Proposal %		
<input type="checkbox"/> MBE		<input type="checkbox"/> WBE		<input type="checkbox"/> DSBE		Work to be Performed	Date Solicited	Commitment Made	Give Reason(s)	
Company Name						By Phone	By Mail	Yes (If Yes, give date)	NO	If No Commitment
Address										
Contact Person										
Telephone Number		Fax #				Quote Received		Amount Committed To		
YES		NO				Dollar Amount				
MBEC CERTIFICATION #						\$		Percent of Total Proposal %		
<input type="checkbox"/> MBE		<input type="checkbox"/> WBE		<input type="checkbox"/> DSBE		Work to be Performed	Date Solicited	Commitment Made	Give Reason(s)	
Company Name						By Phone	By Mail	Yes (If Yes, give date)	NO	If No Commitment
Address										
Contact Person										
Telephone Number		Fax #				Quote Received		Amount Committed To		
YES		NO				Dollar Amount				
MBEC CERTIFICATION #						\$		Percent of Total Proposal %		
<input type="checkbox"/> MBE		<input type="checkbox"/> WBE		<input type="checkbox"/> DSBE		Work to be Performed	Date Solicited	Commitment Made	Give Reason(s)	
Company Name						By Phone	By Mail	Yes (If Yes, give date)	NO	If No Commitment
Address										
Contact Person										
Telephone Number		Fax #				Quote Received		Amount Committed To		
YES		NO				Dollar Amount				
MBEC CERTIFICATION #						\$		Percent of Total Proposal %		