



CITY OF PHILADELPHIA
Division of Technology

Scanning Services for City Documents

May 26
2011

City of Philadelphia
Division of Technology

Deadline for Receipt of Proposals:

Place of Submission:

Deadline for Questions:

**City of Philadelphia
Division of Technology**

**Request for Proposals to Provide
Scanning Services for City Documents
May 26, 2011**

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1 General Information

1.1 Background

The City of Philadelphia (City), in 2010, consolidated its Information Technology function into one department now known as the Division of Technology (DOT). DOT is responsible for the maintenance and implementation of IT applications. Where possible, DOT is standardizing on particular technologies and deploying them City-wide.

One of the large-scale business requirements for the City is an overarching Document Management solution providing for the storage, retrieval, and archiving of documents. A key component of that effort is the digitization of existing documents that currently exist only as paper or other physical, non-electronic media and are needed for the electronic solution. There is a vast amount of documents of both operational and historical significance.

As an example, the City of Philadelphia Streets Department has various sets of City plans that exist on both paper and linen. Operations are partially manual and partially digital, and there is an initiative to implement an electronic solution where feasible. The physical documents that exist may be of value operationally, and many of the City plans are historically significant and valuable. These City plans are prioritized as one of the set of documents to be scanned.

The underlying goal of this initiative is to foster more efficient and effective City government. DOT is seeking one or more vendors that will assist with its effort to scan City documents. The successful Respondent(s) will be responsible for both the creation of a comprehensive strategy and implementation of that strategy for scanning documents.

Across the various City agencies, there exist various types, sizes and conditions of documents, each with their own specific considerations. Factors relevant to planning and implementation include, but are not limited to, an exceedingly large volume of documents; historic and/or fragile documents; dimensionally large documents; documents with a GIS component; significant complexity to the metadata and retrieval method; the operational value and utilization of the document; the value of making documents available online; and the ongoing modification of the document. These factors pertain to the digitized version as well as the original physical version of the document. These factors all need to be considered in an overall scanning strategy.

No computer hardware or other equipment, and no network or computer installation services (such as cabling or physical installation of equipment) will be purchased under any contract resulting from this Request for Proposals.

The Division of Technology, on behalf of the City of Philadelphia, seeks qualified vendors who can provide the services requested. These will include but are not limited to those detailed in **Appendix A, Detailed Project Requirements**.

The selected vendor(s) will provide services to effectively meet the following expectations:

1. Work with City agencies and departments and the Division of Technology to develop a comprehensive approaches for the scanning of physical documents in the City of Philadelphia.
2. Perform on-site and/or off-site scanning of documents. Individual work orders will be issued for this scanning on an as needed basis. Image digitization should reasonably comply with Federal Agencies Digitization Guidelines Initiative (FADGI) Still Image Working Group or the National Archives and Records Administration (NARA).
3. Work with the City of Philadelphia Records Department to create comprehensive strategies for the retention/preservation of physical documents of historical significance and value.
4. Determine methods the City can implement to provide City employees as well as the public access to the digital versions of documents of historical significance and value.

5. Provide project communications with project team members both internal and external to the City of Philadelphia including status meetings or calls, testing, training, and other project communications. This includes communicating risks and issues (e.g., delays, client scope or requirements changes) to the project manager.
6. Ensure/performance routine quality assurance.
7. Make recommendations for obtaining funding/grants to facilitate expansion of this initiative.

The City reserves the right to make multiple awards. The successful Respondent(s) will enter into a contract for a one (1) year period with options to renew the contract, at the City's discretion, for up to three (3) additional one (1) year terms.

Detailed requirements for the services sought by this RFP are provided in Appendix A, *Detailed Project Requirements*.

1.2 Proposal Submission Date; Anticipated Procurement Schedule

The date for submitting Proposals pursuant to this RFP (the "Submission Date") is as provided below. Proposals must be submitted as provided in Section 3.1.7 *Proposal Submission Requirements*, by the time on the Submission Date indicated below.

<u>Date</u>	<u>Activity</u>
May 26, 2011	Issue Request for Proposals
June 10, 2011 5:00 PM EST	Submit questions, requests for clarification, information to Primary Contact, in writing
June 20, 2011	Questions and Answers Posted
June 27, 2011 5:00 PM EST	Submit Proposals and Proposal Transmittal Letter
July 11, 2011	Notice of Intent to Contract
August 1, 2011	Project start

These dates are estimates only and the City reserves the right, in its sole discretion, to alter this schedule as it deems necessary or appropriate. Notice of changes in the due date/time for submission of Respondent questions and the date/time for Proposal submission will be posted on the City's website at <https://secure.phila.gov/econtract/> ("eContract Philly"). The other dates/times listed may be changed without notice to prospective Respondents.

Respondents must submit their responses and applications electronically on eContract Philly and in accordance with Section 3.1.7, *Proposal Submission Requirements*. Submissions will not be considered unless the Respondent has proceeded through the eContract Philly system. For more information, please consult the reference materials found on the website, e-mail econtractphilly@phila.gov or call 215-686-4914. **Respondents who have failed to file complete applications through eContract Philly online application process prior to the closing date and time will not be considered for the contract.** The City encourages Respondents to start and complete their online applications as early as possible.

1.3 City's Primary Contact

The name, address, and contact information for the City's Primary Contact for this RFP are as follows:

Stuart Alter, Senior Program Manager
Division of Technology
1234 Market Street / Suite 1850
Philadelphia, PA 19107
E-mail address: stuart.alter@phila.gov
Phone #: (215) 686-8254
Fax #: (215) 686-8258

All questions, requests for clarification, and requests for additional information regarding this RFP must be submitted in writing not later than the date noted in Section 1.2, *Proposal Submission Date; Anticipated Procurement Schedule*. The City will provide written responses to the submitted questions no later than May 27, 2011. These responses will be posted on eContract Philly with the original RFP details notice. No oral response by any employee or agent of the City shall be binding on the City or shall in any way constitute a commitment by the City. If a Respondent finds any inconsistency or ambiguity in the RFP, the Respondent is requested to notify the City.

1.4 Compliance with Chapter 17-1400 of The Philadelphia Code

Under any contract resulting from this RFP, the successful Respondent shall be required to comply with the terms and conditions set forth in Appendix C, *Provisions Required by Chapter 17-1400 of The Philadelphia Code*, which shall be incorporated into the contract.

2 RFP Requirements and Conditions

2.1 Cost Proposal Required

Cost proposals must be "fixed price" and/or "rate per page" proposals for various types of scanning services offered by the Respondent. In the case of "rate per page," cost proposals must include scaled pricing by volume. The proposed price must include all costs to the City for performance of the work required under this RFP. If a Respondent offers options and/or alternates for the proposed work, the Respondent must provide for each such option/alternate the following information:

- A detailed description of the option/alternate;
- A full explanation of the rationale for not incorporating the work in the base Proposal;
- Detailed cost information for each option/alternate, in accordance with the cost proposal requirements of the RFP.

All cost items must be provided in the RFP response and no additional charges (e.g. for supplies, travel, etc.) will be allowed unless so stated in the proposal document. The cost proposal must identify, by separate line item, each principal task and activity required to perform the work together with the cost of each. The City reserves the right, in its sole discretion, to reject without evaluation any Proposal that does not identify each item of the work by line item.

2.2 Responsiveness

Proposals must satisfy all requirements set forth in this RFP. Any Proposal that does not adhere strictly to RFP requirements may, in the sole discretion of the City, be rejected, as not responsive to the RFP, without further consideration. Proposals will be evaluated, in part, according to whether the Respondent meets the qualifications described in this RFP and submits a Proposal complying with all RFP requirements. The City reserves the right, in

its sole discretion, to determine whether any deviation(s) from or exception(s) to RFP requirements make the Proposal non-responsive or otherwise unacceptable such that the Proposal will be rejected without further consideration.

2.3 Disclaimer

This RFP and the process it describes are proprietary to the City and are for the sole and exclusive benefit of the City. This RFP is not binding on the City. No other party, including any Respondent to this RFP or future Respondent to any RFP that may be issued by the City, is intended to be granted any rights hereunder. Proposals and other materials submitted in response to this RFP, whether written or verbal and including, without limitation, ideas of Respondents elicited in response to the RFP, shall become the sole and absolute property of the City upon submission or communication, and the City shall have title thereto and unrestricted use thereof. The City shall have the right to disclose the Proposals, materials and any ideas to any person or entity including, employees of the City, its consultants and contractors, and authorized agents, as required to carry out this RFP procurement. Any such Proposal, materials, and ideas may be publicly disclosed by the City or any authorized agent of the City, for any reason the City, in its sole discretion, deems appropriate, or pursuant to the Pennsylvania Right To Know Act or other applicable law. The Respondent acknowledges and agrees that the City and its authorized agents shall have the foregoing right of public disclosure notwithstanding any notice or statement by the Respondent (whether made in the Proposal or otherwise) asserting the confidential or proprietary nature of the Proposal or of any materials submitted or ideas elicited in response to the RFP.

2.4 Publicity

All publicity (including, but not limited to, news releases, news conferences, and commercial advertising) relating to this RFP and/or the services or products sought by this RFP and/or any contract awarded pursuant to this RFP shall require the prior written approval of Dan Heitzer, Deputy CIO.

2.5 Respondents Restricted

No Proposal shall be accepted from, or contract awarded to, any City employee or official, or any firm in which a City employee or official has a direct or indirect financial interest. No Respondent may be the prime contractor or prime Respondent for more than one Proposal submitted pursuant to this RFP. Entities that are legally related to each other or to a common entity may not submit separate Proposals as prime contractors or prime Respondents. Any Proposal may be rejected that, in the City's sole judgment, does not comply with these conditions. Nothing contained in this RFP is intended to preclude a Proposal by a Respondent that proposes to perform the substantive work proposed through subcontractors.

2.6 Office of Economic Opportunity

Each Respondent is subject to the provisions of Mayoral Executive Orders 02-05 and 14-08 and is required to respond to the ranges specified in an appendix included with this RFP for participation by Minority Business Enterprises ("MBE"), Woman Business Enterprises ("WBE") and Disabled Business Enterprises ("DSBE") (collectively, "M/W/DSBE") as those terms are defined in Executive Orders 02-05 and 14-08. The City's Antidiscrimination Policy for City contracts is explained in more detail in Appendix B to this RFP. Respondents are required to complete and include in their Proposals the "Solicitation for Participation and Commitment Form," which is posted on eContract Philly with this RFP.

See Appendix B for instructions and contract provisions relating to the participation of Minority, Women, and Disabled Business Enterprises (M/W/DSBEs).

2.7 Acceptance of the Terms and Conditions of This RFP

All Proposals submitted are subject to the terms and conditions set forth in this RFP. The Respondent, by submitting its Proposal, expressly acknowledges and agrees to all terms, conditions and requirements contained in this RFP.

2.8 Proposal Submission, Evaluation and Selection

2.8.1 General

The City reserves the right, in its sole discretion, to reject all Proposals and reissue this RFP at any time prior to execution of a final contract; to require, in any RFP for similar products and/or services that may be issued subsequent to this RFP, terms and conditions that are substantially different from the terms and conditions set forth in this RFP; and/or to cancel this RFP with or without issuing another RFP.

2.8.2 Rights and Options Reserved

The City reserves and in its sole discretion may, but shall not be required to, exercise the following rights and options with respect to the Proposal submission, evaluation and selection process under this RFP:

- a) To reject any Proposals if, in the City's sole discretion, the Proposal is incomplete, the Proposal is not responsive to the requirements of this RFP (see "Detailed Project Requirements" in the RFP appendices), the Respondent does not meet the qualifications set forth in the RFP, or it is otherwise in the City's best interest to do so;
- b) To supplement, amend, substitute or otherwise modify this RFP at any time prior to selection of one or more Respondents for negotiation and to cancel this RFP with or without issuing another RFP;
- c) To accept or reject any or all of the items in any Proposal and award the contract(s) in whole or in part if it is deemed in the City's best interest to do so;
- d) To reject the Proposal of any Respondent that, in the City's sole judgment, has been delinquent or unfaithful in the performance of any contract with the City or with others, is financially or technically incapable or is otherwise not a responsible Respondent;
- e) To reject as informal, non-responsive, or otherwise non-compliant with the requirements of this RFP any Proposal which, in the City's sole judgment, is incomplete, is not in conformity with applicable law, is conditioned in any way that is unacceptable to the City, deviates from this RFP and its requirements, contains erasures, ambiguities, or alterations, or Proposes or requires items of work not called for by this RFP;
- f) To waive any informality, defect, non-responsiveness and/or deviation from this RFP and its requirements that is not, in the City's sole judgment, material to the Proposal;
- g) To permit or reject at the City's sole discretion, amendments (including information inadvertently omitted), modifications, alterations and/or corrections of Proposals by some or all of the Respondents following Proposal submission;
- h) To request that some or all of the Respondents modify Proposals based upon the City's review and evaluation;
- i) To request additional or clarifying information or more detailed information from any Respondent at any time, before or after Proposal submission, including information inadvertently omitted by the Respondent;
- j) To inspect and otherwise investigate projects performed by the Respondent, whether or not referenced in the Proposal, with or without the consent of or notice to the Respondent;
- k) To conduct such investigations with respect to the financial, technical, and other qualifications of each Respondent as the City, in its sole discretion, deems necessary or appropriate; and
- l) To waive and/or amend any of the factors identified in the "Submittal Requirements" section and elsewhere in this RFP as pertaining to the Respondent's qualifications.

2.8.3 Contract Negotiation and Award

The City reserves and in its sole discretion may, but shall not be required to, exercise the following rights and options with respect to the contract negotiation and award process resulting from this RFP:

The City reserves the right to enter into post-submission negotiations and discussions with any one or more Respondents regarding price, scope of services, and/or any other term of their Proposals, and such other contractual terms as the City may require, at any time prior to execution of a final contract. The City may, at its sole election, enter into simultaneous, competitive negotiations with multiple Respondents or negotiate with individual Respondents seriatim. Negotiations with Respondents may result in the enlargement or reduction of the scope of services, or changes in other terms that are material to the RFP and the submitted Proposals. In such event, the City shall not be obligated to inform other Respondents of the changes, or to permit them to revise their Proposals in light thereof, unless the City, in its sole discretion, determines that doing so is in the City's best interest.

In the event negotiations with any Respondent(s) are not satisfactory to the City, the City reserves the right to discontinue such negotiations at any time; to enter into or continue negotiations with other Respondents; to enter into negotiations with firms that did not respond to this RFP and/or to solicit new proposals from firms that did not respond to this RFP, including but not limited to negotiations or proposals for services, if any, that are deleted by the City from the successful Proposal or the contract resulting from it. The City reserves the right not to enter into any contract with any Respondent, with or without re-issue of the RFP, if the City determines that such is in the City's best interest.

2.8.4 Proposal Evaluation

Proposals the City determines, in its sole discretion, are responsive to the RFP will be reviewed by a selection committee designated by the City. The City, in its sole discretion, may require any Respondent to make one or more presentations of its Proposal to the selection committee, in City offices, at no cost to the City, addressing its ability to satisfy the requirements of this RFP. The City shall not be required, however, to permit any Respondent to make such a demonstration.

Cost to the City is a material factor, but not the sole or necessarily the determining factor in Proposal evaluation. The City may, in its sole discretion, award a contract resulting from this RFP to a person or entity other than the responsible and qualified Respondent submitting the lowest price. The contract will be awarded to the Respondent whose Proposal the City determines, in its sole discretion, is the most advantageous to the City and in the City's best interest.

Proposal evaluation will include evaluation of the Respondent's qualifications, based on Section 3 of the Proposal and such other information and investigations as the City deems necessary and appropriate; and evaluation of the Respondent's technical solutions and Cost Proposals as set forth in Section 4 and Appendix B, respectively, of the Proposal. The City, in its sole discretion, may, but shall not be required to, reject without further consideration the Proposal of any Respondent that has not demonstrated, in the City's sole judgment, that it satisfies the qualifications criteria provided in the "Submittal Requirements" section of this RFP. The City reserves the right, in its sole discretion and without notice to Respondents, to modify this evaluation procedure as it may deem to be in the City's interest.

Evaluation factors to be considered by the City include, but are not limited to, the following (no particular order of importance, weighting, or other priority is assigned to these factors or reflected by their order in the list):

- (1) Project understanding and soundness of proposed project methodology, including but not limited to the detail and accuracy of the proposed scope and statement of work and implementation plan;
- (2) The impact of the proposed solution on the operations of the using department, and the demonstrated ability of the solution to enhance operational efficiency and effectiveness;
- (3) The Respondent's financial and technical qualifications to perform the work required by the RFP, as presented in its Proposal and determined by any other investigations conducted or information obtained by the City;
- (4) References provided by the Respondent, particularly from projects of similar complexity and scope;
- (5) The cost proposal;
- (6) Demonstrated ability to provide Services and Deliverables comparable to those requested in this RFP;
- (7) Compliance with RFP Requirements, including, but not limited to, experience handling and scanning historical documents;
- (8) Superior ability or capacity to meet particular requirements of contract and needs of City Department and those it serves;
- (9) Eligibility under Code provisions relating to campaign contributions;
- (10) Superior prior experience of Respondent and staff;
- (11) Superior quality, efficiency and fitness of proposed solution for City Department;
- (12) Superior skill and reputation, including timeliness and demonstrable results;
- (13) Special benefit to continuing services of incumbent, such as operational difficulties with transition or needs of population being served;
- (14) Benefit of promoting long-term competitive development and allocation of experience to new or small businesses, including those owned by minority or disabled persons or by women;

- (15) Administrative and operational efficiency, requiring less City oversight and administration;
- (16) Anticipated long-term effectiveness;
- (17) Meets qualification/prequalification requirements as set forth in this RFP; and
- (18) Any other factors the City considers relevant to the evaluation of the Proposal.

2.8.5 Reserved

2.8.6 Prime Contractor Responsibility

All subcontractors will be subject to approval by the City. Prior to contract execution, the successful Respondent will be required to furnish the corporate or company name and the names of the officers and principals of all subcontractors. Notwithstanding any such approval by the City, the successful Respondent shall itself be solely responsible for the performance of all work set forth in any contract resulting from the RFP, and for compliance with the price and other terms provided in the contract. The successful Respondent shall cause the appropriate provisions of its Proposal and the contract to be inserted in all subcontracts.

The City's consent to or approval of any subcontract or subcontractor Proposed by a Respondent shall not create or purport to create any obligation of the City to any such subcontractor, or any form of contractual relationship or relationship of privity between the City and the subcontractor. Any Respondent who obtains such approval or consent of the City shall be required to insert a clause so providing in all subcontracts.

2.9 Responsibility for Proposal Costs

The Respondent shall be solely and fully responsible for all costs associated with the development, preparation, transmittal, and submission of any Proposal or material submitted in response to this RFP. The City may, in its sole discretion, ask selected Respondents to present their Proposals in person to the City's representatives at the City's offices, and the costs of such presentations shall be solely the responsibility of the Respondents. The City assumes no contractual or other obligations as a result of the issuance of this RFP, the preparation or submission of a Proposal by a Respondent, the evaluation of Proposals, the Respondent's conduct of presentations, or the selection of any Respondent for further negotiations. There may be no claims whatsoever for reimbursement from the City or any of its consultants for such costs. All costs incurred by the Respondent during the selection process and during negotiations will be solely the responsibility of the Respondent.

2.10 Reserved

2.11 Withdrawal or Modification of Proposals

Respondents may withdraw or modify their Proposals at any time prior to the Proposal Submission Date provided in Section 1.2, *Proposal Submission Date; Anticipated Procurement Schedule*, by written notice of withdrawal or written submission of the modification, signed in the same manner and by the same persons who signed the Proposal. Such written notice must be addressed to the City Primary Contact as specified in Section 1.3.

3 Proposal Requirements

3.1 Administrative Requirements

Respondents must comply with all administrative requirements for this RFP provided in this Section 3.1.

3.1.1 Mandatory Online Registration and Filing Requirements

The City requires that all Respondents apply online in order to be eligible for award of the non-competitively bid contract opportunity described in this RFP; Proposals and any other related documents prepared in response to this RFP will not be considered unless they are filed, within the prescribed time period, through eContract Philly, which can be accessed on the City's website at <https://secure.phila.gov/eContract>. The posting of this RFP on eContract Philly is also referred to as a Notice of Contracting Opportunity.

Respondents and contractors are required to disclose their campaign contributions to local and state political candidates and incumbents; any consultants used in responding to the RFP and contributions those consultants have made; prospective subcontractors; and whether Respondent or any representative of Respondent has received any requests for money or other items of value or advice on particular firms to satisfy minority-, woman- or disabled-owned business participation goals from City employees. This information, as well as a proposal or any other response document required, is part of the online application and is required pursuant to Chapter 17-1400 of The Philadelphia Code (*see* Appendix C of the RFP). For more information, please consult the reference materials found on the website, e-mail econtractphilly@phila.gov or call 215-686-4914.

Respondents who have failed to file complete applications – including using the online disclosure forms provided – through the eContract Philly online application process prior to the closing date and time will not be considered for the contract.

Respondents are encouraged to start and complete their online applications on eContract Philly as early as possible. Please be aware that Internet connection speed depends on a variety of factors including: configuration of your computer, configuration of your business or home network, the condition of the wiring at your location, network or Internet congestion (available bandwidth). Please prepare and plan accordingly to ensure a timely submission. Proposals and other application documents will not be considered submitted until the application is signed and submitted through eContract Philly.

Respondents can begin uploading (or attaching) proposals and other application materials at any time. It is prudent to start uploading your attachments earlier if you have a large number of attachments (e.g. over five documents) or larger-sized attachments (e.g. above 5 MB). Application materials are not available for review by the City until the completed application is signed and submitted, at which time application materials are accessible only to appropriate City staff.

Except as expressly provided otherwise on eContract Philly, Respondents that obtain the RFP via eContract Philly shall be bound by all instructions, disclaimers, terms and conditions for viewing, downloading and/or printing the RFP that are posted on the “Terms of Use” page of the site (accessed by clicking on the “Terms of Use” link on the City of Philadelphia Home Page at <http://www.phila.gov>). These Terms of Use are incorporated in and made a part of this RFP by reference.

3.1.2 Reserved

3.1.3 Addenda to the RFP; Requests for Information; Inconsistencies

The City may, in its sole discretion, issue addenda to this RFP containing responses to questions and requests for information, clarifications of the RFP, revisions to the RFP or any other matters that the City deems appropriate. Addenda will be posted on eContract Philly. It is the Respondent’s responsibility to monitor eContract Philly for addenda and to comply with their terms.

All questions, requests for clarification, and requests for additional information regarding this RFP must be submitted to the City’s Primary Contact not later than the date specified in Section 1.2, *Proposal Submission Date; Anticipated Procurement Schedule*. All such questions and requests must be submitted in writing, by facsimile, U.S. mail, private delivery service, hand delivery or electronic mail. Submissions through eContract Philly or any other City website are not acceptable and may, in the City’s sole discretion, be disregarded. Responses to such questions and requests shall be at the City’s sole discretion and nothing in this RFP shall create an obligation by the City to respond to the submitting party or at all. In the City’s sole discretion, responses may be posted on eContract Philly without formal notification to prospective Respondents.

No oral response by any employee or agent of the City shall be binding on the City, or shall in any way constitute a commitment by the City.

If a Respondent finds any inconsistency or ambiguity in the RFP or an addendum to the RFP issued by the City, the Respondent is requested to notify the City in writing.

3.1.4 Proposal Transmittal Letter; Authorized Signature; Certification

As part of its Proposal, the Respondent must submit with the online application one signed Proposal Transmittal Letter on the firm letterhead of the Respondent. The signed Proposal Transmittal Letter must be submitted to the City's Primary Contact no later than the deadline for electronic submission of Proposals set forth in Section 1.2, *Proposal Submission Date; Anticipated Procurement Schedule*. The Proposal Transmittal Letter must contain the signature of a duly authorized officer or agent of the Respondent's company who has the power to bind the company to the requirements, terms and conditions contained in this RFP. Proposals submitted without a Proposal Transmittal Letter conforming to the requirements of this Section may, in the City's sole discretion, be rejected without further consideration.

The Respondent, by signing its Proposal Transmittal Letter, certifies (i) that its Proposal is genuine and is not made in the interest of, or in the behalf of, any undisclosed person, firm, or corporation; (ii) that it has not directly or indirectly induced or solicited any other Respondent to put in a false or sham Proposal; (iii) that it has not solicited or induced any other person, firm, or corporation to refrain from submitting a Proposal; and (iv) that it has not sought by collusion to obtain for itself any advantage over any other Respondent or over the City.

The Proposal Transmittal Letter shall include all of the following:

- (a) The name, street address, mailing address if different, email address, telephone number, facsimile number, and website address (if any) of the firm submitting the Proposal;
- (b) The name, street address, mailing address if different, email address, telephone number, and facsimile number of the person to contact in connection with the Proposal;
- (c) The title of the RFP and the City RFP number (if any), as set forth on the cover page of the RFP;
- (d) The following statement:

By this letter, _____ [insert firm name of Respondent] submits its Proposal in response to City of Philadelphia Request for Proposals For _____ [insert RFP title and RFP number, if any, from RFP cover page]. By signing this letter, the undersigned binds _____ [insert firm name of Respondent] to all terms of the Proposal; represents and warrants that s/he has the authority to so bind _____ [insert firm name of Respondent]; and acknowledges that _____ [insert firm name of Respondent] and the undersigned each understands and accepts the terms, conditions, and requirements of the foregoing Request for Proposals.

- (e) The name, street address, email address, telephone and facsimile numbers and contact person of the firm which will guarantee performance of the Contract if it is a firm other than the Respondent (including, but not limited to, parent corporations);
- (f) A statement that the Proposal remains open and valid until at least one hundred and eighty (180) days from receipt of the proposal;
- (g) A statement that the participation ranges for Minority, Women, and Disabled Business Enterprises specified in the RFP will be met; or, if the ranges will not be met, a statement to that effect, with documentation (referenced in and attached to the Proposal Transmittal Letter) as to why the ranges cannot be met.

3.1.5 Proposals Binding

By submitting its Proposal, the Respondent agrees to be bound by all terms and conditions of its Proposal, including, without limitation, the prices stated therein, for a period of one hundred and eighty (180) days from the Submission Date. A Respondent's refusal to enter into a contract that reflects such terms and conditions may, in the City's sole discretion, result in rejection of the Proposal, and/or termination of any negotiations with the Respondent.

It shall be the Respondent's responsibility to review and verify the completeness of its Proposal.

Respondents may withdraw or modify their Proposals at any time prior to the Submission Date by written notice of withdrawal or written submission of the modification, signed in the same manner and by the same person(s) who signed the initial Proposal, to the City's Primary Contact. The City reserves the right, at its sole discretion, to permit or require modifications to any Proposal after it is submitted, as set forth in the "Reservation of Rights" sections of the RFP.

3.1.6 Reserved

3.1.7 Proposal Submission Requirements

Proposals submitted in response to this RFP must be submitted electronically on eContract Philly, in accordance with the instructions and requirements there posted and by the time and date provided in Section 1.2, *Proposal Submission Date; Anticipated Procurement Schedule*. Proposals should include a table of contents listing all sections, figures, and tables and their corresponding page numbers.

Proposals shall be organized in the order presented below:

- | | |
|-------------|--|
| Section 1 | Identification of Respondent, including all identifying information required under Section 3.1.4 <i>Proposal Transmittal Letter; Authorized Signature; Certification</i> and Section 3.2, <i>Qualifications Of Respondent</i> . |
| Section 2 | Executive Summary of proposal |
| Section 3 | Description of the Respondent's firm, including history of the firm, number of employees, organizational structure, and all financial, technical, and other information required under Section 3.2, <i>Qualifications of Respondent</i> . |
| Section 4 | Methodology. Provide a detailed description of the approach and methodology to be used to accomplish the Scope of Work of this RFP. This should include the timetable of major tasks/activities, proposed milestones, the work hours, and the estimated cost to achieve each of the milestones in the proposed schedule. Describe your firm's approach to achieve client satisfaction and the successful performance of this project. Include the Project Documents, in accordance with Section 3.3, <i>Implementation Plan, Statement of Work, Project Schedule and Milestone Payment Schedule</i> , in this section of the Proposal. |
| Section 5 | Other Information. Provide any other information, which you firm believes, would help convince the evaluators that your firm should be selected for this project. |
| Appendix A: | Resumes of key staff to be assigned to the proposed work. |
| Appendix B: | Cost Proposal. Attach the Respondent's detailed cost proposal, in accordance with Section 3.4 as Appendix B to the Proposal. |
| Appendix C: | Office of Economic Opportunity Solicitation and Commitment Form. |
| Appendix D: | Tax Status and Clearance Statement Form |

3.2 Qualifications of Respondents

Proposals will be evaluated, in part, on the Respondent's ability, in the City's sole judgment, to demonstrate technical and financial capacity to perform the work it proposes in accordance with the requirements of this RFP. Respondents are accordingly required to furnish the information described below. The City reserves the right, in its sole discretion, to require additional or different qualifications information, and is the sole judge of whether the Respondent's submissions meet the information requirements provided below and are sufficient to demonstrate the Respondent's qualifications.

As part of Proposal Section 3 described above in *Section 3.1.7, Proposal Submission Requirements*, Respondents must submit the following subsections with the information specified for each.

(1) Description of Respondent. The Respondent shall provide:

- (a) Name, street address, mailing address if different, email address, and telephone and facsimile numbers of the Respondent.
- (b) Year established (include former firm names and year each applied). Identify the country and state in which the firm was incorporated or otherwise organized.
- (c) Type of ownership and parent company and subsidiaries, if any. Include dates of any corporate mergers and/or acquisitions including all present and former subsidiaries with dates of any and all re-structuring since the founding date.
- (d) Address and telephone number of production facility(ies) where any of the work is to be accomplished (if different than item a); name, address, and telephone number of the proposed project manager.
- (e) A narrative description and organization chart depicting the management of the Respondent's organization and its relationship to any larger business entity.
- (f) A description of the overall operations of the Respondent, the number and scope of other projects currently ongoing or set to begin in the near future.
- (g) Provide, at Respondent's option, any additional information not specifically listed above which demonstrates the qualifications of the Respondent to perform the scope of work specified in this RFP.

(2) Subsection 2: Technical Qualifications. Respondents shall provide information that demonstrates that it possesses the technical expertise that the City requires for this RFP, including at least the following information:

- (a) Respondents must submit references from at least three governmental entities for which it has performed projects that are comparable in size, complexity and scope to the work sought by this RFP, together with project summaries for each (client, project title, date, description of project, project start and completion dates). Each reference must be identified by name, title, organization, and the name, title, address, and telephone/facsimile numbers of contact persons.
- (b) Respondents must provide the names, qualifications (stated in detail), and relevant experience of all key personnel who will be assigned to City of Philadelphia project. Identify roles and responsibilities of each such team member. Resumes of all key such key personnel must be included in the Proposal.
- (c) Provide, at Respondent's option, any additional information not specifically listed above which demonstrates the qualifications of the Respondent to perform the scope of work specified in this RFP.

(3) Subsection 3: Financial Qualifications. The Respondent shall provide:

- (a) A narrative that demonstrates its financial capacity to undertake and complete the project as proposed and to furnish software systems and/or services in accordance with the RFP;
- (b) A current audited statement of financial condition, prepared by an independent certified public accountant;
- (c) Financial statements for the two (2) years preceding the year to which the statement required in (b) applies, prepared by an independent certified public accountant;

- (d) A bank reference;
- (e) A statement disclosing any audits of the Respondent by the federal government;
- (f) A statement disclosing any state or federal bankruptcy or insolvency proceeding that it has filed or with which it is otherwise involved;
- (g) A description of contracts with municipalities for work of similar type, scope, and value as the work sought by this RFP; including, for each, the name, address, and telephone number of a contact person;
- (h) A copy of the most recent Form 10-K filed by the Respondent with the U.S. Securities and Exchange Commission, and copies of all Form 8-Ks filed since the filing of the most recent 10-K. If a Form 10-K is not filed with the SEC, submit the following:
 - certified audited financial statements for the past three fiscal years including, at a minimum, income statements, balance sheets and statements of changes in financial position; if fewer than three years of financial statements are available, this information should be provided to the fullest extent possible;
 - copies of the latest quarterly financial reports;
 - a copy of the Respondent's most recent annual report;
- (i) If the Proposal is submitted by a partnership and/or joint venture, provide full information concerning the nature and structure of the partnership and/or joint venture, including:
 - What entity will be guaranteeing contract performance?
 - Date of joint venture or partnership.
 - Does the agreement between members comprising the joint venture make each jointly and severally liable for contractual obligations of this project?

Any other information not specifically itemized above that it believes to be demonstrative of its financial capacity.

3.3 Implementation Plan, Statement of Work, Project Schedule and Milestone Payment Schedule

As part of Proposal Section 4 described above in *Section 3.1.7, Proposal Submission Requirements*, Respondents must submit the following documents (collectively, "Project Documents") as part of their Proposals, in accordance with the overall structure of the work as set forth in the RFP and in the form currently use for work of the type here sought:

- (1) an implementation plan for the proposed services that describes in detail (i) the methods, including controls, by which the Respondent manages projects of the type sought by this RFP; (ii) any other project management or implementation strategies or techniques that the Respondent intends to employ in carrying out the work;
 - (2) a detailed statement of the work to be performed, in a form that the Respondent considers appropriate and sufficient for incorporation in a contract document;
 - (3) a detailed project schedule, identifying all tasks and deliverables to be performed, durations for each task, principal schedule milestones, and overall time of completion; and
 - (4) a milestone payment schedule setting forth the frequency and amount of progress payments, and identifying the tasks and deliverables ("milestones") to be completed for each payment.
- (j) Proposals will be evaluated in part on the adequacy of the proposed Project Documents. The City reserves the right, in its sole discretion, to impose additional or different requirements on any of the Project Documents submitted in any Proposal, without notice to other Respondents.

3.4 Cost Proposal

Respondents must submit a cost proposal as described in Section 2.1, *Cost Proposal Required* of this RFP, for the skills and experience levels to be provided to meet the requirements set forth in this RFP.

Respondents should note that the City is not subject to federal, state, or local sales or use taxes or to federal excise tax. The Cost Proposal may not include any such taxes.

3.5 Tax Status and Clearance Statement

It is the policy of the City of Philadelphia to ensure that each contractor and subcontractor has all required licenses and permits and is current with respect to the payment of City taxes or other indebtedness owed to the City (including, but not limited to, taxes collected by the City on behalf of the School District of Philadelphia), and is not in violation of other regulatory provisions contained in The Philadelphia Code. To assist the City, through its Department of Revenue and Department of Licenses and Inspections, in determining this status, each Respondent is required to complete and return with its proposal a City of Philadelphia Tax Status and Clearance Statement Form (included with this RFP as Appendix D).

If the Respondent is not in compliance with the City's tax and regulatory codes, an opportunity will be provided to enter into satisfactory arrangements with the City. If satisfactory arrangements cannot be made within a week of being notified of their non-compliance, Respondents will not be eligible for award of the contract contemplated by this RFP.

The selected Respondent will also be required to assist the City in obtaining the above information from its proposed subcontractors (if any). If a proposed subcontractor is not in compliance with the City's tax and regulatory codes and fails to enter into satisfactory arrangements with the City, the non-compliant subcontractor will be ineligible to participate in the contract contemplated by this RFP and the selected Respondent may find it necessary to replace the non-compliant subcontractor with a compliant subcontractor. Respondents are advised to take these City policies into consideration when entering into their contractual relationships with proposed subcontractors. Respondents need not have a City of Philadelphia Tax ID number and Business Privilege License number to respond to this RFP, but will, in most circumstances, be required to obtain one or both if selected for award of the contract contemplated by the RFP.

If a Respondent or a proposed subcontractor is not currently in compliance with the City's tax and regulatory codes, please contact the Revenue Department to make arrangement to come into compliance at 215-686-6600 or revenue@phila.gov.

4 City-Wide Contract Requirements

Any Respondent selected to enter into final negotiations will be expected to enter into a contract with the City containing terms acceptable to the City, including, but not limited to, terms substantially similar to the insurance, indemnification and other provisions set forth below. The terms and conditions provided or described in this Section 4 are generally required by the City in contracts for services of the type sought by this RFP. The City reserves the right, however, to require or negotiate different and/or additional terms and conditions in any final contract resulting from this RFP if, in the sole judgment of the City, it is in the best interest of the City to do so, without notice to other Respondents and without affording other Respondents any opportunity to revise their proposals based on such different or additional terms. As used in this Section 4, references to “Exhibit ___” and “Section ___” refer to sections in and exhibits to the contract, if any, resulting from this RFP.

Respondents may state for the City’s consideration any objections to the following contract terms, or to any of the terms and conditions set forth elsewhere in this RFP, in a separate section of the Proposal. Any such objection must identify the specific section(s) objected to, state the reason(s) for the objection, and propose alternative language or terms. Requirements and terms to which no objection is asserted will be presumed acceptable to the Respondent. The City may, in its sole discretion, evaluate proposals in part according to whether the Respondent so objects, and the number and type of objections asserted.

4.1 Term and Renewal

The initial term of the Contract shall commence on _____, 20__ (the “Initial Term”), and, unless sooner terminated by the City pursuant to the terms of the Contract, shall expire twelve (12) months thereafter, on _____, 20__. The City may, at its sole option, amend the Contract to add up to three (3) additional successive one-year terms (“Additional Terms”). Except as may be stated otherwise in such amendment, the terms and conditions of this Contract shall apply throughout each Additional Term.

4.2 Certificate of Non-Indebtedness

The Contractor hereby certifies and represents that the Contractor and the Respondent’s parent company (ies) and subsidiary (ies) are not currently indebted to the City and will not, if awarded the Agreement, at any time during the term of the Contract (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 Contractor 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, the Contractor acknowledges that any breach or failure to conform to this certification may, at the option of the City, result in the withholding of payments otherwise due to the Contractor under the Agreement and, if such breach or failure is not resolved to the City’s satisfaction within a reasonable time frame specified by the City in writing, may result in the offset of any such indebtedness against said payments and/or the termination of this Agreement for default (in which case the successful Contractor shall be liable for all excess costs and other damages resulting from the termination).

The sub-consultant hereby certifies and represents that the sub-consultant and sub-consultant’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 Contractor’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 Contractor 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, sub-consultant acknowledges that any breach or failure to conform to this certification may, at the option and direction of the City, result in the withholding of payments otherwise due to sub-consultant for services rendered in connection with the Contract and, if such breach or failure is not resolved to the City’s satisfaction within a reasonable time frame specified by the City in writing, may result in the offset of any such indebtedness against said payments otherwise due to sub-consultant and/or the termination of sub-consultant for default (in which case sub-consultant will be liable for all excess costs and other damages resulting from the termination).

4.3 Insurance

The Contractor will be required to procure and maintain, at its sole cost and expense, the types and minimum limits of insurance described below, on the terms specified; provided, however, that the City may, at its sole discretion, establish different minimum limits based on the final scope of work for the project.

Unless otherwise approved by the City in writing, the Contractor shall, at its sole cost and expense, procure and maintain in full force and effect, covering the performance of the work, the types and minimum limits of insurance specified below. All insurance shall be procured from reputable insurers authorized to do business on a direct basis in the Commonwealth of Pennsylvania or otherwise acceptable to the City. All insurance required herein, except the Professional Liability insurance, 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. 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, canceled, or non-renewed. The City of Philadelphia, its officers, employees, and agents shall be named as additional insureds on the General Liability Insurance policy. An endorsement is required stating that the coverage afforded City and its officers, employees, and agents, as additional insureds, will be primary to any other coverage available to them and, that no act or omission of the City shall invalidate the coverage.

- (a) Workers Compensation and Employers Liability
 - Workers Compensation: Statutory limits
 - Employers Liability: \$100,000 each Accident - Bodily Injury by Accident; \$100,000 Each Employee - Bodily Injury by Disease; and \$500,000 Policy Limit - Bodily Injury by Disease.
 - Other states insurance including Pennsylvania.
- (b) 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 injury; \$2,000,000 general aggregate and \$1,000,000 aggregate for products and completed operations.
 - Coverage: Premises operations; blanket contractual liability; personal injury liability; products and completed operations; independent contractors, employees and volunteers as additional insureds; cross liability; and broad form property damage (including completed operations).
- (c) 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.
- (d) Professional Liability Insurance
 - Limit of liability: \$1,000,000 with a deductible not to exceed \$50,000.
 - Coverage: Errors and omissions including liability assumed under contract.
 - Professional Liability Insurance may be written on a claims-made basis provided that coverage for occurrences happening during the performance of the work required under this contract shall be maintained in full force and effect under the policy or "tail" coverage for a period of at least two (2) years after completion of the work.

Certificates of insurance evidencing the required coverages must specifically reference the City contract number for which they are being submitted. The original certificates of insurance must be submitted to the City's Risk Manager, and copies shall be submitted to the City at the address set forth in the contract. Both submissions must be made at least ten (10) days before work is begun and at least ten (10) days before each renewal term. The ten (10) day requirement for advance documentation of coverage may be waived in such situations where such waiver will benefit the City, but under no circumstances shall the Contractor actually begin work (or continue work, in the case of renewal) without providing the required evidence of insurance. The actual endorsement adding the City as an additional insured must specifically reference the City contract number and be submitted to the City's Risk Management Division. The City reserves the right to require the Contractor to furnish certified copies of the original policies of all insurance required under the Contract at any time upon ten (10) days written notice to the Contractor.

Contractor may not self-insure any of the coverages required under the Contract without the prior written approval of the City. In the event that Contractor desires to self-insure any of the coverages listed above, it shall submit to the City, prior to the commencement of work hereunder, a certified copy of Contractor's most recent audited financial statement, and such other evidence of its qualifications to act as a self-insurer (e.g., state approval) as may be requested by the City. In the event such approval is granted, it is understood and agreed that the City, its officers, employees, and agents, shall be entitled to receive the same coverages and benefits under Contractor's self-insurance program that they would have received had the insurance requirements been satisfied by a reputable insurance carrier authorized to do business in the Commonwealth of Pennsylvania or otherwise acceptable to the City. If at the time of commencement of the Initial Term of the Contract, Contractor self-insures its professional liability or workers' compensation and employers' liability coverage, Contractor may, in lieu of the foregoing, furnish to the City a current copy of the state certification form for self-insurance or a current copy of the State Insurance Commissioner's letter of approval, whichever is appropriate. The insurance (including self-insurance) requirements set forth herein are not intended and shall not be construed to modify, limit, or reduce the indemnifications made in the contract by Contractor to the City, or to limit Contractor's liability under the contract to the limits of the policies of insurance (or self-insurance) required to be maintained by Contractor hereunder.

4.4 Indemnification

The Contractor shall indemnify, defend 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, liability and expenses occasioned wholly or in part by the Contractor's act or omission or negligence or fault or the act or omission or negligence or fault of the Contractor's agents, Subcontractors, employees or servants in connection with the Contract, 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 Contract, and any infringement or violation of any proprietary right (including, but not limited to, patent, copyright, trademark, service mark and trade secret). This obligation to indemnify, defend and hold harmless City, its officers, employees and agents, shall survive the termination of the Contract.

4.5 Business Interests In Northern Ireland

In accordance with Section 17-104 of The Philadelphia Code, the Contractor by execution of this Agreement certifies and represents that (i) the Contractor (including any parent company, subsidiary, exclusive distributor or company affiliated with Contractor) 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 Contractor has implemented the fair employment principles embodied in the MacBride Principles.

In the performance of this Agreement, the Contractor agrees that it will not utilize any suppliers, subcontractors or sub-consultants at any tier (i) who have (or whose parent, subsidiary, exclusive distributor or company affiliate have) any investments, licenses, franchises, management agreements or operations in Northern Ireland or (ii) who will provide products originating in Northern Ireland unless said supplier, sub-consultant or subcontractor has implemented the fair employment principles embodied in the MacBride Principles. The Contractor further agrees to include the provisions of this subparagraph, with appropriate adjustments for the identity of the parties, in all subcontracts and supply agreements that are entered into in connection with the performance of this Agreement.

The Contractor agrees to cooperate with the City's Director 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. The Contractor expressly understands and agrees that any false certification or representation in connection with this Paragraph and/or any failure to comply with the provisions of this Paragraph shall constitute a substantial breach of this Agreement entitling the City to all rights and remedies provided in this Agreement or otherwise available in law (including, but not limited to, Section 17-104 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.

4.6 Proprietary Rights Indemnification

Contractor warrants that all Software, Documentation, Services, and Deliverables furnished under the Contract do not and will not infringe upon or violate any patent, copyright, trade secret or other proprietary rights of any third party. In the event of any claim, suit or action by any third party against the City, the City shall promptly notify Contractor in writing and Contractor shall defend such claim, suit or action at Contractor's expense, and Contractor shall indemnify the City against any loss, cost, damage, expense or liability arising out of such claim, suit or action (including, without limitation, litigation costs and counsel fees) whether or not such claim, suit or action is successful.

4.7 Performance Standards

Contractor shall enter upon the performance of this Agreement with all due diligence and dispatch; shall assiduously press to its complete performance and shall exercise herein the highest degree of professional skill and competence.

4.8 Acceptance

4.8.1 Conditional Acceptance

Contractor shall notify the City in writing when Contractor contends that all Services and Deliverables comprising a Milestone (as set forth in Exhibit __, *Milestone Payment Schedule*) are completed and ready for Conditional Acceptance by the City. Within thirty (30) days following receipt of Contractor's written notice, the City shall issue its written statement of Conditional Acceptance of the Milestone, or its written notice that the Services and Deliverables comprising the Milestone is not Conditionally Accepted. Conditional Acceptance will not be unreasonably withheld provided that all Services and Deliverables comprising the Milestone are completed and conform to the Statement of Work and the terms and conditions of the Contract.

4.8.2 Final Acceptance

Contractor shall notify the City in writing when Contractor contends that all Work required for the Statement of Work is completed. The Work shall not be Finally Accepted unless and until all Services and Deliverables required under the Contract have been completed, delivered, and are in conformance with the requirements of the Statement of Work and the terms and conditions of the Contract.

4.8.3 City Approval of Services and Deliverables

It is expressly understood and agreed by Contractor that all Services and Deliverables required hereunder shall be performed and provided to the satisfaction and approval of the City, and Contractor shall not be deemed to have performed or provided such Services or Deliverables unless and until they have been approved and accepted by the City in writing in accordance with Section 4.8.2, *Final Acceptance*.

4.9 City Audit

From time to time during the Initial Term and any Additional Term(s) of the Contract, and for a period of five (5) years after termination of the Contract, the City may audit Contractor's performance under the Contract. Audits may be conducted by representatives of the Department or other authorized City representatives including, without limitation, the City Controller. If so requested, Contractor shall submit to the City all vouchers or invoices presented for payment pursuant to the Contract, all cancelled checks, work papers, books, records and accounts upon which the vouchers or invoices are based, and any and all documentation and justification in support of expenditures or fees incurred pursuant to the Contract. All such vouchers or invoices, work papers, books, records, accounts, cancelled checks, documentation and justification shall be subject to periodic review and audit by the City.

4.10 Termination for Convenience

The City shall have the right to terminate this Contract at any time during the term of the Contract, for any reason, including, without limitation, its own convenience. If the Contract is terminated solely for the City's convenience, the City shall issue a written Termination Notice, which shall set forth the effective date of the termination.

4.11 Termination for Default

If Contractor commits or permits an event of default, as set forth in this Section, the City shall so notify Contractor in writing, specifying in reasonable detail the nature of the default. Contractor shall have thirty (30) calendar days from receipt of that notice to correct the default. If the default is not cured within that time period, the City may terminate the Contract by providing Contractor with written notice of termination for default. The following shall constitute events of default on the part of Contractor:

- (a) Contractor's failure to comply with any provision, term, or condition of this Contract.
- (b) the appointment of a receiver, trustee or custodian to take possession of all or substantially all the assets of Contractor for the benefit of creditors, or any action taken or suffered by Contractor under any federal or state insolvency, bankruptcy, reorganization, moratorium or other debtor relief act or statute;
- (c) falseness of any warranty or representation of Contractor contained in any of the Contract Documents;
- (d) misappropriation by Contractor of any funds provided under the Contract or failure by Contractor to notify the City upon discovery of any misappropriation;
- (e) a violation of law which results in a guilty plea, a plea of nolo contendere, or conviction of a criminal offense by Contractor, its directors, employees, or agents (1) directly or indirectly relating to the Contract or the Work required under the Contract, whether or not such offense is ultimately adjudged to have occurred or (2) which adversely affects the performance of the Contract; and/or
- (f) indictment of or issuance of charges against Contractor, its directors, employees or agents for any criminal offense or any other violation of law directly relating to the Contract or the Work required under the Contract or which adversely affects the performance of the Contract, whether or not such offense or violation is ultimately adjudged to have occurred.

4.12 Non-Discrimination

The Contract is entered into under the terms of the Philadelphia Home Rule Charter, as it may be amended from time to time, and in performing the Contract, Contractor shall not discriminate or permit discrimination against any person because of race, color, religion, national origin, or sex. In the event of such discrimination, the City may, in addition to any other rights or remedies available under the Contract, at law or in equity, terminate the Contract forthwith.

Contractor agrees, in performing this Contract, to comply with the provisions of the Fair Practices Ordinance of The Philadelphia Code (Chapter 9-1100) and the Mayor's Executive Order No. 4-86, as they may be amended from time to time, both of which prohibit, inter alia, discrimination against persons with AIDS in employment and services.

- (a) In accordance with Chapter 17-400 of The Philadelphia Code, as it may be amended from time to time, Contractor agrees that its payment or reimbursement of membership fees or other expenses associated with participation by its employees in an exclusionary private organization, insofar as such participation confers an 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, without limiting the generality of Sections __ (Events of Default) and __ (Remedies), a substantial breach of the Contract entitling the City to all rights and remedies provided in the Contract or otherwise available at law or equity.
- (b) Contractor agrees to cooperate with the Commission on Human Relations of the City of Philadelphia in any manner, which the 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, without limiting the applicability of Section __, Termination for Default, a substantial breach of the Contract entitling the City to all rights and remedies provided herein or otherwise available at law or equity.

4.13 Americans With Disabilities Act

Provider understands and agrees that no individual with a disability shall, on the basis of the disability, be excluded from participation in the Contract or from activities or Services provided under the Contract. As a condition of accepting and executing the Contract, Provider shall comply with all provisions of the Americans With Disabilities Act (the "Act"), 42 U.S.C. §§12101 - 12213, and all regulations promulgated thereunder, as the Act and regulations may be amended from time to time, which are applicable (a) to Provider, (b) to the benefits, Services, activities,

facilities and programs provided in connection with the Contract, (c) to the City, or the Commonwealth of Pennsylvania, and (d) to the benefits, services, activities, facilities and programs of the City or of the Commonwealth, and, if any funds under the Contract are provided by the federal government, which are applicable to the federal government and its benefits, services, facilities, activities, facilities and programs. Without limiting the applicability of the preceding sentence, Provider shall comply with the "General Prohibitions Against Discrimination," 28 C.F.R. Part 35.130, and all other regulations promulgated under Title II of "The Americans With Disabilities Act," as they may be amended from time to time, which are applicable to the benefits, services, programs and activities provided by the City through contracts with outside contractors.

4.14 Limited English Proficiency

Provider understands and agrees that no individual who is limited in his or her English language proficiency shall be denied access to Services provided under this Contract on the basis of that limitation. As a condition of accepting and executing this Contract, Provider shall comply with all provisions of Title VI of the Civil Rights Act of 1964, the President of the United States of America Executive Order No. 12250, the Mayor of the City of Philadelphia Executive Order No. 04-01, "Access to Federally Funded City Programs and Activities for Individuals with Limited English Proficiency" dated September 29, 2001, and all regulations promulgated thereunder, as the Act and regulations may be amended from time to time, which are applicable (a) to Provider, (b) to the benefits, services, activities and programs provided in connection with this Contract, (c) to the City, or the Commonwealth of Pennsylvania, and (d) to the benefits, services, activities and programs of the City or of the Commonwealth, and if any funds under this Contract are provided by the federal government, which are applicable to the federal government and its benefits, services, activities and programs. Without limiting the applicability of the preceding sentence, Provider shall comply with 45 C.F.R. 80 et. seq. and all other regulations promulgated under Title VI of the Civil Rights Act of 1964, as they may be amended from time to time, which are applicable to the benefits, services, programs and activities provided by the City through contracts with outside contractors.

4.15 Sales and Use Tax Exemption

The City is not subject to federal, state, or local sales or use taxes or to federal excise tax. Contractor hereby assigns to the City all of its right, title and interest in any sales or use tax which may be refunded as a result of any materials purchased in connection with the Contract, and unless directed by the City, Contractor shall not file a claim for any sales or use tax refund subject to this assignment. Contractor authorizes the City, in its own name or the name of Contractor, to file a claim for a refund of any sales or use tax subject to this assignment.

4.16 Unavailability of Funds

If funding for the Contract from any source is not obtained and continued at an aggregate level sufficient to allow for payment for the Services and Deliverables under the Contract, the City may exercise one of the following options without liability or penalty to the City:

- (a) Terminate the Contract effective upon a date specified in a Termination Notice; or
- (b) Continue the Contract by reducing, through written notice to Contractor, the amount of the Contract and Services and Deliverables, consistent with the nature, amount, and circumstances of available funding.
- (c) The City's exercise of either option under this Section shall not affect any obligations or liabilities of either party accruing prior to such termination or reduction of Services or Deliverables. Contractor shall be compensated in accordance with the terms of the Contract for Services and Deliverables, satisfactorily performed and delivered prior to such termination under this Section.

Commodities or services on the contract resulting from this RFP to be ordered after the end of the current fiscal year are subject to the issuance of purchase orders for the following fiscal years. The City is not liable for the portion of the award involving following fiscal year's funds until such orders are issued. The Vendor's obligation to deliver on such purchase orders shall not take effect until the orders are issued.

4.17 Ethics Requirements

To preserve the integrity of City employees and maintain public confidence in the competitive bidding system, the City intends to vigorously enforce the various ethics laws as they relate to City employees in the bidding and execution of City contracts. Such laws are in three categories:

4.17.1 Gifts

Pursuant to Executive Order 02-04, no official or employee in the Executive and Administrative Branch of the City may solicit or accept, directly or indirectly, anything of value, including any gift, gratuity, favor, entertainment or loan from any of the following sources:

- (a) A person seeking to obtain business from, or who has financial relations with the City;
- (b) A person whose operations or activities are regulated or inspected by any City agency;
- (c) A person engaged, either as principal or attorney, in proceedings before any City agency or in court proceedings in which the City is an adverse party;
- (d) A person seeking legislative or administrative action by the City; or
- (e) A person whose interests may be substantially affected by the performance or nonperformance of the official's or employee's official duties.

If a Respondent offers anything of value to a City official or employee under circumstances where the receipt of such item would violate the provisions of Executive Order 02-04, the Respondent may be subject to sanctions with respect to future City contracts, ranging from disqualification from participation in a particular contract to debarment, depending on the nature of the violation.

4.17.2 City Employee Interest in City Contracts

In accordance with Section 10-102 of The Philadelphia Home Rule Charter, no proposal shall be accepted from, or contract awarded to, any City employee or official, or any firm in which a City employee or official has a direct or indirect financial interest. All Respondents are required to disclose any current City employees or officials who are employees or officials of the Respondent's firm, or who otherwise would have a financial interest in the contract.

4.17.3 Conflict of Interest

The State Ethics Act and the City Ethics Code prohibit a public employee from using his/her public office or any confidential information gained thereby to obtain financial gain for himself/herself, a member of his/her immediate family, or a business with which he/she or a member of his/her immediate family is associated. "Use of public office" is avoided by the employee or official publicly disclosing the conflict and disqualifying himself/herself from official action in the matter, as provided in The Philadelphia Code §20-608.

4.18 Tax Requirements

Contractor is subject to Philadelphia's business tax and Ordinances and regulations. The City Solicitor has ruled that anyone who is awarded a contract by the City and/or School District pursuant to a bid has entered into a contract within the City, and the subsequent delivery of goods into the City or performance of services within the City constitutes "doing business" in the City and subjects the successful bidder, including but not limited to, one or more of the following taxes:

- (a) Business Privilege Tax
- (b) Net Profits Tax
- (c) City Wage Tax

The successful Respondent, if not already paying the aforesaid taxes, is required to apply to the Department of Revenue, 1401 John F. Kennedy Blvd., Public Service Concourse, Municipal Services Building, Philadelphia, PA 19102, for a tax identification number and to file appropriate business tax returns as provided by law. Questions should be directed to the CBET Unit at (215) 686-6600.

4.19 Assignment

Contractor shall not assign or otherwise transfer its rights, duties or obligations under this Contract, except with the prior written consent of the City; any assignment or transfer (including, but not limited to, assignment of any subcontract) without such consent shall be null and void. In no event shall the City's consent to any assignment or transfer by Contractor of any rights, duties or obligations under the Contract relieve Contractor from its duties or obligations hereunder or change the terms of the Contract. Contractor retains full responsibility for and guarantees

the performance of any and all assignees and transferees of Contractor, including but not limited to, their subcontractors, notwithstanding the assignment or transfer.

4.20 Document Preparation Fee

Pursuant to §17-701 of The Philadelphia Code, the successful Applicant will be required to pay a contract preparation fee; pursuant to Subsection 17-701 (2), application may be made to the City Solicitor to determine whether circumstances justify a waiver of the fee. Subsection 17-702 (1) establishes a fee schedule for contract preparation, which is based upon the amount of the contract.

<u>Amount of Contract</u>	<u>Contract Preparation Fee</u>
\$0-\$20,000	\$0
\$20,001-\$50,000	\$120
\$50,001-\$100,000	\$170
\$100,001-\$250,000	\$260
\$250,001-\$500,000	\$340
\$500,001-\$1,000,000	\$520
Over \$1,000,000	\$1,000

4.21 Prevailing Wages

The contract will require that employees of contractors performing work subject to Section 17-107 of The Philadelphia Code, Contractors: Labor-Management Relationships, be paid at least the applicable prevailing wages for the respective occupational classifications designated in Section 17-107, in accordance with the requirements of the Section.

4.22 Philadelphia 21st Century Minimum Wage Standard

Contractors that are subject to Philadelphia Code Chapter 17-1300, as specified therein, shall comply with the minimum compensation standards by providing its employees with an hourly wage, excluding benefits, at least 150 percent of the federal or state minimum wage, whichever is higher, as more fully set forth at Philadelphia Code Chapter 17-1300. Contractor shall promptly provide to the City all documents and information verifying its compliance with the requirements of Section 17-1300. Furthermore, Contractor shall notify each affected employee what wages are required to be paid. The Office of Labor Standards may grant a partial or total waiver of Section 17-1300 based on specific stipulated reasons elaborated in Section 17-1304 of the Philadelphia Code.

4.23 Business, Corporate and Slavery Era Insurance Disclosure.

In accordance with Section 17-104 of The Philadelphia Code, Contractor, after execution of this Agreement, will complete an affidavit certifying and representing that Contractor (including any parent company, subsidiary, exclusive distributor or company affiliated with Contractor) has searched any and all records of the Contractor or any predecessor company regarding records of investments or profits from slavery or slaveholder insurance policies during the slavery era. The names of any slaves or slaveholders described in those records must be disclosed in the affidavit.

Contractor expressly understands and agrees that any false certification or representation in connection with this Paragraph and/or any failure to comply with the provisions of this Paragraph shall constitute a substantial breach of this Agreement entitling the City to all rights and remedies provided in this Agreement or otherwise available in law (including, but not limited to, Section 17-104 of The Philadelphia Code) or equity and the contract will be deemed voidable. In addition, it is understood that false certification or representation is subject to prosecution under Title 18 Pa.C.S.A. Section 4904.

4.24 Reserved

4.25 Nondisclosure of City Data and Contractor Data

4.25.1 Nondisclosure

Contractor and its employees, agents, Subcontractors, suppliers, and any person or entity acting on its behalf (i) will maintain in strict confidentiality all of the “City Data,” as defined and set forth below; (ii) will not, without the City’s written permission, divulge, disclose, communicate, or distribute any of the City Data to any person or entity except as may be strictly necessary to perform the Contract; (iii) will not, without the City’s written permission, in any way use any of the City Data for their businesses or other advantage or gain (except as may be necessary to perform the Contract), including, without limitation, any use of the City Data in any presentation, demonstration, or proposal to perform work, to the City or to others, that may be conducted or created as part of their business activities or otherwise; (iv) will use the City Data solely and exclusively in accordance with the terms of this Contract in order to carry out its obligations and exercise its rights under this Contract; (v) will afford the City Data at least the same level of protection against unauthorized disclosure or use as Contractor uses to protect its own trade secrets, proprietary information, and other confidential information (but will in no event exercise less than reasonable care and protection); and (vi) will, immediately upon the City’s Final Acceptance of the Services and Deliverables required under the Contract, return all City Data to the City, destroy any and all copies of any City Data that are in their possession, whether on paper or in electronic or other form, and if requested by the City in writing, will certify in writing that there has been full compliance with this Section. The City will maintain the “Contractor Data,” as defined and set forth below, in confidence and will afford the Contractor Data at least the same level of protection against unauthorized disclosure or use as the City uses to protect its own trade secrets, proprietary information, and other confidential information (but will in no event exercise less than reasonable care and protection).

4.25.2 City Data

Except as provided otherwise in Section ____, the City Data shall include any and all of the following, whether in electronic, microfilm, microfiche, video, paper, or other form, and any copies or reproductions thereof:

- (a) any and all other records, documents, computer software (whether owned by the City or licensed or otherwise furnished to the City by third parties), and data furnished by the City to Contractor in relation to the work required under the Contract; and
- (b) all Deliverables and other work product(s) and items of work created by Contractor for the City as part of the work required under the Contract.

4.25.3 Contractor Data

Except as provided otherwise in Section ____, the Contractor Data shall include any and all of the following, whether in electronic, microfilm, microfiche, video, paper, or other form, and any copies or reproductions thereof:

- (a) all other records, documents, computer software (whether owned by the City or licensed or otherwise furnished to the City by third parties), and data furnished by the City to Contractor in relation to the work required under the Contract.

4.25.4 Exclusions

Neither the Contractor Data nor the City Data shall include any information or data which:

- (a) was known to the party receiving the Data (the “Receiving Party”), prior to the commencement of its performance of the Contract, free of any obligation to keep it confidential, and/or is proprietary to the Receiving Party; or
- (b) was generally known to the public at the time of receipt by the Receiving Party, or becomes generally known to the public through no act or omission of the party disclosing or furnishing the Data (the “Disclosing Party”); or
- (c) was independently developed by the Receiving Party without knowledge or use of any Data of the Disclosing Party; or
- (d) is required to be disclosed by law or judicial process.

4.25.5 Remedy for Breach

In the event of any actual or threatened breach of any of the provisions of this Section __ by the Receiving Party, and in addition to any other remedies that may be available to the Disclosing Party in law or equity, the Disclosing Party shall be entitled to a restraining order, preliminary injunction, permanent injunction, and/or other appropriate relief to specifically enforce the terms of this Section __. The parties agree that a breach of the terms of this Section __ by the Receiving Party would cause the Disclosing Party injury not compensable in monetary damages alone, and that the remedies provided herein are appropriate and reasonable.

4.26 HIPAA Compliance

Where applicable, the contract will require the Contractor to comply fully with the federal Health Insurance Portability and Accountability Act and all related federal regulations (collectively, "HIPAA"), including, but not limited to, HIPAA requirements relating to the confidentiality of protected health information and HIPAA requirements relating to the security of information systems.

APPENDIX A

DETAILED SERVICES REQUIREMENTS

The Division of Technology (DOT), on behalf of the City of Philadelphia, seeks qualified vendors who can provide the following services and resources for the scanning of City documents. Proposals must identify how Respondents intend to accomplish each of the services listed and any other service Respondents feel should be included. These include but are not limited to the following:

1. Scanning of City Documents

There are various sets of City documents (some 6' x 8' and even larger) some of which are fragile and in various states of condition that need to be scanned as part of deploying an electronic solution to replace manual operations that currently integrate the hard copy version of the documents as part of the process.

- a) Specify scanning procedure options and capabilities
- b) Address scanning at City locations vs. scanning at vendor site
- c) If off-site, describe vendor process for transportation of documents
- d) Describe procedures for handling documents

2. Strategic Planning – create work approaches to perform and/or obtain scanning functions and services

- a) Create standard approaches for scanning either through a service provider or through an in-house equipment and staffing strategy for scanning lower volume, historical, fragile, or unique City plans and documents
- b) Create standard approaches for high-volume scanning either through a service provider or through an in-house equipment and staffing strategy
- c) Identify federal, state, local, and philanthropic non-profit grants that may help finance the scanning of historic City plans

3. Determination of Scanning Techniques

- a) Work with DOT and other City departments/agencies in the creation of technical scanning standards to be used throughout the City when scanning is needed.
- b) Define quality assurance measures for scanning of various City documents for multiple purposes.
- c) Define processes to establish consistency when scanning City documents.

4. Solutions/recommendations for Preservation of Historical Documents

- a) Provide a comprehensive and detailed historic preservation plan with recommendation for the long-term preservation of all City historical documents, e.g. City maps. The vendor will provide recommendations to the City with regard to ongoing conservation and preservation requirements. Recommend options and techniques for
 - o Housing Recommendations
 - o Storage Recommendations
- b) Also, provide recommendations for additional methods of increasing public awareness of the importance of historical preservation in the City.

5. Solutions/recommendations for Online Access to Historical and Operational documents and Images

- a) Internet Access
- b) City Intranet Access

APPENDIX B

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

Under the authority of Executive Orders No. 02-05 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 antidiscrimination policy is applicable to this Notice of Contracting Opportunity (hereinafter, "NOCO").¹

The Office of Economic Opportunity has approved the following projected ranges of participation for this NOCO, which serve as a guide in determining each applicant's responsibility:

MBE Ranges - 20% - 25%

And/or

WBE Ranges - 20% - 25%

These ranges represent the percentage of MBE, WBE 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 NOCO and failure to submit the required information will result in rejection of your proposal.

¹ The term "Notice of Contracting Opportunity," shortened to the acronym "NOCO," refers to the City's contract solicitation documents and information posted on eContract Philly. Generally, these documents take the form of a Request for Proposals (RFP), Request for Qualifications (RFQ) or Request for Expression of Interest (RFI) and include any other document or information (for example, exhibits, appendices) related to the posting of the new contract opportunity.

Applicant 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 Applicant is subject to the penalties of 18 Pa.C.S. Section 4904 relating to unsworn falsification to authorities.

A. M/W/DSBE PARTICIPATION

1. Only firms that are certified by an approved certifying agency² or identified in the OEO Certification Registry at the time of contract award will be credited toward the participation ranges on City contracts. An OEO Certification Registry is maintained by the OEO and is available online at www.phila.gov/OEO/directory. Firms owned and controlled by minority persons, women or disabled persons, which are certified as MBE, WBE, DSBE or DBE by an approved certifying agency may apply to the OEO for listing in its OEO Certification Registry. If applicant or applicant's subcontractor(s) is certified by an approved certifying agency, a copy of that certification should be included with the proposal.

2. No applicant 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 NOCO), 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. 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 proposal may be rejected.

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. Applicants 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 applicant is required, like all other applicants, to submit a proposal 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 NOCO. In addition, the participation of an M/W/DSBE partner, as part of a joint venture created for this contract, 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. 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.

² Approved certifying agencies are identified on the OEO webpage found at www.phila.gov/OEO.

6. In listing participation commitments on the Solicitation for Participation and Commitment Form, applicants 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, applicants may apply the standard mathematical rules in rounding off numbers. The OEO reserves the right to request clarifying information from applicants in the event of an inconsistency or ambiguity in the Solicitation For Participation and Commitment Form.

B. RESPONSIVENESS

1. A proposal 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 applicant on the contract, if awarded; where the proposal satisfies the M/W/DSBE participation ranges for that contract, the applicant is rebuttably presumed not to have discriminated in its selection of contract participants.

2. Applicants must submit documentary evidence of MBE, WBE and DSBEs who have been solicited and with whom commitments have been made in response to the participation ranges included in this NOCO. Failure to submit the Solicitation For Participation and Commitment Form will result in the rejection of the proposal as nonresponsive, although the City, at its sole discretion, may allow applicants 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". Applicants should only make actual solicitations of M/W/DSBEs whose work or materials are within the scope of this NOCO. 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 applicant's listing of a commitment with an M/W/DSBE constitutes a representation that the applicant has made a legally binding commitment to contract with such firm, upon receipt of a contract award from the City.
- If the applicant has entered into a joint venture with an MBE, WBE and/or DSBE partner, the applicant 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 Applicant does not fully meet each of the range(s) for participation established for this NOCO, applicant must explain what efforts the applicant made to achieve the M/W/DSBE participation ranges. Applicant 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 proposal as nonresponsive, although the City, at its sole discretion, may allow applicants 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 MBE/WBE/DSBEs that submitted a quote/subproposal, regardless of whether the quote/subproposal was solicited by applicant.
- Provide any additional evidence pertinent to applicant's conduct relating to this NOCO including sufficient evidence which demonstrates to the OEO that applicant has not engaged in discriminatory practices in the solicitation of and commitment with contract

participants. In describing applicant's efforts to achieve participation within the ranges, applicant may submit any corroborating documentation (e.g., copies of advertisements for participation).

The applicant'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 applicant's actions were motivated by considerations of race or gender or disability. The OEO may investigate the applicant's contracting activities and business practices on similar public and private sector contracts. For example, if applicant rejects any M/W/DSBE based on price, applicant must fully document its reasons for the rejection and also demonstrate that applicant 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 as 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/subproposal as others who were solicited by applicant. The OEO will also investigate whether M/W/DSBEs were accorded the same level of outreach as non-M/W/DSBEs, for example whether applicant short listed M/W/DSBEs for participation or solicited M/W/DSBEs at any pre-proposal meetings.
- Whether the applicant's contracting decisions were based upon policies which disparately affect M/W/DSBEs. OEO will ascertain whether applicant selected portions of work or material needs consistent with the capacity of available M/W/DSBE subcontractors and suppliers. OEO will consider whether applicant 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 applicant'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 proposal 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 applicant 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 applicant 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 NOCO. 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 NOCO 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 applicant has discriminated against a M/W/DSBE at any time during the term of the contract, the OEO may recommend to the Director of Finance the imposition of sanctions on the applicant including debarment of the applicant 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 applicant's place of business and/or job site and obtain documents and information from any applicant, subcontractor, supplier, manufacturer or contract participant that may be required in order to ascertain applicant'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 applicant 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 applicant agrees to submit reports and other documentation to the OEO as deemed necessary by the OEO to ascertain the successful applicant's fulfillment of its M/W/DSBE commitments.

F. REMEDIES

1. The successful applicant'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 applicant 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 the successful applicant 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 NOCO nor shall it give rise to actions by any third parties including identified M/W/DSBE subcontractors.

Should you have any questions related to the Contract Provisions, please call Dani'elle Snead, OEO at (215) 683-2082 or facsimile (215) 683 -2085.

APPENDIX C

PROVISIONS REQUIRED BY CHAPTER 17-1400 OF THE PHILADELPHIA CODE

1. DEFINITIONS. - The terms below shall have the following meaning within this Exhibit.

1.1 **Applicant**. "Applicant" has the meaning as set forth in Subsection 17-1401(1) of The Philadelphia Code, as it may be amended from time to time. As of August 2007, that definition was "[a]pplicant means a Person who has filed an application to be awarded a Non-Competitively Bid Contract."

1.2 **City Agency**. "City Agency" has the meaning as set forth in Subsection 17-1401(5) of The Philadelphia Code, as it may be amended from time to time. As of August 2007, that definition was "[a]ny office, department, board, commission or other agency of the City of Philadelphia."

1.3 **City-Related Agency**. "City-Related Agency" has the meaning set forth in Section 17-1401(9) of The Philadelphia Code, as it may be amended from time to time. As of August 2007, that definition was "[a]ll authorities and quasi-public corporations which either: receive appropriations from the City, have entered into continuing contractual or cooperative relationships with the City, or operate under legal authority granted to them by City ordinance."

1.4 **Consultant**. "Consultant" has the meaning set forth in Subsection 17-1401(6) of The Philadelphia Code, as it may be amended from time to time. As of August 2007, that definition provided that "[c]onsultant" means any Person used by Contractor to assist in obtaining a Non-Competitively Bid Contract through direct or indirect communication by such Person with any City Agency or any City officer or employee, if the communication is undertaken by such Person in exchange for, or with the understanding of receiving payment from Contractor or any other Person; provided, however, that "Consultant" shall not include a full-time employee of Contractor."

1.5 **Contributions**. "Contributions" has have the meaning set forth in the Pennsylvania Election Code, 25 P.S. Section 3241.

1.6 **Financial Assistance**. "Financial Assistance" has the meaning set forth in Section 17-1401(16) of The Philadelphia Code, as it may be amended from time to time. As of August 2007, that definition was "[a]ny grant, loan, tax incentive, bond financing subsidy for land purchase or otherwise, or other form of assistance that is realized by or provided to a Person in the amount of fifty thousand dollars (\$50,000) or more through the authority or approval of the City, including, but not limited to, Tax Increment Financing (TIF) aid, industrial development bonds, use of the power of eminent domain, Community Development Block Grant (CDBG) aid or loans, airport revenue bonds, and Enterprise Zone or similar economic development zone designations (such as Keystone Opportunity Zones, Keystone Opportunity Expansion Zones, Keystone Opportunity Improvement Zones, and Economic Development District Zones), but not including any assistance to which a Person is entitled under a law enacted before the Person applied for or requested such assistance."

1.7 **Non-Competitively Bid Contract**. "Non-Competitively Bid Contract" has the meaning set forth in Section 17-1401(12) of The Philadelphia Code, as it may be amended from time to time. As of August 2007, that definition was "[a] contract for the purchase of goods or services to which the City or a City Agency is a party that is not subject to the lowest responsible bidder requirements of Section 8-200 of The Philadelphia Home Rule Charter, including, but not limited to, a Professional Services Contract, and any renewal of such a contract (other than a renewal term pursuant to an option to renew contained in an executed contract)."

1.8 **Professional Services Contract.** “Professional Services Contract” has the meaning set forth in Section 17-1401(15) of The Philadelphia Code, as it may be amended from time to time. As of August 2007, that definition was “[a] contract to which the City or a City Agency is a party that is not subject to the lowest competitive bidding requirements of Section 8-200 of the Charter because it involves the rendition of professional services, including any renewal of such a contract (other than a renewal term pursuant to an option to renew contained in an executed contract).”

2. **REPRESENTATIONS** Contractor makes the following representations, warranties and covenants upon which the City has relied as a material consideration for the execution and delivery by the City of this Contract:

2.1 In accordance with Section 17-1402 of The Philadelphia Code, Contractor represents that contribution(s) will not be made during the term of the Contract by Contractor or any party from which a contribution can be attributed to Contractor, that would render Contractor ineligible to apply for or enter into a Non-Competitively Bid Contract or to receive Financial Assistance under the provisions of Philadelphia Code Sections 17-1404(1) and 17-1405 and, further, that disclosures required by Subsection 17-1402(1)(b) made as part of its application to receive a Non-Competitively Bid Contract or Financial Assistance contain no material misstatements or omissions.

2.2 Contractor will not use any Subcontractor(s) that is ineligible to enter into a Non-Competitively Bid Contract with the City. To that end, Contractor will enter into a written Subcontract with each Subcontractor which requires said Subcontractor to represent that contributions will not be made that would render the Subcontractor ineligible to enter into a Subcontract pursuant to Chapter 17-1400 of The Philadelphia Code. It shall not be a violation of this Subarticle 2(2) if Contractor fails to disclose a contribution made by a Subcontractor because the Contractor was unable to obtain such information from the Subcontractor, provided that the Contractor demonstrates that it used reasonable efforts to attempt to obtain such information, including, at a minimum:

- (a) Entering into a written agreement with the Subcontractor for such Subcontractor’s services before Contractor filed its application for the Contract;
- (b) Including in such Subcontract a provision requiring Subcontractor to provide the Contractor in a timely manner with all information required to be disclosed under the provisions of Code Chapter 17-1400 and providing that the Subcontract will be terminated by the Contractor if Subcontractor fails to provide all required information on a timely basis and that no further payments, including payments owed for services performed prior to the date of termination, will be made to Subcontractor, by or on behalf of the Contractor, as of the date of such termination;
- (c) Communicating regularly with the Subcontractor concerning the Subcontractor’s obligations to provide timely information to permit the Contractor to comply with all provisions of Code Chapter 17-1400; and
- (d) Invoking the termination provisions of the Subcontract in a timely and full manner.

Contractor will promptly report any such disclosures required hereunder, or lack of apparently required disclosures, to the City. The same terms and conditions of this Subarticle 2(2) shall apply to excuse the obligations of Contractor and Consultant under Subarticle 2(4) below, with appropriate adjustments to the identity of the parties.

2.3 In addition to remedies set forth in Article ____ of the Agreement, breach of any of these representations shall constitute an event of default and render the Contract voidable at the City’s option, and shall make Contractor liable for liquidated damages to the City in the amount of ten percent (10%) of the maximum payments to Contractor allowed under the Contract, regardless whether actually paid.

2.4 Subject to Subsection 17-1402(2)(b) (Failure to Disclose Consultant's Contributions) of The Philadelphia Code, Contractor shall, during the term of the Contract and for one (1) year thereafter, disclose any contribution of money or in-kind assistance Contractor or any Consultant has made during such time period to a candidate for nomination or election to any public office in the Commonwealth of Pennsylvania or to an individual who holds such office, or to any political committee or state party in the Commonwealth of Pennsylvania, or to any group, committee or association organized in support of any such candidate, office holder, political committee or state party, and the date and amount of such contribution. Such disclosure shall be made on a form provided by the Department awarding the Contract, and the form shall be signed and filed with such Department within five (5) business days of the contribution. The Department receiving the disclosure form shall forward copies to the President and Chief Clerk of Council, and to the Mayor, Finance Director, Procurement Department, and the Department of Records. The attribution rules of Philadelphia Code Section 17-1405 shall apply to determine what contributions must be disclosed under this provision as contributions of Contractor or of a Consultant.

2.5 Contractor shall, during the Term of the Contract and for one year thereafter, disclose the name and title of each City officer or employee who, during such time period, asked Contractor, any officer, director or management employee of Contractor, or any Person representing Contractor, to give money, services, or any other thing of value (other than a Contribution as defined in Section 17-1401) to any Person, and any payment of money, provision of services, or any other thing of value (other than a Contribution as defined in Section 17-1401) given to any Person in response to any such request. Contractor shall also disclose the date of any such request, the amount requested, and the date and amount of any payment made in response to such request. Such disclosure shall be made on a form provided by the Department awarding the contract, and the form shall be signed and filed with the Department within five (5) business days after a request was made or a payment in response to a request was made, as the case may be. The Department receiving the disclosure form will forward copies to the President and Chief Clerk of Council, and to the Mayor, Finance Director, Procurement Department, and the Department of Records.

2.6 In accordance with Subsection 17-1402 (1)(e)(iv) of The Philadelphia Code, Contractor shall, during the term of the Contract, disclose the name and title of each City officer or employee who directly or indirectly advised Contractor, any officer, director or management employee of Contractor, or any Person representing Contractor that a particular Person could be used by Contractor to satisfy any goals established in the Contract for the participation of minority, women, disabled or disadvantaged business enterprises. Contractor shall also disclose the date the advice was provided, and the name of such particular Person. Such disclosure shall be made on a form provided by the Department awarding the contract, and the form shall be signed and filed with the Department within five (5) business days after Contractor was so advised. The Department receiving the disclosure form will forward copies to the President and Chief Clerk of Council, and to the Mayor, Finance Director, Procurement Department, and the Department of Records.

2.7 Survival. The above representations, warranties and covenants shall continue throughout the Term of this Contract and shall survive for one (1) year thereafter; provided, however, that if Contractor is a recipient of financial assistance, Contractor shall be subject to such representations, warranties and covenants for a period of five (5) years after receiving such assistance. In the event said representations, warranties and covenants are, or become, untrue or inaccurate, Contractor shall promptly give notice thereof to the City, specifying the manner in which said representation, warranty or covenant is untrue or inaccurate.

2.8 Pursuant to Section 17-1406(6) of The Philadelphia Code, the requirements of this subsection 2 do not apply to Contractor if Contractor is a governmental agency or not-for-profit corporation established by the City.

3. APPLICABILITY TO CITY RELATED AGENCIES

3.1 If Contractor is a City-Related Agency, Contractor shall abide by the provisions Chapter 17-1400 of The Philadelphia Code in awarding any contract(s) pursuant to this Contract as though such contracts were directly subject to the provisions of Chapter 17-1400, except that the exception set forth at Section 17-1406(8) of The Philadelphia Code shall apply to Contractor as if Contractor were listed in that subsection.

3.2 Unless approved by the City to the contrary, any approvals required by Philadelphia Code Chapter 17-1400 to be performed by the City Solicitor shall be performed on behalf of a City-Related Agency by its General Counsel; any approvals required to be performed by the Director of Finance shall be performed on behalf of the City-Related Agency by its Chief Financial Officer; and any approvals required to be performed by the Mayor shall be performed on behalf of the City-Related Agency by its Executive Director. Any notices required to be sent under Chapter 17-1400 to designated City officials, shall be sent in electronic form to those designated City officials.

4. REMEDIES

In addition to and not in lieu of the remedies set forth in Article ___ of the Agreement and elsewhere herein, the following remedies provided in Chapter 17-1400 of The Philadelphia Code shall apply:

Pursuant to Section 17-1407, Prohibited Conduct; Penalties; Remedies: No Applicant shall make a material misstatement or omission in the disclosures required by Section 17-1402(1)(b); and no Contractor shall make a material misstatement or omission in the disclosures required by Section 17-1402(1)(e); and no Person seeking Financial Assistance shall make a material misstatement or omission in the disclosures required by Section 17-1404(3)(a). If an Applicant makes material misstatements or omissions in the disclosures required by Section 17-1402(1)(b), or if a Contractor makes material misstatements or omissions in the disclosures required by Section 17-1402(1)(e), such Applicant or Contractor shall be prohibited from entering into any Non-Competitively Bid Contract for a period of from one (1) to three (3) years, and such act shall be subject to a fine of the Maximum Fine Amount, as defined herein. If a Person seeking Financial Assistance makes material misstatements or omissions in the disclosures required by Section 17-1404(3)(a), such act shall be subject to a fine of the Maximum Fine Amount, as defined herein. For purposes of this subsection (2), the "Maximum Fine Amount" shall be seven hundred dollars (\$700) for violations committed during calendar year 2005; eleven hundred dollars (\$1,100) for violations committed during calendar year 2006; fifteen hundred dollars (\$1,500) for violations committed during calendar year 2007; nineteen hundred dollars (\$1,900) for violations committed during calendar year 2008; and two thousand dollars (\$2,000) for violations committed thereafter.

APPENDIX D

City of Philadelphia Tax Status and Clearance Statement For Applicants

**THIS IS A CONFIDENTIAL TAX DOCUMENT
NOT FOR PUBLIC DISCLOSURE**

This form must be completed and returned with Applicant's proposal in order for Applicant to be eligible for award of a contract with the City. Failure to return this form will disqualify Applicant's proposal from further consideration by the Contracting Department. The City of Philadelphia, acting through its Department of Revenue and the Department of Licenses and Inspections, will utilize the information contained in the completed form to review the tax and Philadelphia Code compliance records of the person and/or entity identified below as part of the proposal evaluation process and will report their findings to the Contracting Department and the City's authorized investigatory agents. By signing the certification statement below as Applicant or an authorized representative of Applicant, you represent that Applicant is current and in compliance with, has made or intends to make satisfactory arrangements with the City to come into compliance with the tax and regulatory provisions of The Philadelphia Code.

Applicant Name		
Contact Name and Title		
Street Address		
City, State, Zip Code		
Phone Number		
Federal Employers Identification Number or Social Security Number:		
Philadelphia Business Tax Account Number (if none, state "none")		
Business Privilege License Number (if none, state "none")		

I certify that the Applicant named above has all required licenses and permits and is current or has made satisfactory arrangements with the City to become current with respect to the payment of City taxes or other indebtedness owed to the City (including, but not limited to, taxes collected by the City on behalf of the School District of Philadelphia), and is not in violation, or has made satisfactory arrangements to cure any violation, of other regulatory provisions applicable to Applicant contained in The Philadelphia Code.

Signature

Date

Print Name and Title