REQUEST FOR PROPOSAL # C-106-13

FOR THE OPERATION AND MANAGEMENT OF THE HOLIDAY VILLAGE

Issued By:

The City of Philadelphia

Department of Parks and Recreation
Michael DiBerardinis, Commissioner

&

Procurement Department
Hugh Ortman, Commissioner

MANDATORY PRE-PROPOSAL MEETING AND TOUR:
JULY 18, 2013 AT 3:00 P.M.
1515 ARCH STREET, 10TH FLOOR, RECREATION MEETING ROOM
PHILADELPHIA, PA 19102

SEALED PROPOSALS WILL BE RECEIVED UNTIL AUGUST 13, 2013
AT 10:30 A.M. LOCAL TIME (THE "DEADLINE FOR SUBMITTING PROPOSALS")
AT
MUNICIPAL SERVICES BUILDING, 1401 JOHN F. KENNEDY BOULEVARD, ROOM 170A,
PHILADELPHIA, PA 19102
AND WILL BE OPENED IMMEDIATELY AFTER THE DEADLINE FOR SUBMITTING PROPOSALS

Questions regarding this Request for Proposals must be submitted in writing before
JULY 25, 2013 at 5:00 P.M. local time ("**Deadline for Questions**")
and directed to
Marc Wilken, Park Concessions Manager
Department of Parks and Recreation,
by e-mail at Marc.Wilken@phila.gov

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SECTION 1 – GENERAL INFORMATION

1.1 Purpose of this Request for Proposals

This Request for Proposals ("**RFP**") is being issued by the City of Philadelphia (the "**City**"). The City is requesting Proposals from all individuals and firms that would like to manage and operate a holiday themed market ("Holiday Village") in JFK Plaza ("LOVE") Park in 2013 and 2014.

1.2 Respondents to this RFP; the Concession Agreement and Concessionaire

Each firm or individual that submits a proposal in response to this RFP (a "**Proposal**") will be considered a "**Respondent**." The City intends to enter into negotiations for a written contract (the "**Concession Agreement**") with the Respondent who meets the City's objectives and selection criteria set forth in this RFP. Upon the execution of the Concession Agreement by the City and the successful Respondent, this RFP, together with the Respondent's Proposal, and the Concession Agreement, will become the "**Concession Agreement Documents**" and the successful Respondent will become the "**Concessionaire"**. The Concession Agreement Documents will give the Concessionaire an exclusive right (the "**License**" or "**Concession**") to operate and manage the Holiday Village at JFK Plaza or other City-owned property ("**Licensed Space**"), to construct and maintain all improvements and equipment necessary to operate the Holiday Village (the "**Equipment**") and to exercise the rights and perform the duties described in the Concession Agreement Documents.

1.3 Proposed Concession Summary

The Concessionaire will have complete responsibility for management and operation of the Holiday Village. The responsibilities of the Concessionaire will include, but are not limited to, those set forth in this RFP in Section 3 and Section 4 and those set forth in the Concession Agreement Documents. In consideration of the License granted to the Concessionaire under the Concession Agreement Documents, the Concessionaire shall pay the City a concession fee as explained below in Section 3.20 and Section 6.8 of this RFP. As more fully explained below, each Respondent's Proposal must describe, at a minimum, the management and operating practices, and personnel requirements that it would employ in managing and operating the Holiday Village. Each Respondent's Proposal must also include the Respondent's plan to market the Holiday Village and enhance the Holiday Village's event schedule.

1.4 Respondent Qualifications

As more fully detailed below, each Respondent must demonstrate substantial experience in managing and operating a holiday themed market and the financial capacity to operate and manage the Holiday Village at the highest level of

efficiency, customer satisfaction, and safety.

1.5 Mandatory Pre-Proposal Meeting and Tour of the Holiday Village Location

1.5.1 A "**Mandatory Pre-Proposal Meeting and Tour**" will be held on the Thursday, July 18th at 3:00 P.M, and at the location, stated on the cover page of this RFP. The purpose of the Mandatory Pre-Proposal Meeting and Tour is to review the requirements contained in this RFP and receive questions that potential Respondents may have. Potential Respondents are encouraged to RSVP to the Project Manager (defined in Section 1.6 below) in advance of the Mandatory Pre-Proposal Meeting and Tour regarding their attendance at the meeting and tour.

1.5.2 As part of the Mandatory Pre-Proposal Meeting and Tour, City staff will conduct a tour of the Licensed Space.

1.5.3 The City will not consider the Proposal of any Respondent that did not attend the Mandatory Pre-Proposal Meeting and Tour.

1.6 Project Manager; Questions about this RFP

1.6.1 The "**Project Manager**" for this RFP is Marc Wilken, Concession Manager, Department of Parks and Recreation. The Project Manager can be reached by the following means:

Email: marcwilken@phila.gov
Mail: One Parkway Building – 10th Floor
1515 Arch Street
Philadelphia, PA 19102

1.6.2 Questions concerning this RFP, including any questions concerning the Concession Agreement, may be asked at the Mandatory Pre-Proposal Meeting and Tour. Otherwise, questions must be submitted to the Project Manager by e-mail, no later than the Deadline for Questions stated on the cover page of this RFP. Questions submitted by telephone will not be answered by the City. The City is not obligated to answer or respond to any questions received after the Deadline for Questions.

1.6.3 The City will answer all questions asked at the Mandatory Pre-Proposal Meeting and Tour, or timely submitted to the City in writing, and which the City in its sole discretion determines concern a material element of the proposal process or the Concession Agreement. The City will provide its answers in writing by an addendum to this RFP prior to the Deadline for Submitting Proposals; and the City will post its answers on the following websites: www.phila.gov/bids (under the Public Works Bidding Opportunities page) and http://www.phila.gov/ParksandRecreation/aboutus/divisions/development/

Pages/concessions.aspx. The City is not bound by any oral response made by any City employee to any questions.

1.6.4 The addenda issued by the City are the City's only official method for communicating information to all potential Respondents. Respondents should check the following websites: www.phila.gov/bids (under the Public Works Bidding Opportunities page) and http://www.phila.gov/ParksandRecreation/aboutus/divisions/development/Pages/concessions.aspx before submitting a Proposal to verify that they have reviewed all the addenda relating to this RFP. Each Respondent must acknowledge in its Proposal that it has reviewed all addenda to this RFP.

1.7 Review Entire RFP Carefully; RFP Will Be Part of Concession Agreement

All Respondents are encouraged to carefully read this entire RFP and its attachments before the Mandatory Pre-Proposal Meeting and Tour and before submitting a Proposal. This RFP will become part of the Concession Agreement.

1.8 No Obligation on City to Execute a Concession Agreement

This RFP does not commit the City to award a Concession Agreement. This RFP and the process it describes are proprietary to the City and are for the sole and exclusive benefit of the City. No other party, including any Respondent, is granted any rights by this RFP or by submitting a Proposal in response to it.

1.9 Modifications; Late Proposals

Until the Deadline for Submitting Proposals, a Respondent may submit a modified Proposal to replace all or any portion of a Proposal the Respondent submitted previously. The City will only consider the latest version of a Respondent's Proposal. The City will not consider or evaluate late Proposals and late modifications. A Respondent may withdraw its Proposal from consideration at any time before the Deadline for Submitting Proposals. To withdraw a Proposal, the Respondent must provide written notification to the Project Manager by e-mail at the address for the Project Manager provided in Section 1.6.1.

1.10 Public Disclosure

This RFP, each Proposal, the Concession Agreement, and the written documents and communication related to them, may be subject to public disclosure under law, except as provided in Section 6.10 of this RFP.

1.11 Information and Data in this RFP Not Warranted

The City has provided information and data in this RFP to help potential Respondents understand the proposed Holiday Village operations, the purpose of this RFP and the Concession Agreement, and to help each Respondent prepare a Proposal. The City believes the information and data in this RFP are reliable, but the City does not represent or warrant that the information or data is accurate. Potential Respondents are encouraged to conduct their own investigations into any matter of concern to them about the Licensed Space or Holiday Village, this RFP, the Concession Agreement, or their Proposal.

1.12 Provisions of RFP Become Part of Concession Agreement

The contractual provisions set forth in Section 3 and Section 4 and related Appendices of this RFP will not be negotiated or modified, unless modified in writing by the City, in its sole discretion, before the Deadline for Submitting Proposals. If a Respondent is selected as the Concessionaire, the provisions of Section 3 and Section 4 of this RFP and their corresponding Appendices will bind the Respondent as the Concessionaire. Therefore, potential Respondents are strongly encouraged to pay careful attention to the provisions of Section 3 Section 4 of this RFP and their corresponding Appendices because they will become obligations of the Concessionaire under the Concession Agreement.

SECTION 2 – BACKGROUND;

2.1 Background

2.1.1 Since 2008, the City of Philadelphia has hosted a holiday-themed market from Thanksgiving through Christmas Eve. Originally held at Dilworth Plaza, on the apron of the west side of City Hall, the Holiday Village was moved to JFK Plaza, commonly known as Love Park in 2011. The Holiday Village was modeled after the traditional German markets known as Christkindlmarkt held in Nuremberg, Germany. In past years, vendors have included: coffee and hot chocolate, arts and crafts goods, bakeries, traditional German foods, ornaments, framed art, folk art, woolens, photos with Santa, cosmetics, apparel and other various gift items.

2.2 Licensed Space; Construction in John F. Kennedy Plaza; Previous Holiday Village Operations

A. The City is seeking a Concessionaire for the operation and management of Holiday Village for the 2013 and 2014 Holiday season. The City plans to undertake significant construction at JFK Plaza beginning in 2015. The City may not operate the Holiday Village during the reconstruction at JFK Plaza. The City may endeavor to secure an alternative location near JFK Plaza, but

cannot guarantee it will be able to do so.

2.2.1 John F. Kennedy Plaza

2.2.1.1 Location and Access

John F. Kennedy Plaza ("**JFK Plaza**"), commonly called "Love Park" after Robert Indiana's famous LOVE sculpture in the plaza, is located in Center City Philadelphia. It is bordered by 15th street, 16th street, Arch Street and John F. Kennedy Boulevard. Access to JFK Plaza is available by the orange and blue subway lines and the green trolley line at several access points near the plaza, by regional railroad lines across from JFK Plaza at Suburban Station, and by major bus stops in the immediate vicinity of the plaza. Additionally, tourist bus and trolley services have stops at JFK Plaza.

2.2.1.2 Setting

JFK Plaza is one of the most popular parks in Philadelphia. The plaza is at the center of major tourist and transportation hubs. Tourists come to the plaza to see the iconic LOVE sculpture and the picturesque view of City Hall, the vista down Benjamin Franklin Parkway, and the Philadelphia Museum of Art. JFK Plaza is one block from the Pennsylvania Convention Center, and convention visitors also come to the plaza. JFK Plaza is also in the heart of Philadelphia's commercial district and many of the City's local government institutions. Consequently, workers from those businesses and institutions come to the plaza daily for leisure and dining activities. Please see **Appendix 1** for photos of JFK Plaza.

2.2.1.3 Amenities

The Fairmount Park Welcome Center is located in the southwest corner of JFK Plaza in a well-known circular building. Tourists and pedestrians come into the Fairmount Park Welcome Center (the "**Welcome Center**") for information about the Fairmount Park System and about attractions, events, and services in Philadelphia and the greater Philadelphia region. The Welcome Center is operated in partnership with representatives from the Independence Visitor Center, which is the official visitor center for the greater Philadelphia region.

2.2.1.4 Parking

Below JFK Plaza is a four-story parking garage that is open 24 hours, seven days a week. Numerous additional parking garages and surface parking lots are located within walking distance of JFK Plaza.

2.2.1.5 JFK Plaza Anticipated Construction; Discretionary Relocation During Construction

1. JFK Plaza Anticipated Construction

The City is planning to replace the roof deck of the underground parking garage below JFK Plaza and to redesign JFK Plaza itself. Construction may begin as early as 2015, although the start date is not yet certain. As currently planned, the project is expected to be completed within two years of ground breaking

2. Discretionary Relocation and Renewal

Due to the construction at JFK Plaza and Dilworth Plaza, the City cannot determine where the Holiday Village may be located beyond 2014 at this time. However, the City may offer an alternative location to operate the Holiday Village for the Renewal Term. If the Holiday Village is relocated to a Parks & Recreation property, then Parks & Recreation will generally agree to renew the terms of the Concession Agreement. However, if the event moves to a non-Parks & Recreation site, then the City reserves the right to renegotiate any terms of the Concession Agreement Documents, with the exception of the Concession Fee.

2.3 Licensed Space; Use of Park Space Surrounding Welcome Center By Food Trucks; Annual Tree Decorations, Lighting & Sponsorships

2.3.1 The License given to the Concessionaire under the Concession Agreement to locate the Equipment on the Licensed Space applies only to the numbered vendor stalls and the area shaded in dark gray with grid lines in the images provided in Appendix 2 of this RFP.

2.3.2 The City reserves the right to continue to offer up to a maximum of three food trucks a permit to operate in front of the Welcome Center at any time that are permitted through the "**Food Service Program**" at JFK Plaza.

2.3.3 The City reserves the right to install Holiday decorations and a Holiday Tree in JFK Plaza.

2.3.4 The City reserves the right to seek independent sponsorship of the Annual Holiday Tree Decoration and Lighting Ceremony. All funds from the independent sponsorship shall be retained by the City.

SECTION 3 – CONCESSION AGREEMENT: SPECIFIC PROVISIONS

3.1 Term of the Concession Agreement

The "**Initial Term**" of the Concession Agreement will commence on the date the City executes the Concession Agreement and all the conditions set forth in Section 7.3 of this RFP have been completely satisfied (the "**Commencement Date**"). The Initial Term is one year and expires at 5: 00 P.M. the day before the 1st anniversary of the Commencement Date. The City, at its sole discretion, may renew the Concession Agreement for three one-year periods ("**Renewal Term**"). To renew the Concession Agreement, the Concessionaire must provide written notice to the City of the Concessionaire's desire to renew the agreement ("**Renewal Notice**") no later than 180 days before expiration of the Initial Term. The City shall respond within 30 days of receipt of the Renewal Notice. In the Concession Agreement Documents, "**Term**" means the Initial Term and the Renewal Term, if any. **Note: Due to anticipated construction at JFK Plaza in 2015, the City cannot guarantee a location for the Holiday Village in future years.** In the Concession Agreement Documents, the date the Concession Agreement expires, is terminated, or otherwise ends, is called the "**Concession Agreement Ending Date**."

3.2 Uses of the Licensed Space: Uses Required; Uses Permitted; Prohibited Uses

3.2.1 The License given by the City to the Concessionaire under the Concession Agreement applies only to the Licensed Space described in Appendix 2 of this RFP. The Licensed Space may be amended due to the relocation of the Holiday Village.

3.2.2 The Concessionaire shall manage and operate all aspects of the Holiday Village, including but not limited to the following: managing the market; vendor contracts and management; sales; marketing and advertising; staffing; and maintenance of the Equipment.

3.2.3 The Concessionaire must begin operations of the Holiday Village on or before the day after Thanksgiving, which for the 2013 season falls on Friday, November 29, 2013, but shall not begin operations earlier than ten days before Thanksgiving.

3.2.4 The Concessionaire must operate the Holiday Village through New Year's Day, January 1st. The Concessionaire shall not begin breakdown or disassembly of the Holiday Village and the Equipment prior to January 2nd.

3.2.5 The Concessionaire may sell beer or wine, if all appropriate State and City licenses and approvals are obtained.

3.2.6 The Concessionaire shall not sell or advertise tobacco products at the Licensed Space. If the Concessionaire violates this Section 3.2.6, the City may immediately terminate the Concession Agreement and, as an administrative fee, retain Concessionaire's Security Deposit (the Security Deposit is described below in Section 3.21 of this RFP).

3.2.7 The Concessionaire may obtain sponsorships of the Holiday Village to display sponsor's advertisements in the Licensed Space and retain the proceeds from such sponsorships. However, the Concessionaire shall not obtain any sponsorship for tobacco products, adult entertainment or firearms. The Concessionaire shall obtain written approval from the City of all advertisements and display locations for all advertisements in the Licensed Space prior to placing any sponsorship advertisements in the Licensed Space. "Philadelphia Parks & Recreation" must be included as a sponsor on all sponsorship materials displayed in the License Space.

3.2.8 The Concessionaire may permit amplified sound or music at the Holiday Village, but the amplified sound or music must be kept at low volume as not to disturb area business or residents.

3.3 Operating Schedule

3.3.1 The Concessionaire shall operate the Holiday Village in accordance with the following schedule ("**Operating Schedule**"):

3.3.1.1 Weekdays. The Concessionaire shall not begin operations of the Holiday Village before 10:00 a.m. and shall cease operations by 9:00 p.m.

3.3.1.2 Weekends. The Concessionaire shall not begin operations before 9:00 a.m. and shall cease operations by 10:00 p.m.

3.3.2 Despite the Operating Schedule, in the event of inclement weather, Concessionaire may open the Holiday Village later or close the Holiday Village earlier than the hours set forth in the Operating Schedule.

3.4 Personnel

3.4.1 Concessionaire shall employ, provide and train all personnel necessary and prudent for the safe, efficient, and successful management and operation of the Holiday Village.

3.4.2 Concessionaire shall cause its employees to conduct themselves at all times in a courteous and professional manner that reflects well upon the Department of Parks & Recreation, and the City. Concessionaire shall train and supervise its employees and cause them to be well-groomed and neat. The City may, in its sole reasonable discretion, require that the Concessionaire remove and replace any employee that does not meet the requirements of this Section 3.4.2.

3.5 Site Plan Approval; Construction of the Holiday Village

3.5.1 The Concessionaire shall submit a site plan ("**Site Plan**") to the City's Project Manager 60 days prior to the Concessionaire's scheduled entry date onto the Licensed Space. The site plan shall be accompanied by a description of the structures to be built including materials and color palette. Upon approval of the City, the Concessionaire shall construct the Holiday Village in compliance with the site plan as approved. The Concessionaire shall obtain written approval from the City for any changes to the Site Plan.

3.5.2 The Concessionaire shall hand carry all equipment and materials, and merchandise, and shall cause its employees, contractors, vendors and agents to hand carry all equipment, materials, and merchandise onto JFK Plaza.

3.5.3 At least ten (10) days prior to the Concessionaire's scheduled entry date, Concessionaire shall provide a detailed work schedule to the Project Manager for City approval listing the times, dates and types of work to be performed.

3.5.4 The Concessionaire shall advise all participants and vendors that no road closures have been approved for this event.

3.5.5 The Concessionaire shall not park vehicles on JFK Plaza or the surrounding sidewalk. The Concessionaire shall cause its employees, vendors and participants not to park vehicles on JFK Plaza or the surrounding sidewalk. The Concessionaire shall not and shall not allow its equipment to block or prevent access to the park for any food vendors permitted through the "Lunch in LOVE" at JFK Plaza ("**Food Service Program**").

3.5.6 From time to time special events occur in Philadelphia on unique occasions. Past events of this nature include visits by dignitaries, political rallies, and celebrations of sporting events ("**Unique Public Events**"). In those instances, the City has needed to temporarily close access to major roadways or areas of the City and Fairmount Park for the sake of event set up and break down, traffic control, public safety, or other municipal reasons. Therefore, the City may temporarily relocate or suspend operations of the Concessionaire for Unique Public Events. The Concessionaire shall cooperate with the City in good faith during, before and after Unique Public Events to help the City ensure successful, safe management of the events.

3.6 Storage

The City does not represent or warrant that there is adequate storage space at the Licensed Space. The Concessionaire, at its sole cost, shall arrange for any additional storage space it requires for its operations under the Concession Agreement, whether through the placement of storage containers at the Licensed Space or acquiring storage space away from the Licensed Space. The Concessionaire's placement of any storage containers or any other structures at the Licensed Space is subject to the City's prior written approval.

3.7 Equipment for Holiday Village; Maintenance and Repair of Licensed Space; Cooperation for Mummer's Parade

3.7.1 The Concessionaire shall, at its sole cost and expense, install and provide at the Licensed Space all equipment, material, and supplies necessary for the safe, efficient and successful management and operation of the Holiday Village.

3.7.2 Concessionaire shall prove a written plan for the City's approval to the Project Manager for the removal, reinstallation and storage of park benches. Concessionaire shall remove, store and reinstall any benches necessary to facilitate installation of the Holiday Village in accordance with the City-approved plan.

3.7.3 Concessionaire shall provide portable restrooms for the public's use. Concessionaire shall maintain and remove all portable restrooms.

3.7.4 Concessionaire shall not make any attachments to JFK Plaza by drilling, nailing or otherwise anchoring directly into any masonry element, such as concrete or granite elements.

3.7.5 Concessionaire shall anchor all tents by the use of water filled barrels.

3.7.6 Concessionaire shall not make improvements or alterations to or on the Licensed Space, or install fixtures in or on the Licensed Space, without the prior written approval of the City. Subject to the preceding sentence, not later than the Concession Agreement Ending Date the Concessionaire shall remove all fixtures, equipment, and supplies that the Concessionaire has installed or placed in or on the Licensed Space. The Concessionaire shall promptly repair all damage to the Licensed Space caused by its removal of its fixtures. If the Concessionaire does not remove all its fixtures, equipment, and supplies by the Concession Agreement Ending Date, then, in the City's sole discretion,

1. the City may remove the fixtures, equipment, and supplies, and within five days after the City's notice of the removal the Concessionaire shall pay all the City's costs related to the removal, and if the Concessionaire fails to timely pay those costs the City may retain as much of the Security Deposit as necessary to offset the City's costs related to the removal, or

2. the fixtures, equipment, and supplies will be deemed the property of the City and the City may take possession of them and use them, sell them, rent them, or otherwise dispose of them in the City's sole discretion without any obligation to compensate Concessionaire for the value of the fixtures, equipment or supplies, and

3. Concessionaire's obligations under this Section 3.7.6 survive the Concession Agreement Ending Date.

3.7.7 Concessionaire shall, at its sole cost and expense, maintain and operate the Licensed Space in good and safe condition and in accordance with industry standards, including, but not limited to performing all necessary and prudent maintenance, repairs, and replacement of the equipment, materials, supplies, structures, and signs used or provided by the Concessionaire. Concessionaire shall also keep all signs and structures at the Licensed Space in good condition and free of graffiti.

3.7.8 The Concessionaire, at its sole cost and expense, shall promptly repair all damage to the Licensed Space caused by the Concessionaire or its employees, agents, contractors, invitees, or clients and their guests, or otherwise arising from Concessionaire's exercise of its License under the Concession Agreement.

3.7.9 The City is not obligated to provide any services, materials or equipment related to the Licensed Space.

3.7.10 On the Concession Agreement Ending Date, Concessionaire shall leave the Licensed Space in the same condition in which it was found immediately prior to the Commencement Date, except for reasonable wear and tear, casualty covered by the Concessionaire's insurance (with the City as loss payee), and any capital improvements and alterations that Concessionaire made and which were approved in writing in advance by the Commissioner of the Department of Parks and Recreation or his or her designee (the "**Commissioner**").

3.7.11 The Concessionaire shall cooperate with the City of Philadelphia's Department of Parks & Recreation and other City agencies and their agents to facilitate set-up for the Mummer's Parade on January 1, 2014, and any and all Mummer's Parades scheduled for future dates in all Renewal Terms of the Concession Agreement.

3.8 Utilities

3.8.1 The City shall provide electrical and plumbing service as requested by the Concessionaire to the Licensed Space.

3.8.2 The Concessionaire must pay for staff costs for all work to provide electrical and plumbing service to the Holiday Village. The City shall charge $30.65 per hour for the use of the City's Electrician or Plumber.

3.9 Marketing

3.9.1 Concessionaire shall use its best efforts to increase the Holiday Village business under the Concession Agreement using all commercially reasonable means, including but not limited to marketing and publicizing the availability and location of the Holiday Village via the internet, newspaper ads, radio and television ads, magazines, flyers, posters, and other means of communication. Concessionaire shall create and actively distribute printed materials that highlight the Holiday Village (collectively with other marketing and publicity activities, the "**Promotional Activities**").

3.9.2 At all times during the Term, the Concessionaire shall include on its stationery letterhead and in all print, broadcast, and electronic publicity (including but not limited to the Concessionaire's website homepage), and advertising materials related to the Holiday Village, a prominent, easily legible statement that clearly indicates the Department of Parks and Recreation is a primary sponsor of the Holiday Village.

3.9.3 Concessionaire's Promotional Activities are subject to the City's prior written approval. Concessionaire may propose a plan for Promotional Activities and, if Concessionaire obtains the City's approval of the plan, then as long as Concessionaire strictly complies with the approved plan

Concessionaire does not need to obtain additional approval of its Promotional Activities from the City.

3.9.4 Concessionaire shall coordinate its marketing efforts with the City and in good faith attempt to extend its marketing with and through the Greater Philadelphia Tourism Marketing Corporation.

3.10 Safety Measures

Concessionaire shall, at its sole cost and expense, take and employ all necessary and prudent measures for the safe exercise of the Concession and to prevent any injury or damage to any person or property in, on or about the Licensed Space or resulting from the Concessionaire's exercise of the License or its management and operation of the Holiday Village. Concessionaire shall comply with all national safety guidelines and all Applicable Laws regarding the operation and maintenance of the Holiday Village.

3.11 Security

3.11.1 Concessionaire shall maintain security at the Licensed Space and shall cooperate with City officials to ensure security in the surrounding City spaces, 24 hours a day, including overnight

3.11.2 Concessionaire shall secure the Holiday Village, portable restrooms, and all its other equipment, supplies and merchandise overnight.

3.12 Cleaning; Trash Collection; Recycling

3.12.1 Concessionaire shall maintain the Licensed Space in a clean and orderly manner, including removal of litter, and trash from receptacles several times a day. Trash and litter shall be bagged and placed at a location designated by the City. The City will remove all bagged trashed placed in the location designated by the City.

3.12.2 Concessionaire shall provide proper waste and recycling receptacles approved by the City at the Licensed Space, including but not limited to providing separate trash containers for recyclable materials in compliance with all Applicable Laws regarding recycling

3.13 Environmentally-Friendly ("Green") Products & Practices

The City of Philadelphia is implementing ecologically-friendly initiatives to benefit the environment and the health of Philadelphia's visitors and residents. Therefore, the City strongly encourages the Concessionaire to employ ecologically-friendly practices and products in the management and operation of the Holiday Village.

If the Concessionaire intends to use any disposable products at the Licensed Space, the City encourages the Concessionaire to use chlorine-free, biodegradable products. Additionally, the City encourages the Concessionaire to use what are certified as "Green Seal" ecologically-friendly products such as soaps and cleaners for operating and cleaning purposes. A list of "Green Seal" certified products can be found at http://www.greenseal.org/findaproduct/index.cfm.

3.14 Subcontracting

3.14.1 Without limiting the effectiveness of Section 4.15 of this RFP, Concessionaire may elect to have some services and supplies provided by a subcontractor. The Concessionaire shall obtain the prior written approval of the Commissioner or his designee before entering into any subcontract under the Concession Agreement. Despite any subcontracts that Concessionaire may enter into, Concessionaire is not relieved of any of its obligations under the Concession Agreement.

3.14.2 Concessionaire shall cause all its subcontracts to specify that the City is designated as third party beneficiary of the subcontract. Concessionaire shall also cause its subcontracts to specify that the subcontractor is bound by the same requirements as the Concessionaire under the Concession Agreement including, without limitation, indemnification of the City, insurance, maintenance and preservation of records, and audit by the City.

3.14.3 No subcontract relieves Concessionaire of any of its obligations under the Concession Agreement. Concessionaire is as responsible for the acts and omissions of its subcontractors, or persons either directly or indirectly employed by them, as it is for the acts and omissions of Concessionaire or persons directly or indirectly employed by Concessionaire.

3.14.4 Any purported subcontract(s) in violation of this Section 3.14 or of any other Section in this RFP or the Concession Agreement is void.

3.15 Prohibited Uses

The Concessionaire shall not use the Licensed Space for any use or purpose not expressly required or permitted under the Concession Agreement.

3.16 Alterations to the Licensed Space

The Concessionaire shall not make, cause, or permit any alterations to the Licensed Space without the prior review and written approval of the City. The Concessionaire shall submit to the City plans and specifications for the proposed alterations and all additional information the City may reasonably request. The City's approval of any proposed alterations may be conditioned upon a

requirement that the Concessionaire provides the City with a performance and payment bond satisfactory to the City in all respects and upon other requirements the City deems necessary or prudent to protect the interests of the City.

3.17 Smoking Policy

Smoking in or on the Licensed Space is strictly prohibited. The Concessionaire shall not permit smoking in or on the Licensed Space.

3.18 ADA Compliance

Without limiting the general applicability of RFP Section 4.8, in connection with operation and management of the Licensed Space, and the Holiday Village, the Concessionaire shall comply with the Americans With Disabilities Act ("**ADA**"). The Concessionaire is encouraged to exceed accessibility requirements whenever possible, and not simply provide the minimum level required.

3.19 Licenses and Permits

Without limiting the general applicability of RFP Section 4.8, the Concessionaire shall, at its sole cost and expense, obtain and maintain during the Term all licenses and permits related to management and operation of the Licensed Space, and the Holiday Village required under all Applicable Laws. The Concessionaire shall procure and maintain, and shall cause each of its contractors and subcontractors to procure and maintain, all necessary approvals, permits and licenses related to its respective management and operation of the Licensed Space, the Holiday Village.

3.20 Concession Fee; Reporting and Payment

3.20.1 Proposals will be received in the form to pay a site fee to operate the concession known as the Holiday Village ("**Concession Fee**"). The minimum acceptable offer will be $25,000.

3.20.2 Concessionaire will make payment of the Concession Fee 60 days prior to entering the Licensed Space. Concessionaire shall pay the Concession Fee by check made payable to "**City of Philadelphia**" and shall deliver the payment to the Project Manager at the address provided in Section 1.6.1.

3.21 Security Deposit

3.21.1 The Concessionaire shall submit to the City a Security Deposit of $5,000. The Concessionaire shall pay the Security Deposit to the City, contemporaneously with signing the Concession Agreement. The City shall deposit the check into a depositary account in a local bank branch in the name of the City of Philadelphia (the "Security Deposit Account").

3.21.2 If Concessionaire damages any City-owned property, or if Concessionaire breaches any provision of the Concession Agreement, then the City may retain some or all of the Security Deposit as the City reasonably determines to offset (A) the City's cost to repair the damaged property, (B) the City's damages otherwise arising from or related to the breach, whether direct, indirect, or consequential, and (C) an additional 10% administrative fee to compensate the City for the work time of City officials involved with repairing the damaged property or determining the City's damages.

3.21.3 The City's retention of some or all of the Security Deposit under RFP Section 3.21.2 does not relieve Concessionaire of liability for any costs or damages in excess of the full amount of the Security Deposit.

3.21.4 If at any time during the Term the City applies some or all of the Security Deposit to pay for repair of any damaged property or for any damages the City suffers arising from or otherwise related to Concessionaire's breach of the Concession Agreement, the City may send written notice of the City's retention, and promptly following Concessionaire's receipt of the City's notice Concessionaire shall promptly deposit money into the Security Deposit Account to restore it to the full amount required.

3.21.5 Subject to the City's rights under RFP Section 3.7.6, within 45 days following the Concession Agreement Ending Date, the City shall return the Security Deposit to Concessionaire, less any amounts the City retains to pay the City's cost to repair any damage or pay other costs related to Concessionaire's removal of its equipment from the Licensed Space, restoration of the Licensed Space, and ending the Concession.

3.22 No City Obligation

Despite any other provision of the RFP and the Concession Agreement, the Concession Agreement does not obligate the City to appropriate or spend money at any time or for any reason.

3.23 Ownership of the Licensed Space

At all times during the Term of the Concession Agreement, the Licensed Space identified in Section 2.3 of this RFP and the Appendices referred to in that section are and will remain owned by the City of Philadelphia. No provision in the Concession Agreement creates, grants, or gives to the Concessionaire any legal title, easement, leasehold, or other interest in the Licensed Spaces identified in Section 2.3 of this RFP and the corresponding Appendices other than a mere license.

3.24 Alternative Holiday Village Locations; Additional Services, Restrictions

3.24.1 Alternative Holiday Village Locations

If due to the construction at JFK Plaza the City is unable to offer JFK Plaza as the location for the Holiday Village in 2014, 2015 and 2016, then the City may offer the Concessionaire the opportunity to operate the Holiday Village at an alternative location. The City shall notify the Concessionaire of the opportunity to operate the Holiday Village at an alternative location in writing. The Concessionaire shall respond to each City request within 30 business days following Concessionaire's receipt of the written notice. If the Concessionaire fails to respond to the City's request within the 30-day period, or if the Concessionaire responds that it does not want to operate the Holiday Village at the alternative location, then the City may seek other concessionaires to operate the Holiday Village.

3.25 Signs; Department of Parks and Recreation's Mark

3.25.1 The Concessionaire shall not at any time erect, hang, paint or otherwise create any sign or advertisement in, on or about the Licensed Space without the prior written approval of the Commissioner or his designee. In addition, the Concessionaire shall not, without the prior written approval of the Commissioner or his designee, erect, hang, place, or display in, on or about the Licensed Space any utilitarian items, including but not limited to trash receptacles, that promote and advertise any product.

3.25.2 The Concessionaire shall confer with the City regarding the Concessionaire's design of sign that will draw customers to the Licensed Space but that also reflect the park and urban settings in which the Licensed Space is situated.

3.25.3 Without limiting the application of Section 4.8 of the RFP, Concessionaire shall obtain all advance approvals required under Applicable Laws before Concessionaire erects, hangs, paints, or otherwise creates any sign or item in, on or about the Licensed Space. The Concessionaire shall not hang or display any type of signage or banners by attaching to any trees, shrubs, statues, lighting fixtures or traffic lights. Concessionaire shall cause each sign or item to meet all specifications required by the Department of Parks and Recreation and include the Department of Parks and Recreation's mark.

SECTION 4 – GENERAL CONTRACT PROVISIONS

4.1 Ethics Requirements

4.1.1 The Concessionaire and its sub-licensees, contractors, and subcontractors must not offer or give, directly or indirectly, anything of value to any City official, officer or employee, including any gift, gratuity, favor, entertainment or loan, the receipt of which would violate Executive Order No. 3-11 issued by the Mayor of Philadelphia on January 25, 2011.

4.1.2 Any person who offers or gives anything of value to any City official, officer, or employee, the receipt of which violates Executive Order No. 3-11, is subject to sanctions with respect to City contracts. The sanctions may range from disqualification from participation in particular City contract(s), to debarment, depending on the nature of the particular violation. The terms and duration of the sanctions will be determined (after consultation with the City's Chief Integrity Officer) by the Procurement Commissioner with respect to contracts subject to competitive bidding or by the Director of Finance with respect to non-competitively bid contracts.

4.1.3 If the Concessionaire or its sub-licensees, contractors, and subcontractors offer or give, directly or indirectly, anything of value to any City officer, director, or employee in violation of Section 4.1.1 above, the Concessionaire will commit an Event of Default under the Concession Agreement. In addition, the City shall return or discard the item given to the City officer, director, or employee.

4.2 Tax Requirements

4.2.1 Any contractor, vendor of goods, or provider of services, who bids on and is awarded a contract by the City is subject to Philadelphia's business tax ordinances and regulations. The Concession Agreement is entered into in the City of Philadelphia, and the Concessionaire's delivery, sale, or rental of goods in the City, or performance of services in the City, is "doing business" in the City and subjects the Concessionaire to the City's tax requirements, including without limitation one or more of the following taxes:

a. Business Income and Receipts Taxes
b. Net Profits Tax
c. City Wage Tax

4.2.2 Promptly following the Commencement Date, the Concessionaire, if not already paying the taxes listed above, shall apply to the City of Philadelphia Department of Revenue for a tax account number and to file

appropriate business tax returns as required by Applicable Law. Applications may be submitted through the Business Services Portal at http://business.phila.gov/Pages/Home.aspx or to the Department of Revenue at: Municipal Services Building, Public Service Concourse, 1401 John F. Kennedy Blvd., Philadelphia, PA 19102. Questions about the application and the taxes should be directed to the Taxpayer Service Unit at: (215) 686-6600.

4.2.3 In addition to the City's tax requirements, the Concessionaire shall timely pay all federal, state, and local taxes, assessments, and levies, however characterized (collectively, "**Assessments**") that apply to the Concession, the Concession Agreement, and the Concessionaire's activities under the Concession Agreement. The Concessionaire is solely liable for all late charges, interest, penalties, and fees arising from the Concessionaire's failure to timely pay all Assessments.

4.2.4 The City is not obligated at any time during the Term to pay any Assessments related to the Concession, the Concession Agreement, or the Concessionaire's activities under the Concession Agreement.

4.2.5 The Concessionaire's failure to comply with the requirements of the Concession Agreement regarding payment of Assessments, or Concessionaire's failure to otherwise pay an Assessment as required by Applicable Laws, is an Event of Default of the Concession Agreement.

4.3 Confidential and Proprietary Information of the City

The Concessionaire shall treat all information it obtains from the City that is not generally available to the public as confidential and proprietary to the City. The Concessionaire shall exercise all reasonable precautions to prevent any confidential and propriety information it obtains from the City from being disclosed to any other person or entity. The Concessionaire shall promptly indemnify, defend, and hold harmless the City from and against all liabilities, demands, claims, suits, losses, damages, causes of action, fines and judgments (including attorney's fees) resulting from or related to any use or disclosure of any City confidential or proprietary information by the Concessionaire or its employees, or by any person acquiring that information, directly or indirectly, from the Concessionaire or its employees. The Concessionaire's obligations under this Section 4.3 survive the Concession Agreement Ending Date.

4.4 Indemnification, Release and Insurance

The Concessionaire shall promptly indemnify, defend, and release the City, as set forth in **Appendix 3** to the RFP. In addition, on or before the Commencement Date the Concessionaire shall obtain and, throughout the Term, shall maintain, the types and minimum amounts of insurance set forth in Appendix 3. As a condition

precedent to the effectiveness of the License the City gives to Concessionaire under the Concession Agreement, Concessionaire must provide the City of Philadelphia Risk Manager, on behalf of the City, with a certificate of insurance that shows the Concessionaire has obtained the types and required amounts of insurance. Concessionaire must cause copies of the certificate of insurance to be delivered to all the officials 30 days prior to the Concessionaire's entry upon the Licensed Space at the addresses specified in Appendix 3.

4.5 Default

4.5.1 The Concessionaire will commit an "**Event of Default**" under the Concession Agreement if:

a. Concessionaire fails to timely pay to the City in full the Concession Fee; or

b. Concessionaire fails to timely comply with any other obligation applicable to Concessionaire under the Concession Agreement, including this RFP.

4.5.2 If the Concessionaire commits an Event of Default under Section 4.5.1 above, and,

a. in the case of an Event of Default under Section 4.5.1.(a), Concessionaire fails to cure the Event of Default within 5 days after receiving written notice from the City of the Event of Default,

b. in the case of an Event of Default under Section 4.5.1.(b), Concessionaire fails to cure the Event of Default within 30 days after receiving written notice from the City of the Event of Default,

c. in the case of an Event of Default under Section 4.5.1.(b) that cannot reasonably be cured within 30 days after receiving the City's written notice of the Event of Default, Concessionaire fails to actively start to cure the Event of Default within the 30-day period and then continuously and diligently pursue the cure to completion in not more than 90 days after receiving the City's written notice of the Event of Default, or

d. in the case of any Event of Default that poses a threat of imminent harm to persons or property,

then without further notice the City may, in its absolute discretion, immediately suspend or terminate the Concession Agreement, in whole or in part, without liability to Concessionaire.

4.5.3 In addition to the City's rights and remedies under Section 4.5.2 above, Concessionaire shall pay all damages, costs, and expenses suffered or incurred by the City arising from or related to the Event of Default. Also, if Concessionaire commits an Event of Default and fails to cure the Event of Default within the applicable cure period (if any), then the City may exercise all rights and remedies available to it at law or in equity, in addition to the remedies available to the City under the Concession Agreement. The City may exercise its remedies under the Concession Agreement, at law, or in equity, separately, cumulatively, successively, and repeatedly, in the City's absolute discretion.

4.5.4 The City's failure or delay in providing written notice of an Event of Default to Concessionaire does not relieve or excuse the Concessionaire from any liability arising from or related to the Event of Default and does not waive any of the City's rights or remedies upon delivering written notice to the Concessionaire of the Event of Default and Concessionaire's failure to cure the Event of Default in the applicable cure period provided under Section 4.5.2, or in the case of an Event of Default that poses a threat of imminent harm to person or property, immediately and without notice.

4.6 Non-Indebtedness

4.6.1 The Concessionaire represents and warrants that Concessionaire, and all entities under common control with the Concessionaire or controlled by it are not as of the Commencement Date indebted to the City, and Concessionaire shall not at any time during the Term of the Concession Agreement 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), water bills, sewer bills, liens, judgments, fees or other debts for which no written agreement or payment plan satisfactory to the City has been established. The Concessionaire shall remain current during the Term of the Concession Agreement with all such payments and shall inform the City upon receipt of any notices of delinquent payments. In addition to any other rights or remedies available to the City under the Concession Agreement, at law, or in equity, the Concessionaire acknowledges that any breach or failure to conform to Concessionaire's representation, warranty, and covenant in this Section 4.6.1 may, at the option of the City, result in the termination of the Concession Agreement. In addition, Concessionaire understands that false certification or representation is subject to prosecution under Title 18 Pa.C.S.A. § 4904.

4.6.2 The Concessionaire shall cause its subcontractors (if any) to make a certification to the City similar to that made by the Concessionaire in Section 4.6.1 above. The Concessionaire shall include the provisions in Section 4.6.1 in each subcontract under the Concession Agreement, with

appropriate adjustment for the name of the subcontractor.

4.7 Condition of the Licensed Spaces

The City makes no representation or warranty regarding the condition of the Licensed Space, including their suitability for the Concession. Concessionaire accepts the License given by the Concession Agreement and agrees to use the Licensed Spaces in their "AS IS" condition for the purposes set forth in the Concession Agreement. Concessionaire submitted its Proposal and enters into the Concession Agreement solely based on Concessionaire's own investigation of the condition of the Licensed Spaces.

4.8 Compliance with Applicable Laws

In the RFP and Concession Agreement, "**Applicable Law**" and "**Applicable Laws**" mean all present and future Commonwealth, federal, and municipal laws, ordinances, regulations, orders, rules, official opinions and interpretations, and requirements, that apply to any of the following: the Concession Agreement, the License, the Concessionaire, the Licensed Space, the Holiday Village, and Concessionaire's exercise of the License and operations of the Licensed Spaces and the Holiday Village. The Concessionaire shall promptly comply with all Applicable Laws, including but not limited to:

4.8.1 The Fair Practices Ordinance of the Philadelphia Code (Chapter 9-1100), (which prohibits discrimination against any person on the basis of race, color, sex, sexual orientation, gender identity, religion, national origin, ancestry, age, handicap, or marital status) and the Mayor's Executive Order No. 4-86 (which prohibits, among other things, discrimination against persons with AIDS in employment and services), as they may be amended from time to time;

4.8.2 All federal, Commonwealth, and local requirements regarding the application, obtaining, and maintaining licenses, certificates, permits, and other approvals required for operation of the Concession; and

4.8.3 The tax requirements of all governmental authorities having jurisdiction over the Concession, the Concession Agreement, and Concessionaire's operations under the Concession Agreement.

4.9 Entire Agreement; No Amendment

4.9.1 The Concession Agreement is the complete, final, and exclusive expression of the City's and Concessionaire's agreement about the Concession. All prior negotiations and agreements, if any, between the City and Concessionaire relating to the Concession are superseded by and merged into the Concession Agreement.

4.9.2 The Concession Agreement may not be amended or modified except in writing signed by the City officials who signed the original Concession Agreement and also signed by Concessionaire's duly authorized officers. Any proposed or purported amendment of the Concession Agreement made without strictly complying with this Section 4.9.2 is void. No course of conduct between the City and Concessionaire, and no industry custom, is effective to amend the Concession Agreement or waive any of the Concessionaire's obligations under the Concession Agreement.

4.10 No Joint Venture or Partnership

The Concession Agreement does not create a joint venture or partnership between the City and the Concessionaire. The Concessionaire is an independent entity and is not an agent of the City.

4.11 Severability

The provisions of the Concession Agreement Documents are severable. If any provision of the Concession Agreement Documents is held by a court of competent jurisdiction to be invalid or unenforceable for any reason, then that provision is deemed adjusted to the minimum extent necessary to cure the invalidity or unenforceability. Except as provided in the next sentence, the invalidity or unenforceability of one or more of the provisions in the Concession Agreement Documents does not affect any other provision of the Concession Agreement Documents. If any provision of the Concession Agreement Documents is held invalid or unenforceable so that the City is deprived of a material consideration to it under the Concession Agreement Documents, however, then the City may, in its absolute discretion, terminate the Concession Agreement without liability to the Concessionaire.

4.12 Waiver of Jury Trial

BY SUBMITTING A PROPOSAL AND ENTERING INTO THE CONCESSION AGREEMENT, THE CONCESSIONAIRE KNOWINGLY, INTENTIONALLY, AND VOLUNTARILY WAIVES TRIAL BY JURY IN ANY LEGAL PROCEEDING ARISING UNDER OR RELATED TO THE CONCESSION AGREEMENT (INCLUDING BUT NOT LIMITED TO ANY TORT CLAIM). THIS PROVISION IS A MATERIAL INDUCEMENT FOR THE CITY TO ENTER INTO THE CONCESSION AGREEMENT. THE CONCESSIONAIRE SHALL INCLUDE A PROVISION IN ALL ITS SUBCONTRACTS UNDER THE CONCESSION AGREEMENT UNDER WHICH ITS CONTRACTORS ALSO WAIVE TRIAL BY JURY IN ANY LEGAL PROCEEDING ARISING UNDER OR RELATED TO THE CONCESSION AGREEMENT (INCLUDING BUT NOT LIMITED TO ANY TORT CLAIM).

4.13 Place of Contract; Governing Law

The Concession Agreement is made in Philadelphia, Pennsylvania, is governed by Pennsylvania law, and is to be interpreted in accordance with Pennsylvania Law without reference to choice of law provisions.

4.14 Counterparts

The Concession Agreement may be executed by the parties in any number of counterparts, each of which is an original and all of which together are one and the same document.

4.15 Assignment Prohibited

Except as set forth in Section 3.14 above, Concessionaire shall not assign the Concession Agreement or any of its rights or obligations under the Concession Agreement. Any attempted assignment by Concessionaire in violation of this provision is void and is deemed an offer by Concessionaire to the City to immediately terminate the Concession Agreement, which the City may accept or decline in the City's sole discretion.

4.16 Venue

Concessionaire agrees that all claims arising under or related to the Concession Agreement must be filed in the Court of Common Pleas of Philadelphia County. Concessionaire consents to the exclusive jurisdiction of the Court of Common Pleas of Philadelphia County and Pennsylvania courts of appeal. Concessionaire waives its right to file a motion to remove venue for any proceeding to another jurisdiction or to any federal court.

4.17 Validity of City Approvals

4.17.1 Unless expressly specified otherwise in this RFP or the Concession Agreement, any review, approval, permission, or consent that the Concessionaire is required to obtain from the City under the Concession Agreement will not be valid or effective unless obtained from the Commissioner or his designee.

4.17.2 Unless expressly specified otherwise in this RFP or the Concession Agreement, all reports, notices, plans, specifications, certificates, requests for approval, and submissions required of the Concessionaire that must be delivered to or approved by the City must be submitted by the Concessionaire to the Commissioner or his designee.

4.18 Interpretation

Concessionaire agrees that the rule of interpreting any ambiguities in an agreement against the drafter of the agreement does not apply to the interpretation of this RFP or the Concession Agreement.

4.19 Time of the Essence

Time is of the essence in Concessionaire's compliance with the Concession Agreement.

4.20 Force Majeure Event

4.20.1 Concessionaire is excused from compliance with any obligation or limitation under the Concession Agreement where (1) compliance with the obligation or limitation is rendered impossible by any unexpected event in the nature of a hurricane, tornado, earthquake, war, terrorism, riot, embargo, or labor strike (except a strike by Concessionaire's own employees), and (2) Concessionaire cannot reasonably make alternative arrangements to comply with the obligation or limitation despite the unexpected event (1) and (2) together, a "**Force Majeure Event**").

4.20.2 Concessionaire is excused from compliance with any obligation or limitation under the Concession Agreement because of a Force Majeure Event only for the duration of the Force Majeure Event or until Concessionaire can sooner reasonably make alternative arrangements to enable its compliance. If the Force Majeure Event renders impossible Concessionaire's compliance with a material obligation or limitation under the Concession Agreement, and if the Force Majeure Event continues for two months or longer, then the City may terminate the Concession Agreement in the City's sole discretion.

4.20.3 The City is excused from complying with any requirements or limitations applicable to it under the Concession Agreement if the City cannot comply because of any acts of God, acts of public enemy, riot, freight embargo, strike, other work stoppage, government action, breakdown or failure of apparatus, equipment or machinery employed in supplying required services or any act or condition beyond the reasonable control of the City.

4.21 Philadelphia 21st Century Minimum Wage & Benefits Standard

Under Philadelphia Code Section 17-1303(4), Concessionaire may be subject to the requirements of the Philadelphia Code, Chapter 17-1300, titled, "Philadelphia 21st Century Minimum Wage and Benefits Standard" ("**Chapter 17-1300**"). Chapter 17-1300 governs the wages that certain employers are required to pay their employees. If Concessionaire is subject to Chapter 17-1300, then:

4.21.1 Concessionaire shall comply with the requirements of Chapter 17-1300 as they exist on the Commencement Date of the Concession Agreement. Concessionaire shall promptly provide to the City documents and information verifying its compliance with the requirements of Chapter 17-1300. If Concessionaire violates Chapter 17-1300, Concessionaire will

have committed an "Event of Default" under RFP Section 4.6.1.b.

4.21.2 Concessionaire shall notify each of its affected employees with regard to the wages that are required to be paid pursuant to Chapter 17-1300.

SECTION 5 – ELIGIBILITY TO SUBMIT A PROPOSAL

5.1 General

The City seeks Respondents who have experience in seasonal outdoor market operations and sufficient financial capacity to provide the proposed seasonal open market operation at JFK Plaza. To be eligible for award of the Concession Agreement and the License, a Respondent must demonstrate that it has the skills and capacity to successfully manage and operate the Licensed Space and the Holiday Village. The qualifications set forth in Section 5.1 – 5.5 are minimum qualifications.

5.2 Management Experience and Qualifications

The Respondent shall have at least four (4) consecutive years of prior recent experience in managing and operating a seasonal outdoor market. In order to receive consideration for award of the Concession Agreement, a Respondent must demonstrate to the City's satisfaction that the Respondent has both sufficient experience and sufficient financial resources to meet the requirements set forth in this RFP ("**Management Experience and Qualifications**"). Please see Section 6.4 of the RFP for qualification requirements.

5.3 Respondents Restricted

5.3.1 No Proposal will be accepted from, and the Concession Agreement will not be awarded to, any person, firm, or corporation that is in arrears or is in default of any debt to the City (including without limitation tax delinquencies), any contract obligation to the City, or any surety obligations to the City, or has failed to comply with any existing or previous contract with the City, or has failed to execute a contract that the person, firm, or corporation negotiated with the City.

5.3.2 The City will not accept any Proposal from, nor award the Concession Agreement to, any official, officer, director, or employee of the City. The City will not accept any Proposal from, nor award the Concession Agreement to, any person, firm, or corporation in which any official, officer, director, or employee of the City has a direct or indirect financial interest, including but not limited to a firm in which a City official's, officer's, director's, or employee's parent, grandparent, spouse, sibling, child, or relative in-law is an officer, director, or employee.

5.3.3 The City will not accept any Proposal from, nor award the Concession Agreement to, any Respondent that is involved in litigation against the City, including but not limited to negotiation to settle a claim against the City.

5.4 Respondents May Submit Only One Proposal

A Respondent must not be a party to more than one Proposal in connection with this RFP. If a Respondent is a party to more than one Proposal, the City may reject all those Proposals.

5.5 Respondents' Business Address; Licenses, Certificates, Permits, and Approvals

5.5.1 A Respondent is not required to start a company based in the City of Philadelphia to be eligible to respond to this RFP. The Concessionaire is not required to create a company based in the City of Philadelphia.

5.5.2 Once a Respondent selected by the City executes the Concession Agreement and becomes the Concessionaire, however, the Concessionaire shall obtain all licenses, certificates, permits, and other approvals required by Applicable Laws for operation of the Concession, including but not limited to a City of Philadelphia commercial activity license (formerly business privilege license).

SECTION 6 – PROPOSAL SUBMISSION REQUIREMENTS

6.1 Responsiveness

To be eligible for award of the Concession Agreement, a Respondent's Proposal must be responsive to this RFP. For its Proposal to be considered responsive to this RFP, a Respondent must follow all the instructions in this RFP and submit all the materials and information required by this RFP.

6.2 Form of Proposal

6.2.1 Each Respondent must submit one original signed cover letter and Proposal and a full electronic copy of its Proposal on a CD-ROM or jump drive. The original letter must be signed by a person with authority to bind the Respondent to all of the provisions of its Proposal, this RFP, and the Concession Agreement.

6.2.2 Each Respondent's Proposal must follow the form of this RFP. It must be typed on 8-1/2" x 11" paper and marked clearly on the cover page with Respondent's name and clearly refer to this RFP. Pages must be

numbered clearly. Respondents must not submit Proposals in plastic sleeves or spiral binders. Illustrations may be included. Oversized drawings may be submitted, but they must be accompanied by 8½" x 11" sectionals or reduced to 8 ½' x 11'. **Each Respondent must seal its Proposal in envelopes, packets, or boxes, as the case may be, to ensure confidentiality of the information prior to the Deadline for Submitting Proposals. The number of the RFP must be clearly placed on all sealed envelopes, packets or boxes. The City will only accept Proposals in hard copy and will not accept Proposals by facsimile or by e-mail.**

6.2.3 Wherever a Respondent is providing information required by this RFP, the Respondent must identify the information by using the corresponding Section number, Appendix, or Form of this RFP that requires the information.

6.2.4 Each Respondent's Proposal must include the following (please see other provisions of this RFP for a fuller explanation of several of the matters listed):

1. Signed cover letter;
2. Description of company, organization, and personnel (see 6.4);
3. Management Experience and Qualifications, and at least three references (see 6.4);
4. Documentation of its Best and Good Faith Efforts (see 6.5);
5. Financial Information (see 6.6);
6. Statement of Understanding of the Purpose of this RFP (see 6.7);
7. Completed Concession Fee Proposal Form (see 6.8);
8. Operating Plan (see 6.9);
9. Completed and signed signature page (see Section 9).

6.2.5 Each Respondent must print the following information on the outside of the envelope, packet, or box in which it submits its Proposal:

1. RFP Number **C-106-13**;
2. Respondent's name and address;
3. Identification as "Proposal for the Operation and Management of the Holiday Village"; and,
4. The Deadline for Submitting Proposals due date, as stated on the cover page of this RFP.

6.3 Submission of Proposal by "Deadline for Submitting Proposals"; Oral Presentations

6.3.1 Each Respondent must submit its Proposal to the City no later than the Deadline for Submitting Proposals. Each Respondent is solely responsible for delivery of its Proposal on time and to the proper location. The

"Deadline for Submitting Proposals" and the location for submitting Proposals are set forth on the cover page of this RFP.

6.3.2 The City may request one or more Respondents to make a supplemental oral presentation to City officials after the Deadline for Submitting Proposals. The date and time of the oral presentations will be determined by the City.

6.4 Company Profile; Operating Experience; Qualifications

Each Respondent must:

6.4.1 Submit a resume or detailed description of the Respondent's professional qualifications, demonstrating extensive experience in the industry, or affiliation with individuals and firms, or either of them, with that expertise. The resume or detailed description must include the number of Respondent's employees and number of years Respondent has been in business.

6.4.2 Provide a description, with photographs, of similar seasonal open market operations, including locations Respondent has operated or is currently operating.

6.4.3 Explain its corporate structure and ownership.

6.4.4 Provide the names and addresses of all owners and corporate officers of the entity submitting the Proposal.

6.4.5 Provide its federal Employer Identification Number.

6.4.6 Identify all parent, subsidiary, affiliate, and partnership relationships with other businesses (collectively, "**Related Companies**").

6.4.7 If Respondent is a partnership or a joint venture, give the date of the partnership or joint venture agreement, the county and state where the agreement was filed, and list the name and address of each partner or joint venture entity and the percentage of ownership of each partner or joint venture entity. If Respondent is a corporation or limited liability company, the Respondent must provide a copy of its articles of incorporation, give the date and state of the company's organization and incorporation, and list the names and addresses of the company's board of directors and officers, or managers or members, as the case may be.

6.4.8 Provide at least three recent references with whom the Respondent has worked and who can describe such matters as the Respondent's financial and operational capability (e.g., operating quality seasonal open market). The Respondent must include the name of the reference entity, a

description of the nature of the listed reference's experience with the Respondent, and the name, title, address, email address, and telephone number of a contact person at the reference entity.

6.4.9 List all contracts the Respondent and all its Related Companies have had with the City in the last five years.

6.4.10 If Respondent or any of its Related Companies has filed for bankruptcy protection in the last five years (or had a bankruptcy petition filed against it), Respondent must provide a brief explanation of the circumstances and outcome of the filing.

6.4.11 List all surety companies that have previously issued performance bonds on behalf of Respondent or any of Respondent's Related Companies, the addresses of each surety company, the amount of each bond, and the term of each bond. List any performance bonds that were called in the last five years due to unsuccessful completion of the contract.

6.5 Participation of Minority, Woman and Disabled Owned Business Enterprises In City Contracts

6.5.1 Participation of Minority, Woman and Disabled Owned Business Enterprises In City Contracts

The City of Philadelphia Mayor's Executive Order 03-12 establishes a goal of 25% participation in City of Philadelphia contracts by businesses that are owned by a person who is disabled or who is of a minority group, or who is a woman. To promote that goal, the City encourages the Respondent to make every effort to solicit Minority Business Enterprises ("MBE"), Woman Business Enterprises ("MBE") and Disabled Business Enterprises ("DSBEs") (collectively, "M/W/DSBEs") as potential vendors for the Holiday Village. Respondent should make efforts to ensure that at least 25% of its vendors are M/W/DSBEs , and that a range of 15% to 20% of those M/W/DSBEs are MBEs and 10% to 15% of those M/W/DSBEs are WBEs. Respondent is required to submit documentation of its "Best and Good Faith Efforts" (as defined below), whether or not it has achieved any commitments with M/W/DSBEs.

6.5.2 Respondent is also required to submit documentation of its "Best and Good Faith Efforts", whether or not it has achieved any commitments with M/W/DSBEs. The City may, in its sole discretion, reject any Proposal that does not include documentation of a Respondent's Best and Good Faith Efforts.

6.5.3 "Best and Good Faith Efforts" are those efforts, the scope, intensity and appropriateness of which would reasonably be expected to achieve meaningful M/W/DSBE participation in the contract. This shall include

efforts to provide a range of 15% to 20% of MBEs and 10% to 15% WBEs in the total vendors contracted to participate in the Holiday Village.

6.5.3 The City of Philadelphia Office of Economic Opportunity has compiled a database of all firms that are registered with the City of Philadelphia as MBE's, WBE's, or DSBE's. The registry may be searched at the following website: http://mbec.phila.gov/home/directory.asp
For additional information about potential M/W/DSBE's for the Concession, please contact:

Julie Simmons, CCA, MBE Specialist II
Office of Economic Opportunity
215-683-2083
julie.simmons@phila.gov

6.6 Financial Information

6.6.1 Each Respondent must provide evidence of its financial capacity and stability; accountant-prepared financial statements for the most recent fiscal year ended that are prepared in accordance with generally accepted accounting principles, consistently applied; and a federal tax return. Each Respondent must also provide creditor reference(s) and a description of the loans or lines of credit made available to the Respondent and dates that the accounts were established as well as the name of the Respondent's account officer(s). By submitting a Proposal, each Respondent authorizes the City to contact the Respondent's creditor references regarding that information.

6.6.2 Each Respondent shall identify the intended source of all funds proposed to be invested in the Licensed Space and Equipment.

6.7 Understanding the Purpose of this RFP and the Rights and Obligations of the Concessionaire

Sections 3, 4, and 5 of this RFP set forth the minimum requirements that the Concessionaire must fulfill. Each Respondent must provide a brief narrative that demonstrates its understanding of this RFP's goals and objectives, the nature and scope of the work involved, and how Respondent's expertise will enable Respondent to fulfill the goals and objectives of this RFP and maximize the potential of the Licensed Space, the Equipment, and the Holiday Village. Also, each Respondent must describe its approach to the proposed Concession, including Respondent's work plan and strategy.

6.8 Concession Fee Proposal: Minimum Concession Fee

6.8.1 Using **Form A**, each Respondent must propose a **Concession Fee** payment to the City for the right to manage and operate the Holiday Village at the Licensed Space. The minimum Concession Fee a Respondent may propose is $25,000.

6.9 Operating Plan

6.9.1 All Proposals must include a detailed operating plan for management and operation of the Licensed Space ("**Operating Plan**"). The Operating Plan is subject to the City's prior written approval. At a minimum, the following must be included in the Operating Plan:

6.9.1.1 A detailed description of how the Respondent would manage and operate the Licensed Space, and the Holiday Village, including but not limited to: the Operating Schedule, staffing requirements, equipment needs, maintenance plans, any plans to use the "Green Seal" or other environmentally friendly products, methods or devices, plans for deliveries, and a cleaning schedule.

6.9.1.2 A description of the types of vendors and merchandise to be offered.

6.9.1.3 A description of structures the Respondent plans to construct in the Licensed Space.

6.9.1.4 Business development and marketing plan for maximizing the number of patrons of the Holiday Village.

6.9.1.5 Identification of Respondent's on-site management team and description of the team's background and experience.

6.9.1.6 An estimated number of full-time and seasonal employees and positions the employees will fill in Concessionaire's management and operation of the Holiday Village.

6.9.1.7 Safety procedures and precautions required for the operation of the Concession and safety of patrons.

6.9.1.8 Security protocols, including but not limited to procedures for securing vendor's stands.

6.9.1.9 Description of any other requirements not mentioned in

Section 3 of this RFP that are required to ensure the safe, sanitary and legal management and operation of the Holiday Village.

6.10 Confidential Information

6.10.1 If a Respondent chooses to include in its Proposal material of a confidential nature, then the Respondent must mark the confidential material as noted below and explain why it is confidential. The City will exercise reasonable care to honor confidentiality requests, subject to Applicable Laws.

6.10.2 Each Respondent must identify the pages of its Proposal that contain confidential information by prominently marking those pages as explained below. Respondents are reminded that the mere designation of information as confidential does not necessarily make it so under Applicable Laws. The Pennsylvania Right to Know Act may require the City to disclose certain information regardless of whether the Respondent has designated it as confidential. The City recommends that each Respondent confer with legal counsel regarding the disclosure requirements of the Right to Know Act. Respondents should include the following notice in the front of each copy of their Proposal:

NOTICE

The information on pages _____ of this Proposal, identified by the words "**Confidential Proprietary Information**" in boldface type of at least 12 points in the top right-hand corner of each page, contain proprietary information that the Respondent desires not be disclosed. The Respondent requests that such information be used only for evaluation of Respondent's Proposal, and not be disclosed to the public except as may be required by Applicable Law.

6.11 Objections

In its Proposal, a Respondent may state objections to the requirements of this RFP. Any objections must be stated in a separate section of the Proposal, must identify the specific provisions and language of this RFP that Respondent objects to, must state the reason(s) for each objection, and must propose alternative provisions. <u>By not objecting to a provision and submitting a Proposal in response to this RFP, a Respondent irrevocably agrees that the provision is acceptable to it.</u> The City may, in its sole discretion, evaluate a Proposal, in part, on the number and nature of objections made by the Respondent to the provisions of this RFP. In no event will the City's selection of a Respondent for further negotiations leading to a Concession Agreement constitute acceptance by the City of any objection or proposed alternative provision set forth in that Respondent's

Proposal.

SECTION 7 – CONDITIONS REGARDING PROPOSALS; RESERVATION OF RIGHTS BY CITY; EFFECTIVENESS OF CONCESSION AGREEMENT

7.1 Conditions Regarding Proposals

By submitting a Proposal in response to this RFP, the Respondent acknowledges and agrees to the following conditions relative to its Proposal:

7.1.1 The Respondent is fully responsible for all its costs associated with the development, preparation, and submission of its Proposal and all other materials it submits in response to this RFP. The City assumes no contractual or other obligations toward Respondent as a result of the issuance of this RFP, the preparation or submission of a Proposal by Respondent, the City's evaluation of Proposals, or the City's selection of a Respondent for further negotiations;

7.1.2 It is Respondent's responsibility to ensure that its Proposal is complete, accurate, and submitted by the Deadline for Submitting Proposals set forth on the cover page of this RFP;

7.1.3 Upon submission, Respondent's Proposal becomes the property of the City and will not be returned to the Respondent;

7.1.4 Respondent will promptly permit the City to inspect projects and facilities referred to in Respondent's statement of its Management Experience Qualifications and References;

7.1.5 Respondent will promptly provide additional information or more detailed information upon request by the City, including information inadvertently omitted by a Respondent;

7.1.6 Respondent will promptly send representatives for interviews with City officials when requested by the City;

7.1.7 Respondent's Proposal shall remain open for acceptance by the City and in full effect for at least 120 calendar days from the Deadline for Submitting Proposals set forth on the cover page of this RFP;

7.1.8 Respondent may not issue news releases (including, but not limited to, commercial advertising) pertaining to this RFP without prior written approval of the City;

7.1.9 Respondent may withdraw or modify its Proposal at any time prior to the Deadline for Submitting Proposals by sending the City a written notice of

withdrawal or by submitting the modification in writing, signed in the same manner and by the same person(s) who signed Respondent's initial Proposal, to the address specified on the cover page of this RFP for submitting Proposals.

7.1.10 No Respondent may submit any portion of its Proposal for the City's review and comment before the Deadline for Submitting Proposals.

7.2 Reservation of Rights

The City reserves, and may in its sole discretion exercise, the following rights and options with respect to the proposal submission, evaluation and selection process under this RFP at any time prior to execution of the Concession Agreement:

7.2.1 To reject any Proposal if, in the City's sole discretion, the Proposal is incomplete, the Proposal is not responsive to the requirements of this RFP, 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;

7.2.2 To reject all Proposals, or to postpone, cancel and reissue the RFP or not reissue the RFP if, in the City's sole judgment, it is in the City's best interest to do so;

7.2.3 To supplement, amend, or otherwise modify any section of this RFP at any time prior to selection of one or more Respondents for negotiation;

7.2.4 To waive any Proposal informality, defect, or deviation from the requirements of this RFP that, in the sole judgment of the City, is not material to the Proposal;

7.2.5 To request that some or all of the Respondents clarify, modify or supplement their respective Proposals, including information inadvertently omitted;

7.2.6 To request interviews or oral presentations from one or more Respondents;

7.2.7 To request recent financial statements from a Respondent as a means of verifying its capability to meet all the obligations of the Concessionaire;

7.2.8 To conduct investigations with respect to the qualifications of each Respondent and call a Respondent's references;

7.2.9 To enter into negotiations and discussions with any one or more Respondents regarding any aspect or provision of their Proposals; and

7.2.10 To make modifications to the responsibilities of the Concessionaire as set forth in this RFP that, in the City's reasonable discretion, are not material

without informing other Respondents or permitting other Respondents to modify their respective Proposals, unless the City, in its sole discretion, determines that permitting other respondents to modify their Proposals is in the City's best interest.

7.3 Concession Agreement Effectiveness

The Concession Agreement will not be binding upon the City, and a Respondent will not become the Concessionaire, until after all of the following have occurred:

7.3.1 The Concession Agreement has been signed by the Respondent and approved by the City's legal counsel;

7.3.2 The Concession Agreement has been executed by the City; and

7.3.3 The Respondent has submitted certificates of insurance in accordance with Section 4.4 of this RFP and **Appendix 3**.

7.4 Acceptance of the Provisions of this RFP

By submitting a Proposal in response to this RFP, the Respondent expressly acknowledges and agrees to all the provisions contained in this RFP, including but not limited to the rights reserved by the City.

SECTION 8 – EVALUATION OF PROPOSALS

8.1 Selection Committee

Those Proposals that the City determines in its sole discretion are responsive to this RFP will be reviewed by a "**Selection Committee**" comprised of City officials and employees.

8.2 Proposal Evaluation Criteria

8.2.1 The Selection Committee will evaluate Proposals by considering the criteria listed below. No particular order of importance, weighting, or other priority is assigned to these factors or reflected by their order in the list.

8.2.1.1 Demonstrated experience at operating seasonal open markets that are similar in size and nature to the Licensed Space, and the Holiday Village.

8.2.1.2 Proposed Concession Fee.

8.2.1.3 Financial capacity to perform the services required by this RFP

and presented in the Respondent's Proposal.

8.2.1.4 The proposed Operating Plan.

8.2.1.5 M/W/DSBE participating percentages.

8.2.1.6 Any other factors the Selection Committee considers relevant to the evaluation to the Proposal.

8.2.2 The Selection Committee may ask one or more Respondents to discuss their respective Proposals with the Selection Committee. Discussion may cover any matter related to this RFP or that the City deems relevant to the proposed Concession.

8.3 Award of Concession Agreement

The City will award the Concession Agreement to the Respondent whose proposal the City, in its sole discretion, determines best meets the goals of the City in issuing this RFP and is in the best interest of the City. For that reason, the City may not necessarily award the Concession Agreement to the Respondent offering the highest Concession Fee.

8.4 Amendments of Concession Agreement

The City reserves the right, in its sole discretion, but subject to the Concessionaire's agreement, to amend the Concession Agreement in light of then-prevailing circumstances as a condition to renewing the Concession Agreement.

SECTION 9 – SIGNING OF PROPOSALS

Each Respondent must sign its Proposal using one of the forms on the following pages as is appropriate for the Respondent's form of business organization. The Proposal must be signed by a person authorized to bind the entity submitting the Proposal.
If Respondent is an INDIVIDUAL, PARTNERSHIP, or JOINT VENTURE, the Respondent must date and sign the RFP here:

[this space left intentionally blank]

This ____ day of _____, 2013

_____

Name of Respondent

_____

Signature of Individual or Authorized Signer

_____

Printed Name and Title of Signer

_____

Additional Authorized Signer (if applicable)

_____

Printed Name & Title of Additional Authorized Signer (if applicable)

_____

Federal Employer Identification Number

_____

Phone Number

_____

E-mail Address

_____

Street Address

_____

City, State, Zip Code

If Respondent is a CORPORATION or LIMITED LIABILITY COMPANY, the Respondent must sign and date the RFP here:

This ____ day of_____, 2013

_____

Corporate Name

_____

Signature of Authorized Official

_____

Printed Name and Title of Signer

_____

Additional Authorized Signer (if applicable)

_____

Printed Name & Title of Additional Authorized Signer (if applicable)

_____

Federal Employer Identification Number

_____

Phone Number

_____

E-mail Address

_____

Street Address

_____

City, State, Zip Code

APPENDIX 1

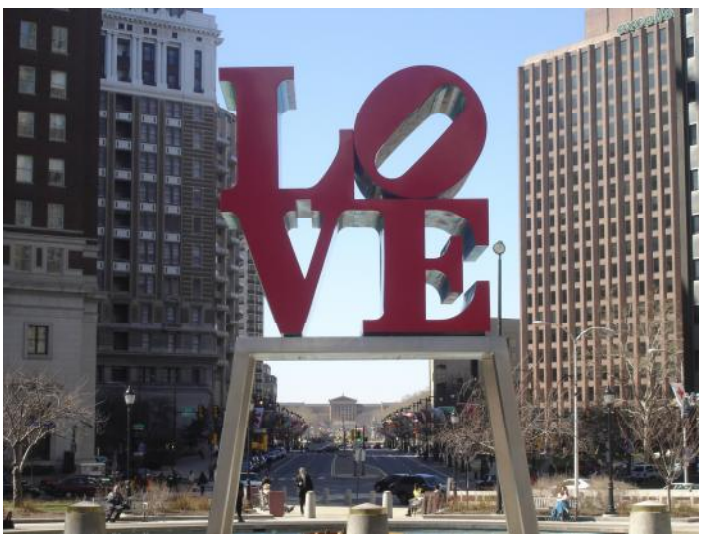
JFK PLAZA PHOTOS

Love Statue

Welcome Center

View of City Hall from JFK Plaza

View of the Philadelphia Art Museum from JFK Plaza



Holiday Village Licensed Space

JFK Plaza 1501 John F Kennedy Blvd Philadelphia PA 19102

PHILADELPHIA PARKS & RECREATION

Appendix 3

Indemnification, Release and Insurance Requirements

1. Indemnification of City; Release of City

a. Concessionaire shall promptly indemnify, defend, and hold harmless the City from and against any and all losses, costs (including, but not limited to, litigation and settlement costs and counsel fees), claims, suits, actions, damages, expenses and liabilities, caused wholly or in part by Concessionaire's act or omission or negligence or fault (or the act, omission, negligence or fault of Concessionaire's agents, subcontractors, employees or servants) in connection with the privileges granted under the Concession Agreement Documents, 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 subcontractors and suppliers, selling of food and beverages with any bacteria, virus, or toxin that causes illness to any person, any breach of the Concession Agreement Documents, and any infringement or violation of any proprietary right (including but not limited to patent, copyright, trademark, service mark and trade secret). Concessionaire's obligation to indemnify, defend and hold harmless the City under this provision survives the expiration or termination of the Concession Agreement Documents.

b. In consideration for the License the City gave to the Concessionaire under the Concession Agreement Documents, the Concessionaire, for itself, its officers, directors, employees, agents, and assigns, and any person claiming by, through, or under them, or any of them (collectively, the "Releasors"), forever releases the City from any and all, and all manner of, actions and causes of actions, suits, claims, liabilities, and demands, in law or in equity, the Releasors may have against the City arising out of or related to the condition of the Licensed Space or other City-owned land, the City's acts or omissions on or around the Licensed Space and other City-owned land, or Concessionaire's exercise of the License and entry onto the Licensed Space and other City-owned land.

2. Insurance Requirements. Concessionaire shall at its sole cost and expense, procure and maintain insurance covering its employees, invitees and the Licensed Space, in the types and minimum amounts of insurance specified below throughout the term of this Concession Agreement Documents. All insurance shall be procured from reputable insurers authorized to do business in the Commonwealth of Pennsylvania or otherwise acceptable to the City. All insurance herein shall be written on an "occurrence" basis.

a. Concessionaire shall maintain the following insurance during the term of the Agreement:

1. <u>Workers' Compensation and Employers' Liability</u>

(a) Workers Compensation – Statutory Limits;

(b) Employers Liability:
$100,000 Each Accident - Bodily Injury by Accident;
$100,000 Each Employee - Bodily Injury by Disease;
$500,000 Policy limit - Bodily Injury by Disease;

(c) Other states endorsement including Pennsylvania.

2. General Liability Insurance

(a) 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.

(b) 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) liability.

3. Commercial Automobile Liability Insurance

(a) Limit of Liability: $1,000,000 per occurrence combined single limit for bodily injury and property damage liability;

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

4. Liquor Liability Insurance for liability arising out of the manufacturing, distribution, sale or service of alcoholic beverages at limits not less than $1,000,000 combined single limit per occurrence.

5. Umbrella Liability Insurance at limits totaling $2,000,000 per occurrence when combined with insurance required under (1), (2), (3) and (4) above.

b. Concessionaire shall cause its vendors to maintain the following insurance during the term of the Concession Agreement Documents:

1. Workers' Compensation and Employers' Liability

(a) Workers Compensation – Statutory Limits;

(b) Employers Liability:
$100,000 Each Accident - Bodily Injury by Accident;
$100,000 Each Employee - Bodily Injury by Disease;
$500,000 Policy limit - Bodily Injury by Disease;

(c) Other states endorsement including Pennsylvania.

2. General Liability Insurance

(a) 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.

(b) 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) liability.

3. Commercial Automobile Liability Insurance

(a) Limit of Liability: $1,000,000 per occurrence combined single limit for bodily injury and property damage liability;

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

4. Liquor Liability Insurance for liability arising out of the manufacturing, distribution, sale or service of alcoholic beverages at limits not less than $1,000,000 combined single limit per occurrence.

The City of Philadelphia, its officers, employees and agents, shall be named as additional insureds on the Commercial General Liability Insurance policy. An endorsement is required stating that the coverage afforded the City of Philadelphia, 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.

Certificates of insurance evidencing the required coverages must be submitted to City of Philadelphia's Risk Manager at 1515 Arch Street, 14th Floor, Philadelphia, PA 19102 at least ten (10) days before work is begun and upon each renewal. The City reserves the right to require to Concessionaire to furnish certified copies of the original policies of all insurances required under the Concession Agreement at any time upon ten (10) days written notice to Provider.

Concessionaire and its vendors shall not permit any lapse in or termination or cancellation of the insurance coverage required under the Concession Agreement Documents. Concessionaire must ensure that replacement coverage meeting the requirements of the Concession Agreement Documents are in effect prior to the expiration of the policy period.

In the event the Concessionaire fails to procure and/or cause such insurance to be maintained, the City shall not be limited in the proof of any damages which the City may claim against Concessionaire or any other person or entity to the amount of the insurance premium or premiums not paid or incurred and which would have been payable upon such insurance, but the City shall also be entitled to recover damages for such breach, the uninsured amount of any loss, damages and expenses of suit and costs, including without limitation, reasonable collection fees,

suffered or incurred during any period when Concessionaire shall have failed or neglected to provide the insurance as required herein.

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

The insurance required by the Agreement, or otherwise provided by Concessionaire, shall in no way modify, limit or reduce the indemnification obligations of the City or limit any liability or responsibilities under the Agreement to the limits of the insurance policy(ies) or required insurance of Concessionaire and it's vendors.

CONCESSION FEE PROPOSAL FORM

Instructions: This Form A: Concession Fee Proposal Form must be completed in its entirety. A Concession Fee amount must be written in Section 1 of this Form A.

Name
Business Name
Street Address
City, State, Zip Code
Business Phone
Cell Phone
Email Address
Website, Facebook, Twitter or Other Social Media Information

1. Proposed Concession Fee Amount (Must Be a Minimum of $25,000): _____

2. References

Name_____ Phone Number_____

Relationship_____ Email Address _____

Name_____ Phone Number_____

Relationship_____ Email Address _____

Name_____ Phone Number_____

Relationship_____ Email Address _____

Signature of Respondent's Authorized Official _____ Date _____