



RFP C-106-14

For the Management and Operation of an Outdoor Music Festival

Issued By:

The City of Philadelphia (the "City")

Office of the Managing Director
Richard Negrin, Managing Director

&

Procurement Department
Hugh Ortman, Commissioner

SEALED PROPOSALS WILL BE RECEIVED UNTIL April 1, 2014
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 no later than March
27, 2014 at 5:00 p.m. local time ("Deadline for Questions")

and directed to

Jazelle M. Jones

Deputy Managing Director/Director of Operations

Office of the Managing Director

by email at jazelle.jones@phila.gov

Table of Contents

- I. Event Overview
 - A. Introduction; Statement of Purpose
 - B. Department Overview
 - C. Request for Proposals
 - D. General Disclaimer of the City of Philadelphia
 - E. Review Entire RFP Carefully; RFP Will Be Part of Concession Agreement
 - F. Public Disclosure
 - G. Information and Data in this RFP Not Warranted

- II. Scope of Work
 - A. Timetable
 - B. Reporting Requirements
 - C. Specific Performance Standards
 - D. Event Security
 - E. Concession Fee; Payment Schedule
 - F. Organization & Personnel Requirements
 - G. Environmentally-Friendly (“Green”) Products & Practices

- III. Proposal Format, Content, and Submission Requirements; Selection Process
 - A. Proposal Format
 - B. Submission of Proposals
 - C. Notice to Applicants to State Requested Exceptions to Concession Agreement Terms in Proposal
 - D. Confidential Information
 - E. Office of Economic Opportunity – Participation Commitment
 - F. The Philadelphia Tax and Regulatory Status and Clearance Statement
 - G. Local Business Entity or Local Impact Certification
 - H. Selection Process
 - I. Tax Requirements

- IV. Proposal Administration
 - A. Procurement Schedule
 - B. Questions Relating to the RFP
 - C. Interviews; Presentations
 - D. Term of Concession Agreement

- V. General Rules Governing RFPs/Proposals; Reservation of Rights, Confidentiality and Public Disclosure
 - A. Revisions to RFP
 - B. City Employee Conflict Provision
 - C. Proposal Binding
 - D. Reservation of Rights
 - E. Confidentiality and Public Disclosure
 - F. Ethics Requirements
 - G. Philadelphia 21st Century Minimum Wage and Benefits Standard
 - H. City’s Right to Inspect
 - I. Conditions Regarding Proposals
 - J. Concession Agreement Effectiveness

- VI. Signing of Proposals

Appendices

Appendix A – Concession Agreement

Appendix B – Office of Economic Opportunity, Antidiscrimination Policy – Minority, Woman and Disabled Owned Business Enterprises Solicitation for Participation and Commitment Form

Appendix C – City of Philadelphia Tax and Regulatory Status and Clearance Statement

Appendix D – Local Business Entity or Local Impact Certification

Appendix E – Concession Fee Proposal Form

Appendix F – Site Map

I. Event Overview

A. Introduction; Statement of Purpose

This RFP is for the services of a individual or entity (the "Event Producer") to produce a large scale, turn key, two-day Music Festival on August 30, 2014 and August 31, 2014 on the Benjamin Franklin Parkway in Philadelphia, Pennsylvania (the "Event" or the "Music Festival")

The Music Festival shall include, but not be limited to, the music genres of popular alternative rock, hip hop, dance, house music and pop. The Music Festival should be designed to attract a diverse, multi-generational and multi-racial demographic from across the tri-state area.

B. Department Overview

The Office of the Managing Director ("MDO"), a Cabinet-level office that directly supervises and oversees all of the City of Philadelphia ("City") operating departments that deliver City services for special events, i.e., Police, Fire, Streets, Licenses and Inspections, Public Property, Recreation, Fairmount Park, Health, etc., has significantly broadened its mission to ensure that City services and programs are delivered effectively and efficiently. The MDO has traditionally accomplished this by providing oversight, support and assistance; and, by serving as a catalyst to encourage cooperation and collaboration on interdepartmental as well as external initiatives including the production of films, commercials, parades, festivals, concerts and many other special events.

The MDO is responsible for making sure that all the necessary permits, insurance coverage and agreements with the City are executed prior to any event that: (i) takes place in or on city streets or City-owned or occupied property, and/or (ii) grants the right to construct any equipment at a specific site.

For all events, the Managing Director's Office may determine the basis and the amount of the deposit required to hold an event. Based on a cost analysis from each of the departments, the MDO works closely with event sponsors to streamline costs; negotiate terms and conditions; facilitate the agreement; and, most importantly - ensure public safety. The MDO works closely with the Risk Management Division as well as the Law Department to ensure the safety of City workers and members of the public, who may participate in or are present during the production of any event.

At the conclusion of every event, the MDO prepares a final bill for any and all City services rendered with the exclusion of the Philadelphia Police Department ("PPD") and Fire Department who directly bills unless stipulated in a previously negotiated agreement.

C. Request for Proposals

The City seeks proposals from individuals or entities desiring to produce the Music Festival.

The City seeks only proposers who have the financial means and capacity to produce an event of this nature and magnitude.

D. General Disclaimer of the City

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 Applicant, is intended to be granted any rights hereunder. Any response, including written documents and verbal communication, by any Applicant to this RFP, shall become the property of the City and may be subject to public disclosure by the City, or any authorized agent of the City.

E. Review Entire RFP Carefully; RFP Will Be Part of Concession Agreement

All Applicants are encouraged to carefully read this entire RFP and its attachments before submitting a Proposal. This RFP will become part of the Concession Agreement.

F. 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 III.D. of this RFP.

G. Information and Data in This RFP Not Warranted

To the extent the City provides information and data in this RFP to help potential Applicants understand the purpose of this RFP and the Concession Agreement, and to help each Applicant prepare a Proposal, the City believes the information and data to be reliable, but the City does not represent or warrant that the information or data is accurate. Potential Applicants are encouraged to conduct their own investigations into any matter of concern to them about this RFP, the Concession Agreement, or their Proposal.

II. Scope of Work

The Event Producer will have complete responsibility for the management and operation of the Music Festival. Some of the following scope of work shall require approval from the City. The responsibilities of the Event Producer will include, but are not limited to, those set forth in this RFP and those set forth in the Concession Agreement.

The Event Producer shall:

- Recruit and manage all staff and vendors (including its subcontractors for food services, staging, lighting, talent agencies, etc.)
- Negotiate client and vendor contracts
- Demonstrate established labor experience with local organized trade unions
- Establish a working and transparent budget
- Secure Event sponsorships
- Demonstrate its ability to sign “major” recording artists
- Have experience with local, intermediate and national broadcast outlets
- Submit workplan/production schedule, including timeline for load-in and load-out; devise operational plan for other logistics such as communications, equipment placement/storage; parking; security, tenting and rentals; catering; event credentials
- Obtain all necessary permits and licenses required to hold the Event
- Obtain all necessary insurance certifications
- Disclose and obtain express permission for all pyrotechnics, special effects and/or fireworks in connectin with the Music Festival
- Prepare and submit a plan to secure existing infrastructure within the designated Event footprint
- Prepare an emergency medical plan
- Prepare an emergency evacuation plan
- Prepare an inclement weather plan (Music Festival is to be considered a “rain or shine” event)
- Coordinate with the Managing Director's Office for city services to be rendered
- Coordinate with the Office of the City Representative develop a public and media relations strategy
- Keep meticulous records of all expenses and payments to vendors
- Design Event venue/space within regulations and guidelines set forth by the City (see attached proposed site map of venue)
- Commit to devoting six (6) months of the year to the planning and implementation of the Music Festival
- Attend weekly meetings with representatives of the City leading up to the Music Festival
- Attend meetings with pertinent residential and business community groups, as necessary leading up to the Music Festival
- Provide outreach strategy for community and Benjamin Franklin Parkway institutions
- Be accessible via phone or email at all times during the 6 month planning and implentation period.

A. Timetable

Applicant's proposal should include a detailed Event schedule that identifies all tasks, activities, deliverables, and milestones the Applicant proposes to carry out for the Event and a time of completion for each.

B. Reporting Requirements

The successful Applicant shall report to the City on a regular basis regarding the status of the Event. The successful Applicant shall report any changes in programming, production timeline, Event footprint, event layout, requests for additional City services/equipment, and any other necessary information related to the Music Festival. At a minimum, the successful Applicant shall submit a bi-weekly report detailing the services and/or products provided and the goals/tasks accomplished.

C. Specific Performance Standards

The City reserves the right to reject any item of work that does not meet the Department's minimum standards of performance and quality, or that does not conform to the Concession Agreement scope of work.

The City expects that the Concession Agreement resulting from this RFP will include performance and quality standards for the Event in accordance with The Philadelphia Code and the Scope of Work detailed in Section II.

D. Event Security

The successful Applicant shall be required to submit for review a comprehensive Event security plan for the Music Festival, including, but not limited to the following:

- Security command structure (including job title and contact information for key personnel)
- Security personnel staffing levels for each day of the Event (including set-up and breakdown)
- List of allowed items within the Event footprint
- List of prohibited items within the Event footprint
- Sample of instructions/guidelines to be issued to security personnel
- Sample incident report to be used by security personnel

E. Concession Fees; Payment Schedule

The successful Applicant shall be responsible for all expenses incurred by the City in relation to the conducting of the Music Festival and will be obligated to pay the City for all personnel (including overtime costs), services, equipment and materials, if any, provided by the City, in connection with the conducting of the Music Festival.

Upon completion and submittal of all necessary applications and issuance of all necessary permits, the City will provide a cost estimate for all reimbursable City expenses expected to be incurred in connection with the Music Festival.

Proposals shall include, in the form of an offer, a specific percentage of Gross Revenue from the Event that will be paid to the City at the conclusion of the Event (the "Concession Fee"). Include in this section any additional incentives being offered to the City. Applicants are required to utilize Appendix E, Concession Fee Proposal Form, when providing their offer. These fees are in addition to the City services reimbursement fees.

The City will award the Agreement to the Applicant 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 Agreement to the Applicant offering the highest Concession Fee.

F. Organization and Personnel Requirements

The proposal to the City must include the following:

- Submittal of organizational structure: the management, administrative, security & technical Event staff structure including contact information for each member of the Event staff
- Organization history/experience: years of experience, experience with event of a similar size/scope
- Organization's references
- Technical expertise of personnel: licenses, certifications, years of experience
- Financial capacity requirements
- Insurance types and limits maintained

The proposal must also identify all personnel who will perform work on the Event, including, but not limited to, production staff, security staff and all food/merchandise vendors.

The successful Applicant must hold the necessary licenses required to do business in the City of Philadelphia and obtain a Commercial Activity License from the City's Department of Licenses and Inspections.

The successful Applicant is required to obtain ASCAP, SESAC, and/or BMI blanket performance licenses, and will require its subcontractors to obtain any similar performance licenses, required for the use of copyrighted or licensed material in connection with the presentation of the Music Festival, or otherwise required in connection with the use of the premises for the Music Festival.

G. Environmentally-Friendly ("Green") Products & Practices

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

If the Event Producer intends to use any disposable products at the Music Festival, the City encourages the Event Producer to use chlorine-free, biodegradable products such as paper towels, napkins, utensils, and plates. Additionally, the City encourages the Event Producer to use "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>. The City also encourages the serving of sustainable food products and the training of staff on environmentally-friendly food practices.

III. Proposal Format, Content, and Submission Requirements; Selection Process

A. Proposal Format

Proposals submitted in response to this RFP must include a cover letter signed by the person authorized to issue the proposal on behalf of the Applicant, and the following information, in the sections and order indicated:

1. Proposal Signature Page (Section VI) and Cover Letter
2. Table of Contents
3. Introduction/Executive Summary

Provide an overview of the proposed Event

4. Applicant Profile

Provide a narrative description of the Applicant itself, including the following:

a. Applicant's business identification information, including name, business address, telephone number, website address, and federal taxpayer identification number or federal employer identification number;

b. A primary contact for the Applicant, including name, job title, address, telephone and fax numbers, and email address;

c. A description of Applicant's business background, including, if not an individual, Applicant's business organization (corporation, partnership, LLC, for profit or not for profit, etc.), whether registered to do business in Philadelphia and/or Pennsylvania, country and state of business formation, number of years in business, primary mission of business, significant business experience, whether registered as a minority-, woman-, or disabled-owned business or as a disadvantaged business and with which certifying agency, and any other information about Applicant's business organization that Applicant deems pertinent to this RFP.

5. Event Understanding

Provide a brief narrative statement that confirms the Applicant's understanding of, and agreement to provide, the services and/or tangible work products necessary to achieve the objectives of the Event that is the subject of this RFP. Applicant shall describe how the Applicant's business experience will benefit the Event.

6. Proposed Scope of Work

Provide a proposed Event plan, including a cost proposal and Event timetable (schedule), in accordance with Section II, "Scope of Work," of this RFP.

7. Statement of Qualifications; Relevant Experience

Provide a statement of qualifications and capability to perform the services sought by this RFP, including a description of relevant experience with events that are similar in nature, size and scope to that which is the subject of this RFP. If any minimum qualifications for performance are stated in this RFP, Applicant must include a statement confirming that Applicant meets such minimum requirements.

8. References

Provide at least three references, preferably for events that are similar in type, scope, size and/or value to the work sought by this RFP. If applicable, Applicant should provide references for an event with other municipalities that are similar in size to the City of Philadelphia. For each reference, include the name, address and telephone number of a contact person.

9. Proposed Subcontractors

State the intention to use subcontractors to perform any portion of the work in connection with the Event. For each such subcontractor, provide the name and address of the subcontractor, a description of the work Applicant intends the named subcontractor to provide, and whether the subcontractor can assist with fulfilling goals for inclusion of minority, woman, or disabled-owned businesses or disadvantaged businesses as stated in Appendix B.

10. Requested Exceptions to Concession Agreement Terms

State exceptions, if any, to City Concession Agreement terms that Applicant requests, including the reasons for the request and any proposed alternative language. (See Section III.B for more information.)

11. Solicitation for Participation and Commitment Form

As a separate document, include a completed Solicitation for Participation and Commitment Form. The form is provided with Appendix B to this RFP. (See Section III.D for more information.)

12. Tax and Regulatory Status and Clearance Statement

Include a statement, in the form requested in Appendix C, attesting to Applicant's tax and regulatory compliance with the City. (See Section III.E for more information.)

13. Local Business Entity or Local Impact Certification.

If applicable, Applicant may elect to provide the certification statement in the form of Appendix D as to Applicant's status as a Local Business Entity or its local impact if awarded the contract. (See Section III.G for more information.)

14. Disclosure of Litigation; Disclosure of Administrative Proceedings

State, for the 5-year period preceding the date of this RFP, a description of any judicial or administrative proceeding that is material to Applicant's business or financial capability or to the subject matter of this RFP, or that could interfere with Applicant's performance of the work requested by this RFP, including, but not limited to, any civil, criminal or bankruptcy litigation; any debarment or suspension proceeding; any criminal conviction or indictment; and any order or agreement with or issued by a court or local, state or federal agency. For each such proceeding, state the name of the case or proceeding, the parties involved, the nature of the claims involved, its current status and the final disposition, if any. Provide the same information for any officer, director, principal, or partner of Applicant's organization, and for any subcontractor Applicant plans to use to perform the services described in this RFP.

15. Statement of Financial Capacity

Provide documentation demonstrating fiscal solvency and financial capability to perform the work sought by this RFP. Consider providing one or more of the following:

- General statement of the Applicant's financial condition;
- Applicant's most recent audited or unaudited financial statements;
- Disclosure of any bankruptcy filings over the past five years;
- Most recent IRS Form 990 (for non-profit organizations only).

16. Defaults

Provide a description, in detail, of any situation occurring within the past five (5) years in which the Applicant, or a joint venture or partnership of which Applicant was a part, defaulted or was deemed to be in noncompliance of any contractual obligations, explaining the issues involved in the default, the outcome, the actions taken by Applicant to resolve the matter. Also provide the name, title and telephone number of the party to the concession agreement who asserted the event of default or noncompliance or the individual who managed the concession agreement for that party.

17. Completed Concession Fee Proposal Form

Using the Concession Fee Proposal Form, each Applicant must propose a Gross Revenue payment to the City for the right to manage and operate the Music Festival. Gross Revenue

means all revenue, however characterized, the concessionaire receives in connection with the Management and Operation of the Music Festival.

B. Submission of Proposal

Each Applicant must submit its Proposal to the City no later than the Deadline for Submitting Proposals. Applicants must submit one original of their Proposal along with an electronic version of the full original Proposal on either CD-ROM or jump drive. Each Applicant is solely responsible for delivery of its Proposal on time and to the proper location and for verifying receipt of its Proposal by the Procurement Department. The “Deadline for Submitting Proposals” and the location for submitting Proposals are set forth on the cover page of this RFP. The City recommends that each Applicant plan to submit its Proposal sufficiently in advance of the Deadline for Submitting Proposals to resolve any unexpected problems the Applicant may encounter with completing, copying or delivering the proposal. Please allow additional time for security sign-in procedures at the Municipal Services Building if hand-delivering its Proposal on the Deadline for Submitting Proposals.

Each Applicant’s Proposal must follow the format of this RFP, as described in Section IIIA.

Each Applicant 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. Notwithstanding anything to the contrary contained herein, the City will only accept Proposals in hard copy and will not accept Proposals by facsimile or by e-mail.

Applicants must include the following information on the outside of all envelopes, packets, or boxes to ensure clear identification of their Proposals:

1. Applicant’s Name and Business Address;
2. Identification as “Proposal for the Management and Operation of an Outdoor Music Festival”, RFP #C-106-14; and, The Deadline for Submitting Proposals, as stated on the cover page of this RFP.

Proposals will not be accepted if the Proposal is not signed in accordance with Section VI of the RFP.

Wherever an Applicant is providing information required by this RFP, the Applicant must identify the information by using the corresponding Section number, Attachment or Form of this RFP that requires the information.

Modifications; Late Proposals

Until the Deadline for Submitting Proposals, an Applicant may submit a modified Proposal to replace all or any portion of a Proposal the Applicant submitted previously. The City will only consider the latest version of an Applicant’s Proposal. The City will not consider or evaluate late Proposals and late modifications. An Applicant may withdraw its Proposal from consideration at any time before the Deadline for Submitting Proposals. To withdraw a Proposal, the Applicant

must provide written notification to the City's Procurement Commissioner, Hugh Ortman, by mail.

C. Notice to Applicants to State Requested Exceptions to Concession Agreement Terms in Proposal

The City's contract terms and conditions for transactions of this nature are attached to this RFP as Appendix A ("Concession Terms"). By submitting a proposal in response to this contract opportunity, the Applicant agrees that, except as provided herein, it will enter into a contract with the City containing substantially the attached terms.

Applicants must state clearly and conspicuously any modifications, waivers, objections or exceptions they seek ("Requested Exceptions") to the Concession Terms in a separate section of the proposal entitled "Requested Exceptions to Concession Terms." For each Requested Exception, the Applicant must identify the pertinent Concession Term by caption and section number, state the reasons for the request, and propose alternative language or terms. Requested Exceptions to the City's Concession Terms will be approved only when the City determines in its sole discretion that a Requested Exception makes business sense, does not pose unacceptable risk to the City, and is in the best interest of the City. By submitting its proposal, the Applicant agrees to accept all Concession Terms to which it does not expressly seek a Requested Exception in its proposal. The City reserves the right, in its sole discretion, to evaluate and reject proposals based in part on whether the Applicant's proposal contains Requested Exceptions to Concession Terms, and the number and type of such requests and alternative terms proposed.

If, after the City issues its Notice of Concession Award to an Applicant, the Applicant seeks Requested Exceptions to Concession Agreement Terms that were not stated in its proposal, the City may, in its sole discretion, deny the Requested Exceptions without consideration or reject the proposal.

The City reserves the right, in its sole discretion, (i) to waive any failure to comply with the terms of this Notice to Applicants if it determines it is in the best interest of the City to do so; and (ii) to require or negotiate terms and conditions different from and/or additional to the Concession Agreement terms in any final contract resulting from this contract opportunity, without notice to other Applicants and without affording other Applicants any opportunity to revise their proposals based on such different or additional terms.

D. Confidential Information

If an Applicant chooses to include in its Proposal material of a confidential nature, then the Applicant 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.

Each Applicant must identify the pages of its Proposal that contain confidential information by prominently marking those pages as explained below. Applicants 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 Applicant has designated it as confidential. The City recommends that each Applicant confer with legal counsel regarding the disclosure requirements of the Right to Know Act. Applicants 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, contains proprietary information that the Applicant desires not be disclosed. The Applicant requests that the confidential information be used only for evaluation of Applicant's Proposal and not be disclosed to the public, except as may be required by Applicable Law.

E. Office of Economic Opportunity – Participation Commitment

This RFP is subject to the provisions of Mayoral Executive Order 03-12, the City's Antidiscrimination Policy, and Applicant is required to exercise its “Best and Good Faith Efforts” in response to the ranges specified in Appendix B included with this RFP for participation by Minority Business Enterprises (“MBE”) [20% - 25%], and Woman Business Enterprises (“WBE”) [10% - 15%], as those terms are defined in Executive Order 03-12. Forms, instructions and special contract provisions for the Antidiscrimination Policy explain these requirements in more detail and are included in Appendix B to this RFP. Applicants are required to complete and return with their proposals the “Solicitation for Participation and Commitment Form” which is included in Appendix B.

F. The Philadelphia Tax and Regulatory Status and Clearance Statement

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

If the Applicant is not in compliance with the City's tax and regulatory codes, an opportunity will be provided to enter into satisfactory arrangements with the City. If satisfactory arrangements cannot be made, Applicants will not be eligible for award of the contract contemplated by this RFP.

The selected Applicant will also be required to assist the City in obtaining the above information from its proposed subcontractors (if any). If a proposed subcontractor is not in compliance with City Codes and fails to enter into satisfactory arrangements with the City, the non-compliant subcontractor will be ineligible to participate in the contract contemplated by this RFP and the selected applicant may find it necessary to replace the non-compliant subcontractor with a compliant subcontractor. Applicants are advised to take these City policies into consideration when entering into their contractual relationships with proposed subcontractors.

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

Applicants need not have a City of Philadelphia Business Income and Receipts Tax Account Number (formerly Business Privilege Tax Account Number) and Commercial Activity License Number (formerly Business Privilege License Number) to respond to this RFP, but will, in most circumstances, be required to obtain one or both if selected for award of the contract contemplated by the RFP.¹ Applications for a Business Income and Receipts Tax Account Number or a Commercial Activity License² may be made on line by visiting the City of Philadelphia Business Services Portal at <http://business.phila.gov/Pages/Home.aspx> and clicking on "Register Now." If you have specific questions, call the Department of Revenue at 215-686-6600 for questions related to City of Philadelphia Business Income and Receipts Tax Account Number or the Department of Licenses and Inspections at 215-686-2490 for questions related to the Commercial Activity License.

G. Local Business Entity or Local Impact Certification

Pursuant to Mayoral Executive Order No. 04 -12, the City Department will, in the selection of the successful Applicant, consider whether that Applicant has certified that either (1) Applicant meets the criteria stated in Section 17-109(3)(b) of the Philadelphia Code³ to qualify as a Local Business Entity or (2) in the performance of the resulting contract, Applicant will employ City residents, or perform the work in the City. Any Applicant who wishes to demonstrate its eligibility for this consideration shall do so by completing, executing and attaching to its application a completed Local Business Entity or Local Impact Certification, the form of which is attached to this RFP as Exhibit D. The Applicant shall then also include in a separate section of the application, labeled "Local Business Entity or Local Impact Certification," a statement that the Applicant believes it has met the Local Business Entity or Local Impact criteria "as set forth in the attached Local Business Entity or Local Impact Certification." The City Department

¹ Applicants that have a Business Privilege Tax Number should use that number, as it is automatically their Commercial Activity License Number, and need not apply for a new Commercial Activity License Number. Similarly, Applicants with a Business Privilege Tax Account Number should use that number as their Business Income and Receipts Tax Account Number.

² Commercial Activity Licenses are not typically required for non-profit organizations; however, Business Income and Receipts Tax Account Numbers typically are required.

³ A link to the Philadelphia Code is available on the City's official web site, www.phila.gov. Click on "City Code and Charter," located to the bottom right of the welcome page under the box, "Transparency."

shall deem it a positive factor where the Applicant has, in the City's sole discretion, met the Local Business Entity or Local Impact criteria.

H. Selection Process

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. The Selection Committee will base its selection on criteria, in no particular order, that include, but are not limited to:

- Superior ability or capacity to meet particular requirements of contract and needs of the City
- Superior prior experience of Applicant and staff
- Superior skill and reputation, including timeliness and demonstrable results in the operation of music festivals or other similar events
- Administrative and operational efficiency, requiring less City oversight and administration in the operation of the Event
- Anticipated long-term cost effectiveness of the Event
- Proposed Concession Fee
- Applicant's certification that it is a Local Business Entity under Section 17-109(3)(b) of the Philadelphia Code or, in the performance of the resulting contract, it will employ City residents, or perform the work in the City
- Any other factors the Selection Committee considers relevant to the evaluation of the Proposal

I. Tax Requirements

Any contractor, vendor of goods, or provider of services, who proposes 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 Event Producer's delivery of goods into the City, or performance of services in the City, is "doing business" in the City and subjects the Event Producer to the City's tax requirements, including without limitation one or more of the following taxes:

- o Business Income and Receipt Taxes
- o Net Profits Tax
- o City Wage Tax

Promptly following the Commencement Date, the Event Producer, 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 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.

IV. Proposal Administration

A. Procurement Schedule

RFP Posted	<i>March 12, 2014</i>
Site Visit	<i>March 19 – March 25, 2014</i>
Applicant Questions Due	<i>March 27, 2014</i>
Proposals Due	<i>April 1, 2014</i>
Applicant Interviews, Presentations	<i>April 7 – April 9, 2014</i>
Applicant Selection	<i>April 11, 2014</i>
Music Festival Date	<i>August 15- September 4, 2014</i>

The above dates are estimates only and the City reserves the right, in its sole discretion, to change this schedule.

B. Questions Relating to the RFP

All questions concerning this RFP must be submitted in writing via email to *Deputy Managing Director Jazelle M. Jones* (Jazelle.Jones@phila.gov) no later than March 25, 2014 and may not be considered if not received by then. The City will respond to questions it considers appropriate to the RFP and of interest to all Applicants, but reserves the right, in its discretion, not to respond to any question. 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.

The City will answer all questions asked timely submitted to the City, and which the City in its sole discretion determines concern a material element of the proposal process or 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 website: <http://www.phila.gov/bids> (under the Public Works Bidding Opportunities section). The City is not bound by any oral response made by any City employee to any questions.

The addenda issued by the City are the City's only official method for communicating information to all potential Applicants. Applicants should check <http://www.phila.gov/bids> before submitting a Proposal to verify that they have reviewed all the addenda relating to this RFP. Each Applicant must acknowledge in its Proposal that it has reviewed all addenda to this RFP.

C. Interviews; Presentations

Interviews and/or presentations may be required for this RFP. Any costs, including travel, of interviews and/or presentations are the responsibility of the Applicant. Applicants will be invited

to participate in the interview/presentation process at the discretion of the City. Be advised that not all Applicants may be invited to participate in this portion of the review.

D. Term of the Concession Agreement

The initial term of the Concession Agreement shall commence on or about the date of “Selection” and shall terminate six (6) months thereafter,. The City may, at its sole option, amend the Concession Agreement to add up to three (3) additional successive terms (“Additional Terms”). Except as may be stated otherwise in such amendment, the terms and conditions of this Concession Agreement shall apply throughout each Additional Term.

V. General Rules Governing RFPs/Proposals; Reservation of Rights and Confidentiality

A. Revisions to RFP

The City reserves the right to change, modify or revise the RFP at any time. Any revisions to this RFP will be posted at <http://www.phila.gov/bids> (under the Public Works Bidding Opportunities section) with the original Opportunity Details. It is the Applicant’s responsibility to check the website frequently to determine whether additional information has been released or requested.

B. City Employee Conflict Provision

City employees and officials are prohibited from submitting a proposal in response to this RFP. No proposal will be considered in which a City employee or official has a direct or indirect interest.

C. Proposal Binding

By submitting its proposal, each Applicant agrees that it will be bound by the terms of its proposal for a minimum of 180 calendar days from the application deadline for this RFP. An Applicant’s refusal to enter into a Concession which reflects the terms and conditions of this RFP or the Applicant’s proposal may, in the City’s sole discretion, result in rejection of Applicant’s proposal.

D. 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:

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 Applicant does not meet the qualifications set forth in the RFP, or it is otherwise in the City’s best interest to do so;

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;
3. To supplement, amend, or otherwise modify any section of this RFP at any time prior to selection of one or more Applicants for negotiation;
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;
5. To request that some or all of the Applicants clarify, modify or supplement their respective Proposals, including information inadvertently omitted;
6. To request interviews or oral presentations from one or more Applicants;
7. To request recent financial statements from an Applicant as a means of verifying its capability to meet all the obligations of the Event Producer;
8. To conduct investigations with respect to the qualifications of each Applicant and call an Applicant's references;
9. To enter into negotiations and discussions with any one or more Applicants regarding any aspect or provision of their Proposals; and
10. To make modifications to the responsibilities of the Event Producer as set forth in this RFP that, in the City's reasonable discretion, are not material without informing other Applicants or permitting other Applicants to modify their respective Proposals, unless the City, in its sole discretion, determines that permitting other Applicants to modify their Proposals is in the City's best interest.

E. Confidentiality and Public Disclosure

The successful Applicant shall treat all information obtained from the City which is not generally available to the public as confidential and/or proprietary to the City. The successful Applicant shall exercise all reasonable precautions to prevent any information derived from such sources from being disclosed to any other person. The successful Applicant agrees to indemnify and hold harmless the City, its officials and employees, from and against all liability, demands, claims, suits, losses, damages, causes of action, fines and judgments (including attorney's fees) resulting from any use or disclosure of such confidential and/or proprietary information by the successful Applicant or any person acquiring such information, directly or indirectly, from the successful Applicant.

By submission of a proposal, Applicants acknowledge and agree that the City, as a municipal corporation, is subject to state and local public disclosure laws and, as such, is legally obligated to disclose to the public documents, including proposals, to the extent required thereunder. Without limiting the foregoing sentence, the City's legal obligations shall not be limited or expanded in any way by an Applicant's assertion of confidentiality and/or proprietary data.

G. Ethics Requirements

1. The Event Producer 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.
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.
3. If the Event Producer 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 1 above, the Event Producer 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.

H. Philadelphia 21st Century Minimum Wage and Benefits Standard.

If the Event Producer is an employer subject to Chapter 17-1300 of The Philadelphia Code regarding the Philadelphia 21st Century Minimum Wage Standard, as provided in Philadelphia Code Section 17-1303, then the Event Producer shall (1) comply with the requirements of Chapter 17-1300 in effect on the Commencement Date, (2) promptly provide to the City documents and information verifying its compliance with the requirements of Chapter 17-1300, and (3) notify each of its affected employees with regard to the wages that are required to be paid pursuant to Chapter 17-1300.

Under Chapter 17-1300, Section 17-1305(1), requires employers subject to that Chapter to pay each of their employees an hourly wage at least 150% of the federal minimum wage, excluding benefits. Section 17-1305(2) requires that to the extent an employer subject to Chapter 17-1300 provides health benefits to any of its employees, the employer shall provide each full-time, non-temporary, non-seasonal covered employee with health benefits that are at least as valuable as the least valuable health benefits the employer provides to any of its other full-time employees.

If the Event Producer is an employer subject to Chapter 17-1300, then by signing the Concession Agreement the Event Producer certifies that its employees are paid the minimum wage standard required by Chapter 17-1300.

I. City's Right to Inspect

1. Event Producer shall keep and make available complete and accurate books of accounts, financial records, and other records (collectively, "Books and Records") within the City of Philadelphia relating to the Event Producer's management and operation of the Music Festival. The Event Producer shall maintain its Books and Records in accordance with generally accepted accounting principles consistently applied.

2. The City may inspect and audit all of the Event Producer's Books and Records and Event Producer's affairs at all reasonable times within the City of Philadelphia.

J. Conditions Regarding Proposals

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

1. The Applicant 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 Applicant as a result of the issuance of this RFP, the preparation or submission of a Proposal by applicant, the City's evaluation of Proposals, or the City's selection of Applicant for further negotiations;
2. It is Applicant'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;
3. Upon submission, Applicant's Proposal becomes the property of the City and will not be returned to the Applicant;
4. Applicant will promptly permit the City to inspect events and facilities referred to in Applicant's statement of its Management Experience Qualifications and References;
5. Applicant will promptly provide additional information or more detailed information upon request by the City, including information inadvertently omitted by an Applicant;
6. Applicant will promptly send representatives for interviews with City officials when requested by the City;
7. Applicant's Proposal shall remain open for acceptance by the City and in full effect for at least 180 calendar days from the Deadline for Submitting Proposals set forth on the cover page of this RFP;
8. Applicant may not issue news releases pertaining to this RFP without prior written approval of the City;
9. Applicant 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 Applicant's initial Proposal, to the address specified on the cover page of this RFP for submitting Proposals.

K. Concession Agreement Effectiveness

The Concession Agreement will not be binding upon the City, and an Applicant will not become the Event Producer, until after all of the following have occurred:

1. The Concession Agreement has been signed by the Applicant and approved by the City's legal counsel;
2. The Concession Agreement has been executed by the City; and
3. The Applicant has submitted certificates of insurance.

VI. SIGNING OF PROPOSALS

Each Applicant must sign its Proposal using one of the forms on the following pages as is appropriate for the Applicant’s form of business organization. The Proposal must be signed by person(s) authorized to bind the entity submitting the Proposal.

If Applicant is an INDIVIDUAL, PARTNERSHIP, or JOINT VENTURE, the Applicant must date and sign the RFP here:

This ____ day of _____, 2011

Name of Applicant

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

This ____ day of _____, 2011

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 A
CONCESSION AGREEMENT

LICENSE AND CITY SERVICES REIMBURSEMENT AGREEMENT

THIS AGREEMENT (the "Agreement"), made as of this ____ day of _____, 2014, by and between THE CITY OF PHILADELPHIA, acting by and through the Managing Director's Office (the "City") and _____ (the "Event Producer").

BACKGROUND:

A. The City issued a Request for Proposals, a copy of which is attached hereto and made a part hereof as **Exhibit "A"**, seeking the services of an individual or entity to produce a large scale, turn key, two-day Music Festival to take place on August 30, 2014 and August 31, 2014 on the Benjamin Franklin Parkway in Philadelphia, Pennsylvania (the "Event").

B. The Event Producer was the successful proposer.

C. The Event Producer shall produce an event known as the _____ Festival commencing at _____ AM/PM, Saturday, August 30, 2014 and concluding at _____ PM on Sunday, August 31, 2014 (the "Event"). The Event shall include live music performances, food, beverage and merchandise vending, interactive displays, video display, live streaming and recording and other festival style ancillary activities.

B. The Event shall take place on the Benjamin Franklin Parkway (the "Parkway") from the Philadelphia Museum of Art steps to 22nd Street bounded by the Parkway (the "Premises").

C. The Event Producer submitted an application for the Event ("Application") to the City. The Application is attached hereto and made a part hereof as **Exhibit "B"**.

D. The Event Producer submitted an application to the City's Department of Parks and Recreation for the Event ("Philadelphia Parks and Recreation 2014 Special Events Permit Application"). The application is attached hereto and made a part hereof as **Exhibit "C"**.

E. The Event Producer submitted an additional application for the Event ("Philadelphia Fire Department Emergency Medical Services (EMS) Special Event Application"). The Philadelphia Fire Department Emergency Medical Services (EMS) Special Event Application is attached hereto and made a part hereof as **Exhibit "D"**.

F. The Event Producer desires to use the portion of the Premises as depicted in **Exhibit "E"**, a copy of which is attached hereto and made a part hereof for the purpose of holding the Event as more fully described in **Exhibit "F"**, a copy of which are attached hereto and made a part hereof.

G. The Event Producer has requested the assistance of the City while holding the Event on the Premises through the provision of City services and/or support, including, but not limited to, those of the Police, Streets, Fire, Public Property, and Parks and Recreation Departments.

H. The City has agreed to provide the Event Producer with the services set forth in this Agreement, and as more fully set forth in the "Special Events Request for Services" form, a copy of which is attached hereto and made a part here of as **Exhibit "G"**, in pursuing the holding of the Event under those certain terms and conditions set forth in this Agreement.

I. The Event Producer represents and warrants that it is licensed to do business in the City of Philadelphia and has obtained a Commercial Activity License from the City's Department of Licenses and Inspections.

J. The general public and particularly the citizens of the City of Philadelphia will benefit from the Event Producer's holding of the Event on the Premises.

NOW THEREFORE, it is mutually covenanted and agreed by and between the parties hereto as follows:

1. Incorporation of Background.

The Background is incorporated by reference herein.

2. License/Scope of Agreement.

a. The City gives the Event Producer a temporary, revocable (subject to the provisions of Paragraphs 9(c) and 26), and non-assignable license for the "Term" (as defined in Paragraph 3) to enter upon and use the Premises solely for the purpose of holding the Event.

b. The City shall provide the Event Producer with City support and services set forth in this Agreement in pursuing the holding of the Event pursuant to the terms and conditions set forth in this Agreement.

3. Term.

The term of this Agreement shall begin on _____, 2014 and end on _____, 2014, no later than _____ PM eastern time, inclusive of set up and tear down, unless sooner terminated or extended by the City in accordance with the terms of this Agreement (the "Term"). The performances themselves shall take place, rain or shine on August 30, 2014 and August 31, 2014 from __:00 PM until _____ PM and __:00 PM until ____:00 PM respectively. There shall be no raindate for the Event. Notwithstanding anything to the contrary contained herein, the Event Producer acknowledges and agrees that Event vending shall end no later than 10:00 PM on both August 30 and August 31.

4. City Entry on the Premises.

The City, or persons authorized by the City, shall have the right to enter the Premises or any part(s) thereof, at any time during the Term, for business purposes.

5. The Event Producer's Representations, Warranties and/or Obligations.

The Event Producer shall have access to the Premises for the exclusive purpose of holding the Event. In exercising its rights hereunder, the Event Producer warrants and represents and/or understands and agrees to, as applicable, the following:

a. that it will not use, or knowingly allow any party to use or occupy the Premises, for any unlawful purpose or in violation of any Applicable Law; that it will use, or cause the Premises to be used, in compliance with all rules, regulations and guidelines as the City, including any of its agencies, boards or commissions has established, or may establish during the Term to the extent same are communicated to the Event Producer in writing and do not limit the rights granted hereunder;

b. that its use of the Premises, shall at all times be reasonable and responsible, and that the Event Producer will take all reasonable safety and fire prevention precautions including, but not limited to, that relating to fencing around the Premises. To that end, all exits must have a clear width of 12 feet of fencing that is unsecured and easily movable in case of an emergency. In addition, the 12 feet of clear width must be maintained for at least 20 feet to the exit;

c. that its operations and the operations of its contractors, subcontractors, employees and licensees will in no way impede, affect or restrict the passage of any security or emergency personnel and/or vehicles, including police, fire, safety and public service personnel and vehicles except pursuant to approved road closures;

d. that it will provide to the City, prior to the execution of this Agreement, a food vendor's list and a merchandise vendor's list;

e. that it has or will obtain, ASCAP, SESAC and/or BMI blanket performance licenses, and will require its subcontractors to obtain any similar performance licenses, required for the use of copyrighted or licensed material in connection with the presentation of the Event, or otherwise required in connection with the use of the Premises for the Event;

f. that it will provide an emergency medical service plan subject to the City's prior review and consent at least twenty (20) business days prior to the Event. Said plan shall provide for, but not be limited to, a request, if desired, for a medic unit, at the Event Producer's sole cost, on the Premises during Event tear down;

g. that it will provide an emergency safety plan subject to the City's prior review and consent at least twenty (20) business days prior to the Event. Said emergency safety plan shall provide for, but not be limited to the following: (i) the barricading of the Price and Erickson fountains on the Parkway as well as placement of security at the Price and Erickson fountains;

(ii) the placement of security at each and every means of ingress and egress to the Premises including a minimum of three (3) security officers at each exit who would be, in case of emergency, dedicated to assist exclusively with evacuation; (iii) a Premises evacuation plan in the event of severe weather or other emergency and an "all clear" protocol for the resumption of the Event; a plan for coordination with the City's Fire Department's Fire Code Unit; (iv) an emergency lighting system in case of power failure; and (v) training security and/or designated persons on the use of the emergency lighting system in the event of emergency. The approved emergency medical plan and the safety plan shall be strictly implemented and adhered to by the Event Producer during the Term;

h. that it will have the right, subject to the City's prior review and consent, to use the City of Philadelphia's seal, a copy of which is attached hereto and made a part hereof as **Exhibit "H"**, or mark, in any advertisements, provided said advertisements are in compliance with the terms and conditions contained herein. The Event Producer shall not otherwise use the City's name or mark in notices, invitations, press releases, signs, billboards or other printed, visual or audio materials (individually and collectively "Publicity Materials") without the City's prior written approval;

i. that it will provide adequate portable, sanitary toilet facilities for the Event, including, but not limited to, port-a-potties on the Parkway from the Philadelphia Museum of Art to 20th Street, and remove all sanitary toilet facilities promptly following completion of the Event;

j. that it will erect temporary facilities required for the Event and install them in strict compliance with the proposal unless otherwise approved by the City;

k. that it will comply with the Alcohol Policy attached hereto and made a part hereof as **Exhibit "I"**;

l. that it will apply for and obtain, from the Department of Licenses and Inspection, the necessary permits for its placement of any signage, including flags and/or banners on or about the Premises;

m. that it will apply for and obtain, (or cause to be obtained through the pyrotechnics provider) from the Department of Licenses and Inspection, the necessary permits for the use of any pyrotechnics;

n. that any banners and/or flags it may hang on the poles lining the Parkway shall be limited to those poles within the tenting of the Premises and all signs shall be hung in such a manner that they cannot be seen from outside the Premises, i.e., any flags and/or banners poles shall not be visible to those not attending the Event;

o. that it will erect, at its sole cost, fencing around the statues, sculptures, and monuments on the Parkway, including, but not limited to, Price and Erickson sculptures/fountains, Washington Monument, Iroquois, Rocky, Joan of Arc, as well as the Binswanger

Triangle raised planted area and the two smaller triangular planting areas on either side, or as may be required by the City;

p. that is will have available in the City of Philadelphia, upon request, its books and records solely related to charges, fees, and costs under this Agreement for a minimum of two (2) years following the expiration of the Term for inspection by appropriate City officials;

q. that it grants permission to the City to photograph, at the City's discretion and with photographers of the City's choosing, the Premises and/or the Event for non-commercial purposes (subject to any general photographing restrictions in place for the Event) including, but not limited to, preservation for the City's archives; use by the City to illustrate, promote, and advertise the City of Philadelphia and/or the Office of Mayor Michael A. Nutter; internal training purposes for the staffing and non-commercial support by the City of future events, etc., provided, however, that any promotional, non-archival uses of photographs that contain the likenesses of any of the performing artists shall be subject to the reasonable prior approval of the Event Producer;

r. that is will comply with the terms and conditions set forth in the Philadelphia Parks and Recreation permit attached hereto and made a part hereof as **Exhibit "J"**;

s. that it will clean the interior of the Premises on August 30th and August 31st;

t. that all exits will be marked with illuminated signage identifying them as such;

u. that it will make available key and relevant staff for a pre-event walk-through of the Premises on the Tuesday, Thursday and Friday immediately prior to the Event. The pre-event walk-through shall take place at a time to be designated by the City;

v. that it shall handle all media credentialing for the Event including the provision of "all access" media credentials for City photographers and City media relations staff. The Event Producer shall coordinate on-side media placement with the City. In addition, the Event Producer shall coordinate with the Managing Director's Office for the credentialing of City working staff (excluding uniformed public safety personnel), emergency management staff and City officials ("City Credentials") for each day of the Event. Said credentialing shall include a mutually approved number of designated passes. In addition, the Event Producer shall make available to the City a mutually approved number of tickets for use at its discretion. All City Credentials and tickets must be distributed to the City through the Managing Director's Office by the Event Producer at or before the Tuesday, August 26th walk-through;

w. that should it hold, host or sponsor a "VIP" reception or other function(s) related to the Event, the City shall be given a mutually approved number of passes, invitations and/or wristbands to said event;

x. that the portion of the Premises consisting of VonColln Field, i.e., the curb-line, bordered by the Parkway, 22nd Street, Pennsylvania Avenue and Spring Garden Street, shall be used primarily for low impact uses and that the Event Producer will use reasonable efforts to

minimize damage to the field. The City acknowledges that a limited number of vehicles may be parked on or need access to the field during the Event, but that the Event Producer will place plywood covering on the field prior to driving any such vehicles thereon. Furthermore, any structures or vehicles remaining on the field during the Event shall be placed on a double plywood pad. In addition, the Event Producer agrees that to the extent any motor vehicles are displayed on the field during the Event, such motor vehicles will be displayed using industry standard drip protection (e.g. rubber matting); and

y. that its use of the Parkway will be in compliance with the Department of Parks and Recreation's Event Tree and Turf Repair Specifications, a copy of which is attached hereto and made a part hereof as **Exhibit "K"**.

6. Insurance.

The Event Producer shall at its sole cost and expense, obtain and maintain in full force and effect during the Term, and the period necessary to fulfill its obligation under this Agreement, the types and minimum amounts of insurance specified below. 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. The Event Producer shall provide for at least thirty (30) days prior written notice to be given to the City in the event coverage is materially changed or cancelled. The City of Philadelphia, its officers, employees and agents, shall be named as additional insureds on the Commercial General Liability and Umbrella Liability Insurance policies. An endorsement is required stating that the coverage afforded the City of Philadelphia and its officers, employees and agents, as additional insureds, will be primary to any other coverage available to them to the extent of the liability assumed herein by the Event Producer and that no act or omission of the City shall invalidate the coverage.

1. Workers' Compensation and Employer' 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;

employees and volunteers of the insureds as additional insureds; cross liability; broad form property damage (including completed operations) liability; and host liquor 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. Umbrella Liability Insurance at limits totaling \$10,000,000 per occurrence when combined with insurance required under (1), (2) and (3) above.

The Event Producer shall also require its food service provider to maintain the types and limits of insurance required in 1., 2. and 3. above as well as the following type and limits during the Term:

Liquor Liability Insurance for liability arising out of the manufacturing, distribution, sale or service of alcoholic beverages at limits not less than \$5,000,000 combined single limit per occurrence.

The Event Producer shall also require its pyrotechnic and amusement providers to maintain the types and limits of insurance required in 1., 2. and 3. above as well as the following type and limits during the Term:

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

Certificates of insurance evidencing the required coverages must be submitted to the City of Philadelphia for review and approval prior to the Event. The City reserves the right, as required by law or in the event of litigation or the threat of litigation, to require Provider to furnish written responses from its authorized insurance carrier representatives to all inquiries made pertaining to the insurance required under the Agreement at any time upon ten (10) days written notice to the Event Producer.

The insurance coverage required by this Agreement, or otherwise provided by the Event Producer, shall in no way modify, limit or reduce the liability or responsibilities and obligations (including, but not limited to, all indemnification obligations) of the Event Producer as provided for in this Agreement.

7. Indemnification and Release.

a. The Event Producer shall indemnify, defend and hold harmless the City, its officers, employees and agents, from and against any and all losses, costs (including, but not limited to, litigation and settlement costs and reasonable, outside counsel fees), claims, suits, actions, damages, liability and expenses, occasioned wholly or in part by the Event Producer's act or omission or negligence or fault or the act or omission or negligence or fault of the Event

Producer's agents, subcontractors, suppliers, employees or servants in connection, with this Agreement, including, without limitation, those in connection with loss of life, bodily injury, personal injury, damage to property, contamination or adverse effects on the environment, intentional acts, failure to pay such subcontractors and suppliers, and any breach of this Agreement and any infringement or violation of any proprietary right (including, but not limited to, patent, copyright, trademark, service mark and trade secret).

b. In consideration of the rights given to the Event Producer to operate the Event on the Premises, the Event Producer shall remise, quitclaim, release and forever discharge the City from any claims and demands arising from use of the Premises. The Event Producer voluntarily assumes all risk of loss, damage or injury, including death, that may be sustained by the Event Producer and its agents or invitees while in, on or about the Premises.

8. Alteration and Restoration of City Property; Effects of City Approval.

a. The Event Producer may not, without obtaining (i) prior written approval from the appropriate City officials and (ii) all permits and approvals necessary under any Applicable Law, including those related to health, safety, welfare, employment, traffic, and/or zoning, alter or in any way modify any part of the Premises, or any property or premises owned or controlled by the City.

b. Review, approval or acceptance by any one City agency, as set forth in Paragraph 8.a., shall not be construed to constitute approval otherwise required by any other City agencies, departments, boards and/or commissions in connection with any and all work or alteration performed under or pursuant to this Agreement, including, without limitation, construction, health, safety, welfare, employment, traffic and zoning. Review or approval by any one City agency with respect to any matter under this Agreement or in any way related to any part of the Premises, shall not constitute any representation, warranty or guaranty by any other City agency as to the substance or quality of the reviewed or approved matter.

c. In the event the Event Producer does alter or modify any of the Premises, or any property or premises owned or controlled by the City (after receiving the necessary written City approval(s)), the Event Producer agrees, within ten (10) business days of the expiration or prior termination of the Term and at its sole cost and expense or such other timeframe as mutually agreed upon by the parties, to restore such property at the owner or the City's request and at the City's reasonable discretion, to the same condition which existed immediately prior to the commencement of the Term; such restoration shall be to the satisfaction of the owner and/or the City, and in conformity with all Applicable Laws, reasonable wear and tear excepted and provided in writing to the Event Producer pursuant to the walk-through referenced in Paragraph 12.a. If, by the tenth (10) business day following the date on which the City notifies the Event Producer, in writing, of the need for any work under this Paragraph, the Event Producer fails to restore or repair any property in accordance with this Paragraph, the City may (but is not obligated to) make all restorations and repairs it deems necessary, and the Event Producer shall be responsible for the reasonable and actual costs and expenses incurred by the City in performing such repairs and/or restorations, and the Event Producer shall, within five (5) days of its receipt of detailed invoices, pay the amount of such costs and expenses to the City by delivering to the City's Managing Director, or his designated Deputy, a bank check, wire transfer, or cashier's check, made payable

to "The City of Philadelphia". This Paragraph shall survive the expiration or prior termination of this Agreement.

9. Applicable Laws; City Permits and Licenses.

a. The Event Producer shall comply with the following, to the extent applicable to the Event Producer or the Event, all of which are referred to as the "Applicable Law(s)": all present and future Federal, state, City and local laws, statutes and ordinances (including, but not limited to, all environmental laws, The Fair Practices Ordinance, The Philadelphia Code, Chapter 9-1100) and the applicable rules, methods, regulations of all governmental boards, bureaus, offices and commissions, and other agencies applicable to the Event Producer, the Premises, the access, use and occupancy of the Premises, and the exercise of any rights or the performance of any obligations under this Agreement, including, without limitation, those laws, statutes, rules and regulations applicable to the environment, copyright and intellectual property, labor, occupational safety, health and welfare. Applicable Law includes terms and conditions of the City's Special Event Policy, a copy of which is attached hereto and made a part hereof as **Exhibit "L"**.

b. Prior to the Event, the Event Producer shall have secured all licenses and permits that may be required for the exercise of any right granted under this Agreement, including, but not limited to: (i) obtaining access to the Premises, and any utility connections situate thereon; (ii) the alteration of the Premises (and/or any other City owned or controlled property); and (iii) all permits and licenses authorizing any use, alteration or closure of any part of the Premises, and any other City owned or controlled property or area, including roads, roadways, streets, sidewalks, curbs or ramps, the alteration of existing City traffic routes or patterns and the alteration of any City signage, including traffic signals and road signs. (All City licenses and permits required to be obtained by the Event Producer under this Paragraph shall be collectively referred to herein as the "City License(s) and Permit(s)".)

c. The Event Producer shall comply with all City License(s) and Permit(s). Without limiting the generality of any other provision of this Agreement, the Event Producer's failure to obtain and/or comply with the terms of any City License or Permit shall be deemed a breach of this Agreement and the City may exercise all appropriate rights and remedies including the termination of this Agreement provided, however, that the City shall first give the Event Producer notice of said breach and permit the Event Producer to cure such breach within twenty four (24) hours, unless immediate action is required to avoid property damage or remedy an unsafe condition.

10. Security and Other Services to be Provided by the Event Producer.

The Event Producer shall provide, or cause to be provided, all security, including all security personnel required to protect and secure the Premises as determined is reasonably necessary based on the nature of the Event and the anticipated attendance. The City is not, by the terms of this Agreement, required to provide any protection or security to the Event Producer, the Premises and/or any person related to the Event Producer or the Event and/or any property related to any of the foregoing. Notwithstanding the foregoing the City will provide Police services for

the purpose of traffic and crowd control. The placement of security shall, at a minimum, be at (i) the Price and Erickson fountains, (ii) at all means of ingress and egress to the Premises as more fully set forth herein, and (iii) adjacent to any areas in which alcohol is being sold or distributed as more fully set forth in **Exhibit "I"**.

11. Security Deposit

On or before _____, 2014, the Event Producer shall deliver to the Office of the Managing Director a business check in the amount of Two Hundred Thousand Dollars (\$200,000) made payable to the "City of Philadelphia" as a security deposit ("Security Deposit"). The City shall apply the Security Deposit to the Reimbursement Obligation set forth below. Any funds remaining in the Security Deposit after reimbursement to the City for its expenses in connection with the Event, shall be refunded to the Event Producer.

12. The Event Producer's Obligation to Pay for City Services; Materials; and Repair, Restoration and Replacement Costs and Concession Fee.

a. The Event Producer shall be responsible for the following expenses, as defined and more fully described below: the Reimbursement Obligation, the Repair and Replacement Costs, the Event Overrun Fee and the Unauthorized Pyrotechnics Fee.

b. The Event Producer is responsible for the expenses incurred by the City in relation to the conducting of the Event at the Premises, or the exercise by the Event Producer of any right under this Agreement (the "Reimbursement Obligation"). The estimated costs and services, including the Premises user fee, is as set forth in **Exhibit "M"**, a copy of which is attached hereto and made a part hereof. The Reimbursement Obligation includes the Event Producer's obligation to pay the City for all personnel (including overtime costs), services, equipment and materials, if any, provided by the City, in connection with the conducting of the Event. The Reimbursement Obligation is exclusive of any permit fees, application fees, or costs the City may incur for damage repairs or restoration and/or replacement of the Premises other than normal wear and tear including, but limited to, all monuments, turf, trees, shrubs and other vegetation in, on, and about the Premises, whether within or beyond the Event footprint as determined in a walk-through to be conducted by representatives of the City and the Event Producer the morning of September 5th or sooner, if mutually agreed upon by the parties ("Repair and Replacement Costs").

c. In the event of the need for any repairs to, restoration and/or replacement of the tree, turf or landscape portion of the Premises due to damage, the Event Producer agrees, within five (5) business days of the post-Event walk through or such other timeframe as mutually agreed upon by the parties, and at its sole cost and expense, to restore such property to the same condition which existed immediately prior to the commencement of the Term, reasonable wear and tear excepted. The Event Producer acknowledges and agrees that said work must be completed by All Seasons Landscape Contracting. If, by the tenth (10) business day following the post-Event walk through the Event Producer fails to restore or repair any property in accordance with this Paragraph (or in the event that such restoration or repairs have not been commenced in good faith), the City may (but is not obligated to) make all restorations and repairs it deems necessary, and the Event Producer shall be responsible for the reasonable and

actual costs and expenses incurred by the City in performing such repairs and/or restorations, and the Event Producer shall, within five (5) days of its receipt of detailed invoices, pay the amount of such costs and expenses to the City by delivering to the City's Managing Director, or his designated Deputy, a company check, wire transfer, or cashier's check, made payable to "The City of Philadelphia". This Paragraph shall survive the expiration or prior termination of this Agreement.

d. The Event Producer shall pay to the City the sum of Thirty Thousand Dollars (\$30,000.00) if the show goes beyond 11:59 on the 30th or 11:00 on the 31st and the additional sum of Ten Thousand Dollars (\$10,000.00) for every ten (10) minutes, or part thereof, beyond 11:59 or 11:00 PM respectively as well as any additional direct out of pocket costs incurred by the City as a result of the Event going beyond said times (collectively, the "Event Overrun Fee").

e. The Event Producer shall pay to the City the sum of Thirty Thousand Dollars (\$30,000.00) per incident for any performer's use of any pyrotechnics or fireworks without prior written approval from the City ("Unauthorized Pyrotechnics Fee").

f. Following the Event, the City shall provide the Event Producer with an invoice for the Reimbursement Obligation, the Repair and Replacement Costs, if applicable, the Event Overrun Fee, if applicable, and the Unauthorized Pyrotechnics Fee (the "City Services Invoice(s)") minus the Security Deposit.

g. Payment under the City Services Invoice shall be delivered to the Office of the Managing Director via a certified bank check or cashier's check, made payable to the "City of Philadelphia". The City's failure to provide or prepare a City Services Invoice in accordance with this Paragraph 12 shall not impact, limit or affect the Event Producer's ultimate obligation to make payment to the City under the City Services Invoice.

h. The Event Producer shall pay the City a Concession Fee, as defined in **Exhibit "A"**.

13. Garbage, Debris and Recycling.

a. The Event Producer shall provide trash receptacles for the Event. The City shall remove the trash and debris from the outside the Premises, i.e., at designated locations along the Parkway (i) before the Event, (ii) during the Event, and (iii) after the Event. Weather permitting, the City shall provide truck(s) for the removal of any remaining bagged trash and debris from the interior of the Premises after the Event.

b. The City shall provide recycling receptacles on the outside the Premises, i.e., at designated locations along the Parkway for the Event. The Event Producer shall provide recycling receptacles on the interior of the Premises. The City shall remove the recycling from the outside the Premises, i.e., at designated locations along the Parkway, during and after the Event. Weather permitting, the City shall provide trucks for the removal of any remaining contained recycling from the interior of the Premises after the Event.

c. Notwithstanding anything to the contrary contained herein, the cleaning of the interior of the Premises is the sole responsibility of the Event Producer. The Event Producer shall clean the interior of the Premises before, during, and after the Event both days of the performances.

14. Utilities.

The Event Producer will not access, utilize, or in any way connect any item, including, but not limited to, any utility wires or lines, to any utility service lines situate on any part of the Premises, without the prior written approval of the Department of Parks and Recreation, any such connection must be supervised by the City, and must be performed by a duly licensed electrician. Upon request, the City shall provide electrical drops.

15. Nondiscrimination.

a. This Agreement is entered into under the terms of the Philadelphia Home Rule Charter and in its performance the Event Producer shall not discriminate against any person because of race, color, religion, sex or national origin. In the event of such discrimination, the City may immediately terminate this Agreement.

b. In accordance with Chapter 17-400 of The Philadelphia Code, the Event Producer agrees that its payment or reimbursement of membership fees or other expenses associated with participation by its employees in an exclusionary private organization, insofar as such participation confers an employment advantage or constitutes or results in discrimination with regard to hiring, tenure of employment, promotions, terms, privileges or conditions of employment, on the basis of race, color, sex, sexual orientation, religion, national origin or ancestry, constitutes, without limiting the generality of any other provision of this Agreement, a substantial breach of this Agreement entitling the City to all rights and remedies provided in this Agreement or otherwise available in law or equity.

c. The Event Producer agrees to require a like covenant in all subcontracts which are entered into for work to be performed pursuant to this Agreement.

d. The Event Producer further agrees to cooperate with the Commission on Human Relations of the City of Philadelphia in any manner which the said Commission deems reasonable and necessary for the Commission to carry out its responsibilities under Chapter 17-400 of The Philadelphia Code. Failure to so cooperate shall constitute a substantial breach of this Agreement entitling the City to all rights and remedies provided herein or otherwise available in law or equity.

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

f. The Event Producer shall comply with the provisions of Title VI of the Civil Rights Act of 1964 (42 U.S.C. §§ 2000d - 2000d.7), section 504 of the Federal Rehabilitation Act of 1973 (29 U.S.C. § 794), The Age Discrimination Act of 1975, (42 U.S.C. §§ 6101 - 6107), Title IX of the Education Amendments of 1972 (20 U.S.C. § 1681), and 45 C.F.R. Part 92, as they may be amended from time to time, which together prohibit discrimination on the basis of race, color, national origin, sex, handicap, age and religion.

g. The Event Producer understands and agrees that no individual with a disability shall, on the basis of the disability, be excluded from participation in the Agreement or from activities or services provided under the Agreement. As a condition of accepting and executing the Agreement, the Event Producer shall comply with all provisions of the Americans With Disabilities Act (the "Act"), 42 U.S.C. §§12101 - 12213, and all regulations promulgated thereunder, as the Act and regulations may be amended from time to time, which are applicable (a) to the Event Producer, (b) to the benefits, services, activities, facilities and programs provided in connection with the Agreement, (c) to the City, or the Commonwealth of Pennsylvania, and (d) to the benefits, services, activities, facilities and programs of the City or of the Commonwealth, and, if any funds under the Agreement are provided by the federal government, which are applicable to the federal government and its benefits, services, activities, facilities and programs. Without limiting the applicability of the preceding sentence, the Event Producer shall comply with the "General Prohibitions Against Discrimination," 28 C.F.R. Part 35.130, and all other regulations promulgated under Title II of "The Americans With Disabilities Act," as they may be amended from time to time, which are applicable to the benefits, services, facilities, programs and activities provided by the City through contracts with outside contractors.

16. The City's Rights and Remedies upon the Event Producer's Breach of Agreement.

Without limiting any other provision of this Agreement, if, in the reasonable judgment of the City's Managing Director, or his designee, or the Commissioner of Public Property, or her designee, the Event Producer has failed or fails to comply with any term, condition or provision of this Agreement, or any exhibit hereto, the City shall have the right, to treat such failure as a substantial and material breach of this Agreement and to exercise all appropriate rights and remedies at law, including the termination of this Agreement subject to the notice and cure provisions set forth below. Upon the City's termination of this Agreement, the Event Producer shall immediately cease all activities in and on the Premises and shall have no rights under this Agreement. The City may, for the material breach of any of the terms of this Agreement, terminate this Agreement upon notice in writing to the Event Producer, provided, however, that the City shall first give the Event Producer notice of said material breach and permit the Event Producer to cure such breach within a reasonable time, unless immediate action is required to avoid property damage or remedy an unsafe condition. The City may immediately terminate this Agreement and remove the Event Producer from the subject Premises in the event that the Event Producer commits a felony on the Premises.

17. Notices.

Any notice or request pursuant to this Agreement shall be made in writing and delivered by United States mail, postage prepaid, by nationally recognized courier (e.g. Fedex or UPS) or by hand delivery with receipt obtained, addressed as follows:

If intended for the City:

The City of Philadelphia
Office of the Managing Director
14th Floor Municipal Services Building
Philadelphia, Pennsylvania 19102
Attention: Managing Director

With copies to:

Office of the City Solicitor
1515 Arch Street, 17th Floor
Philadelphia, Pennsylvania 19102
Attention: Intellectual Property Unit

If intended for the Event Producer:

or at such other address which the City or the Event Producer shall have designated by notice given in accordance with this Paragraph 17.

18. The Event Producer's Certificate of Non-Indebtedness.

The Event Producer and any entities under common control with the Event Producer or controlled by the Event Producer are not currently indebted to the City, and will not at any time during the Term (including any additional term(s)) 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 Event Producer shall remain current during the Term with all such payments and shall inform the Office of the Managing Director in writing of the Event Producer's receipt of any notices of delinquent payments within five (5) days after receipt. In addition to any other rights or remedies available to the City at law or in equity, the Event Producer acknowledges that any breach or failure to conform to this representation and covenant may, at the option of the City, result in the withholding of payments otherwise due to the Event Producer and, if such breach or failure is not resolved to the City's satisfaction within a reasonable time frame specified by the City in writing, may result in the offset of any such indebtedness against said payments and/or the termination of the Agreement for default (in which case the Event Producer shall be liable for all excess costs and other damages resulting from the termination). In addition, it is understood

that false certification or representation is subject to prosecution under Title 18 Pa.C.S.A. § 4904.

19. Consent to Jurisdiction.

The parties hereto hereby consent to the exclusive jurisdiction of the Court of Common Pleas of Philadelphia and/or the United States District Court for the Eastern District of Pennsylvania in any and all actions or proceedings arising under this Agreement or pursuant hereto. The City agrees to service of process by certified mail, return receipt requested, to its address set forth in Paragraph 17.

20. Governing Law.

This Agreement and all disputes arising under the Agreement shall be governed, construed and decided in accordance with the laws of the Commonwealth of Pennsylvania.

21. Survival.

Any and all provisions or terms set forth in this Agreement which, by its or their own nature, would reasonably be expected to be complied with or performed after the expiration or earlier termination of this Agreement, shall survive and be enforceable after the expiration or earlier termination of this Agreement. Any and all liabilities, actual or contingent, which shall have arisen in connection with this Agreement, shall survive the expiration or earlier termination of this Agreement.

22. Northern Ireland Provision.

a. In accordance with Section 17-104 of The Philadelphia Code, the Event Producer by execution of this Agreement certifies and represents that (i) the Event Producer (including any parent company, subsidiary, exclusive distributor or company affiliated with the Event Producer) does not have, and will not have at any time during the Term (including any extensions thereof), any investments, licenses, franchises, management agreements or operations in Northern Ireland and (ii) no product to be provided to the City under this Agreement will originate in Northern Ireland, unless the Event Producer has implemented the fair employment principles embodied in the MacBride Principles.

b. In the performance of this Agreement, the Event Producer agrees that it will not knowingly utilize any suppliers, subcontractors or subconsultants at any tier (i) who have (or whose parent, subsidiary, exclusive distributor or company affiliate have) any investments, licenses, franchises, management agreements or operations in Northern Ireland or (ii) who will provide products originating in Northern Ireland unless said supplier, subconsultant or subcontractor has implemented the fair employment principles embodied in the MacBride Principles.

c. The Event Producer agrees to cooperate with the City's Director of Finance in any manner which the said Director deems reasonable and necessary to carry out the Director's responsibilities under Section 17-104 of The Philadelphia Code. The Event Producer expressly understands and agrees that any false certification or representation in connection with this Paragraph and/or any failure to comply with the provisions of this Paragraph shall constitute a substantial breach of the Agreement entitling the City to all rights and remedies provided in this Agreement or otherwise available in law (including, but not limited to, Section 17-104 of The Philadelphia Code) or equity. In addition, it is understood that false certification or representation is subject to prosecution under Title 18 Pa.C.S.A. Section 4904.

23. No Joint Venture.

The parties do not intend to create, and nothing contained in the Agreement shall be construed as creating, a joint venture arrangement or partnership between the City and the Event Producer.

24. Severability and Partial Invalidity.

The provisions of the Agreement shall be severable. If any provision of the Agreement or the application thereof for any reason or circumstances shall to any extent be held to be invalid or unenforceable, the remaining provisions of the Agreement or the application of such provision to persons or entities other than those as to which it is held invalid or unenforceable to the fullest extent permitted by law.

25. Headings.

The headings in the Agreement do not in any way define, limit, describe or amplify the provisions of the Agreement or the scope or intent of the provisions and are not part of the Agreement.

26. Force Majeure.

If any part of the Premises, after the date of execution, shall be rendered unusable by unforeseen occurrence to the extent that it is unsafe or impossible to hold the Event on the Premises, or if the Event is canceled due to riot, extreme weather, or other act of God, the prevention of which is beyond Licensee's or the City's control, or if a public emergency renders performance of this Agreement by Licensee or the City impossible, including, without limitation, the requisitioning of the Premises by the federal, state or city governments, this Agreement shall terminate with respect to the Event without any liability of either party to the other except for those liabilities which arose before the termination.

[Signature page to follow]

IN WITNESS WHEREOF, the parties have caused this Agreement to be duly executed as of the day and year first above written.

Approved as to form
City Solicitor, Shelley R. Smith

CITY OF PHILADELPHIA by the
MANAGING DIRECTOR'S OFFICE

Per _____
Senior Attorney

BY: _____
Managing Director

Corporate Seal

[EVENT PRODUCER]

BY: _____

Name / Title

APPENDIX B

**CITY OF PHILADELPHIA
OFFICE OF ECONOMIC OPPORTUNITY
ANTIDISCRIMINATION POLICY- MINORITY, WOMAN AND DISABLED
OWNED BUSINESS ENTERPRISES**

FORMS, INSTRUCTIONS AND SPECIAL CONTRACT PROVISIONS

Attach the appropriate Antidiscrimination Policy, as provided by OEO.

Attach the “Solicitation for Participation and Commitment Form” to the Antidiscrimination Policy.

**CITY OF PHILADELPHIA
OFFICE OF ECONOMIC OPPORTUNITY
ANTIDISCRIMINATION POLICY- MINORITY, WOMAN AND DISABLED OWNED BUSINESS
ENTERPRISES
FORMS, INSTRUCTIONS AND SPECIAL CONTRACT PROVISIONS
[CONCESSION]**

Under the authority of Executive Order No. 03-12, the City of Philadelphia has established an antidiscrimination policy ("Policy") relating to the participation of Minority (MBE), Woman (WBE) and Disabled (DSBE) Owned Business Enterprises in City contracts. Executive Order 03-12 is administered by the City's Office of Economic Opportunity ("OEO").

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

The Office of Economic Opportunity has approved the following projected ranges of participation for this RFP which serve as a guide in determining each Respondent's responsibility and relate to the total dollar amount of the Concession Fee as defined in the RFP:

MBE 20% to 25%

WBE 10% to 15%

These ranges represent the percentage of MBE and/or WBE (collectively, "M/WBE") participation that should be attained by M/WBEs from business opportunities existing in the available market absent discrimination in the solicitation and selection of these businesses and through Respondent's exercise of Best and Good Faith Efforts. Best and Good Faith Efforts are those efforts, the scope, intensity and appropriateness of which are taken to achieve meaningful and representative opportunities for participation by M/WBEs. These ranges are derived from an analysis of factors such as the size and scope of the contract and the availability of certified M/WBEs to perform various elements of the contract. The submission of a Solicitation For Participation and Commitment Form and any supporting documentation (more fully discussed below) is an element of responsiveness to the RFP and failure to submit the required information will result in rejection of your proposal.

Respondent hereby verifies that all forms, information and documentation submitted to OEO are true and correct and is notified that the submission of false information by Respondent is subject to the penalties of 18 Pa.C.S. §4904 relating to unsworn falsification to authorities which may include payment of a fine of at least \$1,000 and a term of imprisonment of not more than two years. Respondent also acknowledges that under 18 Pa.C.S. §4107.2 (a)(4) it is a felony in the third degree, punishable by a term of imprisonment of not more than seven years in addition to the payment of any fines or restitution, if, under any contract awarded pursuant to this RFP, Respondent fraudulently obtains public moneys reserved for or allocated or available to minority business enterprises or women's business enterprises.

A. M/WBE PARTICIPATION

1. Only firms that are certified by an approved certifying agency¹ and identified in the OEO Certification Registry by the time of contract award will be credited toward the participation ranges on City contracts. An OEO Certification Registry is maintained by the OEO and is available online at www.phila.gov/OEO/directory. Firms owned and controlled by minority persons, women or disabled persons, which are certified as MBE, WBE, DSBE or DBE by an approved certifying agency may apply to the OEO for listing in its OEO Certification Registry.

2. No Respondent that seeks to meet the participation range(s) for participation by entering into a subcontract with any M/WBE participant shall be considered to meet the range(s) if the M/WBE participant does not perform a commercially useful function ("CUF"). An M/WBE performs a Commercially Useful Function when it performs a distinct element of a City Contract (as required by the services to be performed in accordance with the RFP) which is worthy of the dollar amount of the M/WBE Subcontract and the M/WBE carries out its responsibilities by managing and supervising the services involved and actually self-performing at least twenty percent (20%) of the services of the Subcontract with its own employees. For suppliers, an M/WBE performs a Commercially Useful Function when it is responsible for sourcing the material, negotiating price, determining quality and quantity, ordering the material and paying for it from its own funds. Commercial usefulness will be evaluated and determined by the OEO on a proposal by proposal basis as informed by prevailing industry standards and the M/WBE's NAIC codes. Participation that is not commercially useful will not be counted.

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

4. An MBE/WBE submitting as the prime Respondent is required, like all other Respondents, to submit a proposal that is responsive to the Policy. The M/WBE Respondent will receive credit towards the participation range for its certification category (e.g., MBE range or WBE range). In addition, the participation of an M/WBE partner, as part of a joint venture created for this contract, may be credited towards the participation ranges only to the extent of the M/WBE partner's ownership interest in the joint venture in accordance with the following criteria:

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

5. M/WBE Subcontractors must perform at least twenty percent (20%) of the total amount of work to be performed under the Subcontract with their own employees.

6. In listing participation commitments on the Solicitation for Participation and Commitment Form, Respondents are required to list a detailed description of the services or supply effort, the dollar amount

¹ Approved certifying agencies are identified on the OEO webpage found at www.phila.gov/OEO. Respondent is strongly encouraged to search the Pennsylvania Unified Certification Program ("PaUCP") Directory which offers a robust listing of DBEs; the PaUCP Directory is found at www.paucp.com.

of the quotation, and percentage of the Concession Fee the participation represents. In calculating the percentage amount, Respondents may apply the standard mathematical rules in rounding off numbers. The OEO reserves the right to request clarifying information from Respondents in the event of an inconsistency or ambiguity in the Solicitation For Participation and Commitment Form.

B. RESPONSIVENESS

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

2. Respondents must submit documentary evidence of MBEs and WBEs who have been solicited and with whom commitments have been made in response to each of the participation ranges included in this RFP. Failure to submit the Solicitation For Participation and Commitment Form will result in the rejection of the proposal as nonresponsive, although the City, at its sole discretion, may allow Respondents to submit or amend the Solicitation For Participation and Commitment Form at any time prior to award. The Solicitation For Participation and Commitment Form must contain the following information:

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

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

3. If Respondent does not fully meet each of the range(s) for participation established for this RFP, Respondent must demonstrate that it exercised Best and Good Faith Efforts to achieve the M/WBE participation ranges along with a written request, on its letterhead, for the reduction of part or all of the M/WBE participation ranges ("Request For Reduction/Waiver"). Respondent, through the submission of documentary evidence must show that Respondent took all necessary steps and made reasonable efforts to achieve the M/WBE participation ranges, even if these efforts were not fully successful. OEO will evaluate the scope, intensity and appropriateness of these efforts to ascertain whether they could reasonably be expected to achieve M/WBE participation commensurate with the ranges. Failure to submit the documentary evidence will result in rejection of the proposal as nonresponsive; the City, at its sole discretion, may allow Respondents to submit or amend their submission at any time prior to award which may result in revision to Respondent's participation commitments. The submission shall contain and discuss, at a minimum, the following:

- Reasons for not committing with any MBE/WBE/DSBEs that submitted a quote/subproposal, regardless of whether the quote/subproposal was solicited by Respondent.

- Any additional evidence pertinent to Respondent's conduct relating to this RFP including sufficient evidence which demonstrates to the OEO that Respondent has not engaged in discriminatory practices in the solicitation of and commitment with contract participants. In describing Respondent's efforts to achieve participation within the ranges, Respondent may submit any corroborating documentation (e.g., copies of advertisements for participation).

The Respondent's documentary evidence will be reviewed by the OEO to determine whether Respondent exercised Best and Good Faith Efforts in response to the participation ranges. **Respondent's expressed desire to self-perform services with its own employees will not excuse Respondent from exercising Best and Good Faith Efforts to include M/WBEs in its proposal and cannot be used as a basis for requesting a reduction or waiver of the participation ranges.** OEO's review will include consideration of the following:

- Respondent's contracting activities and business practices on similar public and private sector contracts. For example, if Respondent rejects any M/WBE based on price, Respondent must fully document its reasons for the rejection and also demonstrate that Respondent subjects non-M/WBEs to the same pricing standards. OEO will investigate whether there was any attempt at good faith negotiation of price.

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

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

4. After review of the Respondent's submission and other information the OEO deems relevant to its evaluation, the OEO will make a written determination that will be forwarded to the awarding City Department. If the proposal is determined nonresponsive by the OEO, the Respondent will be notified and may file a written appeal with the Executive Director of OEO within forty-eight (48) hours of the date of notification; the decision of the Executive Director of OEO shall be final.

C. RESPONSIBILITY

1. Upon award, the completed Solicitation For Participation and Commitment Form and accompanying documents regarding solicitation and commitments with MBEs, WBEs and DSBEs become part of the contract and the successful Respondent is required to enter into legally binding agreement(s) ("M/WBE Subcontract(s)") with its M/WBE participants for the services and in the dollar amount(s) and percentage(s) as so committed (the "Contract Commitment(s)"). M/WBE percentage commitments are to be maintained throughout the term of the contract and shall apply to the total value of the Concession Fee (including any increase in Concession Fee). Any change in commitment, including but not limited to, substitutions for the listed firm(s), changes or reductions in the work and/or listed dollar/percentage amounts, must be pre-approved in writing by the OEO.

2. The successful Respondent is required to pay its M/WBE participants promptly for services performed under the contract (including the supply of materials). In connection with the payment of its M/WBE participants, the successful Respondent agrees to fully comply with the City's electronic payment verification systems.

3. No privity of contract exists between the City and any M/WBE participant identified in any contract resulting from this RFP. The City does not intend to give or confer upon any such M/WBE participant(s) any legal rights or remedies in connection with the subcontracted services pursuant to Executive Order 03-12 or by reason of any contract resulting from the RFP except such rights or remedies that the M/WBE subcontractor may seek as a private cause of action under any legally binding contract to which it may be a party.

4. If the OEO determines that the Respondent has discriminated against a M/WBE at any time during the term of the contract, the OEO may recommend to the Director of Finance the imposition of sanctions on

the Respondent including debarment of the Respondent from submitting and/or participating in future City contracts for a period of up to three (3) years.

D. ACCESS TO INFORMATION

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

E. RECORDS AND REPORTS

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

F. REMEDIES

1. The successful Respondent's compliance with the requirements of Executive Order 03-12 is material to the contract. In the event the City determines that the successful Respondent has failed to comply with any of the requirements of this Antidiscrimination Policy, including substantial compliance with any Contract Commitment, the City may, in addition to any other rights and remedies it may have under the Contract, which includes termination of the Contract, debar successful Respondent from proposing on and/or participating in any future contracts for a maximum period of three (3) years. These remedies are for the sole benefit of the City and City's failure to enforce any provision or the City's indulgence of any non-compliance with any provision hereunder, shall not operate as a waiver of any of the City's rights in connection with any contract resulting from this RFP nor shall it give rise to actions by any third parties including identified M/WBE participants.

ANTIDISCRIMINATION POLICY SOLICITATION FOR PARTICIPATION AND COMMITMENT FORM
Minority (MBE), Woman (WBE), Disabled (DSBE) and Disadvantaged (DBE) Business Enterprises¹

DEPARTMENT OF COMMERCE OFFICE OF ECONOMIC OPPORTUNITY (OEO)									
Bid Number or Proposal Title:			Name of Bidder/Proposer:				Bid/RFP Opening Date:		
List below ALL MBE/WBE/DBE/DSBEs that were solicited regardless of whether a commitment resulted therefrom. - Photocopy this form as necessary.									
<input type="checkbox"/> MBE <input type="checkbox"/> WBE <input type="checkbox"/> DSBE <input type="checkbox"/> M-DBE <input type="checkbox"/> W-DBE			Work or Supply Effort to be Performed		Date Solicited		Commitment Made		Give Reason(s) If No Commitment
Company Name					By Phone	By Mail	Yes (If Yes, give date)	NO	
Address									
Contact Person					Quote Received		Amount Committed To		
Telephone Number		Fax Number			YES²	NO	Dollar Amount		
Email Address							\$		
OEO REGISTRY #	CERTIFYING AGENCY						Percent of Total Bid/RFP		
							%		
<input type="checkbox"/> MBE <input type="checkbox"/> WBE <input type="checkbox"/> DSBE <input type="checkbox"/> M-DBE <input type="checkbox"/> W-DBE			Work or Supply Effort to be Performed		Date Solicited		Commitment Made		Give Reason(s) If No Commitment
Company Name					By Phone	By Mail	Yes (If Yes, give date)	NO	
Address									
Contact Person					Quote Received		Amount Committed To		
Telephone Number		Fax Number			YES²	NO	Dollar Amount		
Email Address							\$		
OEO REGISTRY #	CERTIFYING AGENCY						Percent of Total Bid/RFP		
							%		
<input type="checkbox"/> MBE <input type="checkbox"/> WBE <input type="checkbox"/> DSBE <input type="checkbox"/> M-DBE <input type="checkbox"/> W-DBE			Work or Supply Effort to be Performed		Date Solicited		Commitment Made		Give Reason(s) If No Commitment
Company Name					By Phone	By Mail	Yes (If Yes, give date)	NO	
Address									
Contact Person					Quote Received		Amount Committed To		
Telephone Number		Fax Number			YES²	NO	Dollar Amount		
Email Address							\$		
OEO REGISTRY #	CERTIFYING AGENCY						Percent of Total Bid/RFP		
							%		

1. If Bidder/Proposer makes solicitation(s) and commitment(s) with a DBE, Bidder/Proposer shall indicate which class type, M-DBE or W-DBE, is submitted for credit.
 2. Attach all quotations to this form.

APPENDIX C

**CITY OF PHILADELPHIA TAX AND REGULATORY
STATUS AND CLEARANCE STATEMENT
FOR APPLICANTS**

THIS IS A CONFIDENTIAL TAX DOCUMENT NOT FOR PUBLIC DISCLOSURE

This form must be completed and returned with Applicant's proposal in order for Applicant to be eligible for award of a Concession with the City. Failure to return this form will disqualify Applicant's proposal from further consideration by the contracting department. Please provide the information requested in the table, check the appropriate certification option and sign below:

Applicant Name	
Contact Name and Title	
Street Address	
City, State, Zip Code	
Phone Number	
Federal Employer Identification Number or Social Security Number:	
Philadelphia Business Income and Receipts Tax Account Number (f/k/a Business Privilege Tax) (if none, state "none")*	
Commercial Activity License Number (f/k/a Business Privilege License) (if none, state "none")*	

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

___ I certify that the Applicant named above does not currently do business, or otherwise have an economic presence in Philadelphia. If Applicant is awarded a contract with the City, it promptly will take all steps necessary to bring it into compliance with the City's tax and other regulatory requirements.

Authorized Signature

Date

Print Name and Title

* You can apply for a City of Philadelphia Business Income and Receipts Tax Account Number or a Commercial Activity License on line after you have registered your business on the City's Business Services website located at <http://business.phila.gov/Pages/Home.aspx>. Click on "Register" or "Register Now" to register your business.

APPENDIX D

LOCAL BUSINESS ENTITY OR LOCAL IMPACT CERTIFICATION

Instructions: Applicants who seek as a positive factor in the City’s consideration of their application that they meet the Local Business Entity or Local Impact criteria as provided in Mayoral Executive Order No. 04-12 should complete this Certification and return it with their application. Applicants providing this Certification should also include in a separate section of their application labeled “Local Business Entity or Local Impact Certification,” a statement that the Applicant believes it has met the Local Business Entity or Local Impact criteria “as set forth in the attached Local Business Entity or Local Impact Certification.” Check all appropriate certification options that are applicable to Applicant and sign below:

Applicant Name: _____

Local Business Entity Certification

___ I certify that the Applicant named above is a Local Business Entity because Applicant complies with the following criteria set forth in Section 17-109 (3) (b) of The Philadelphia Code:

I. During the preceding 12 months, Applicant has filed a Commercial Activity or Business Privilege tax return with the City establishing that Applicant conducted business within the City within the calendar year preceding the filing of the return; and

II. During the preceding 18 months, Applicant:

- A. Has continuously maintained a valid Commercial Activity or Business Privilege License and all other licenses and permits necessary to conduct business with the City;
- B. Has continuously occupied an office within the City, where business is conducted; and
- C. Satisfies at least one of the following requirements (*Check those applicable to Applicant*):

- ___ (1) More than half of Applicant’s full-time employees work in the City at least 60% of the time;
- ___ (2) More than 50 of Applicant’s full-time employees work in the City at least 60% of the time; or
- ___ (3) Applicant’s principal place of business is located in the City.

Local Impact Certification

___ I certify that in the performance of a contract resulting from this RFP, the Applicant named above will employ City residents

___ I certify that in the performance of a contract resulting from this RFP, the Applicant will perform the work in the City.

Authorized Signature

Date

Print Name and Title

APPENDIX E

CONCESSION FEE PROPOSAL FORM

Concession fee for Operation and Management of Music Festival, paid, as described below.

MONTHLY GROSS REVENUE

2014: _____% of Gross Revenues

RENEWAL TERMS

2015: _____% of Gross Revenues

2016: _____% of Gross Revenues

2017: _____% of Gross Revenues

APPENDIX F

SITE MAP

