



Legislation Text

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Authorizing the Commissioner of Records and the Procurement Commissioner, on behalf of the City, to execute a multi-year concession agreement with Ancestry.com in connection with the digitizing, indexing, and public access and search of City of Philadelphia Department of Records vital records, all under provisions set forth in the concession agreement substantially as set forth in Exhibit A to this ordinance.

THE COUNCIL OF THE CITY OF PHILADELPHIA HEREBY ORDAINS:

SECTION 1. City Council of Philadelphia finds the following:

A. The City of Philadelphia Department of Records maintains stewardship of the City Archives, which houses one of the nation's most significant municipal genealogical collections comprising approximately 20 million historical records reflecting Philadelphia's rich heritage.

B. City Archives' genealogical collection represents among the most highly accessed materials in the collection and constitutes an invaluable resource for residents, researchers, and individuals worldwide seeking to trace their family histories and understand Philadelphia's role in American immigration and urban development.

C. The current accessibility of these historical records is limited primarily to in-person research with only limited digital availability through legacy computer systems, which restricts public access to these important historical documents.

D. Digitization of the entire genealogical collection would enhance public access, ensure long-term preservation of irreplaceable historical documents, and demonstrate Philadelphia's commitment to innovative public-private archive partnerships.

E. Following a competitive public bidding process, the City has determined that Ancestry.com possesses the technical expertise, organizational and online infrastructure, and proven track record necessary to safely digitize, index, and host the complete genealogical collection.

F. Ancestry.com has agreed to bear all costs associated with the digitization and indexing of the complete genealogical collection, which it estimates will require two years to finish, in exchange for the right to host the City's vital records on its platform under a multi-year concession agreement.

G. The partnership between the City and Ancestry.com will provide unprecedented public benefit through global accessibility of Philadelphia's historical vital records at no cost to the City.

H. The concession agreement will ensure continued free public access to the digitized records at the City Archives and City Hall Records offices, while continuing access through library branches across all ten City Council Districts that currently provide free Ancestry.com access to patrons.

I. Under the concession agreement, Ancestry.com will make its "Ancestry Classroom" educational resources available at no cost to every Philadelphia public high school and middle school, which will

enhance educational opportunities and help connect students to local history.

J. The proposed concession agreement includes contractual protections for the secure transport and handling of the City's historical documents to Ancestry.com's Utah facilities, and Ancestry.com has a demonstrated track record for safe transport, handling, and return of historical records.

K. Ancestry.com's substantial upfront investment required for digitization of the City's millions of vital records necessitates a multi-year contract term to ensure the concession's economic viability, with the proposed structure providing a ten-year base term with City options for renewal by which the City will control the agreement's continuation.

L. The innovative partnership under the concession agreement will preserve Philadelphia's historical legacy for future generations while making it globally accessible through public-private cooperation in digital preservation and community access to historical resources.

SECTION 2. The Commissioner of Records and the Procurement Commissioner are authorized to execute a multi-year concession agreement with Ancestry.com, substantially in the form set forth in Exhibit A to this ordinance, under which Ancestry.com, as concessionaire, shall digitize millions of City of Philadelphia Department of Records vital records, which date variously from the late 1600s to approximately 1950, and shall create indexes of the record images' metadata, make the record images available and searchable online to its customers, and provide free access to the Concessionaire's on line suite of products to the Department of Records, the Law Department, and City of Philadelphia public schools, all under provisions set forth in the concession agreement.

SECTION 3. The City Solicitor is authorized to review, negotiate, and approve amendments to the concession agreement consistent with this ordinance that the City Solicitor determines are necessary, desirable, and in the best interests of the City.

SECTION 4. The Chief Clerk is directed to keep a copy of Exhibit A on file in the Chief Clerk's Office and available for public inspection.

SECTION 5. This ordinance is effective immediately.

EXHIBIT A

**PROPOSED CONCESSION AGREEMENT
BETWEEN
THE CITY OF PHILADELPHIA
AND
ANCESTRY.COM OPERATIONS INC.**

**CONCESSION AGREEMENT FOR DIGITIZATION AND ONLINE PLATFORMING OF CITY
OF PHILADELPHIA ARCHIVAL VITAL RECORDS**
[City of Philadelphia Archives - Vital Records]

This CONCESSION AGREEMENT FOR DIGITIZATION AND ONLINE PLATFORMING OF CITY OF PHILADELPHIA ARCHIVAL VITAL RECORDS CONCESSION AGREEMENT (the

“**Concession Agreement**”) is made _____, 2025, between the **CITY OF PHILADELPHIA** (the “**City**”), acting through its **RECORDS DEPARTMENT** (the “**Department**”) and its **PROCUREMENT DEPARTMENT**, and **ANCESTRY.COM OPERATIONS INC.**, a Virginia corporation, with its headquarters and principal place of business at 1300 West Traverse Parkway, Lehi, UT 84043 (the “**Concessionaire**”).

BACKGROUND

A. The City of Philadelphia Records Department, Archives Unit, keeps and maintains important vital records for the City and County of Philadelphia.

B. On February 2, 2024, the City’s Procurement Department, on behalf of the Record’s Department, issued Request for Proposals #C-104-24: Digitization and Online Platforming of City of Philadelphia Archival Vital Records. The Procurement Department issued amendments to the RFP on the following dates:

1. April 12, 2024.
2. May 21, 2024.

C. The RFP is set forth in **Exhibit A-1**. The RFP amendments of April 12, 2024, and May 21, 2024, are set forth, respectively, in **Exhibit A-2 and Exhibit A-3**. The RFP and two amendments to it are referred to collectively in this Concession Agreement as the “**RFP Documents**.”

D. Concessionaire submitted a Proposal in accordance with the RFP. Concessionaire’s Proposal is set forth in **Exhibit B** to this Concession Agreement. Concessionaire also submitted a letter, dated October 11, 2024, to City officials as a supplement to its Proposal (the “**Proposal Supplement**”), which is set forth in **Exhibit**

C. Except where this Concession Agreement refers separately to the Proposal Supplement, each reference in this Concession Agreement to the “Proposal” means the Proposal as amended by the Proposal Supplement.

E. The City selected Concessionaire as the best value Respondent under the RFP to be the exclusive Concessionaire under the RFP.

F. Contemporaneously with its execution of this Concession Agreement, Concessionaire has paid a Security Deposit to the City in the amount of \$5,000 in accordance with Concession Agreement Section 3.14.

G. By Bill No. _____, Philadelphia City Council authorized the Records Commissioner and Procurement Commissioner to execute this Concession Agreement on the City’s behalf. Mayor Parker signed the bill into law on _____, 2025. A copy of Bill No. _____ is attached as **Exhibit D** to this Concession Agreement.

H. This Concession Agreement is entered into pursuant to the RFP Documents and provides for the City giving a License to the Concessionaire to perform the services and tasks set forth in the RFP Documents and this Concession Agreement.

ACCORDINGLY, intending to be legally bound, the City and Concessionaire agree as follows:

ARTICLE 1
DEFINITIONS; EXHIBITS; INCORPORATION OF DOCUMENTS

1.01. Definitions in RFP. Unless defined in this Concession Agreement, capitalized words and phrases used in this Concession Agreement have the meanings assigned to them in the RFP Documents. **Schedule 1** to the RFP lists all the words and phrases defined in the RFP and the corresponding RFP Section in which they are defined. Under this Concession Agreement, however, references in Schedule 1 to Section 3 or Section 4 and corresponding sections mean Article 3 and Article 4, respectively, of this Concession Agreement..

1.02. Definitions in Concession Agreement. In this Concession Agreement, each word and phrase defined in the Preamble and Background has its meaning assigned to it in those provisions. The words and phrases defined below have the meanings assigned to them below.

“**City**” has the meaning assigned to it in the Preamble and includes all the City’s departments, boards, commissions, officials, officers, employees, representatives, and agents.

“**Concession Documents**” means the Concession Agreement, the RFP Documents, Concessionaire’s Proposal, all the exhibits, schedules, appendices, and other attachments to those documents, and all amendments to any of them made in accordance with Concession Agreement Section 4.12.2.

“**Concessionaire**” has the meaning assigned to it in the Preamble above and includes Concessionaire’s officers, employees, and agents.

1.03. Schedule and Exhibits. This Concession Agreement includes the following Schedules and Exhibits:

Exhibit A: RFP Documents Exhibit A-1: RFP
C-104-24

Exhibit A-2: RFP Amendment No. 1 Exhibit A-3: RFP
Amendment No. 2

Exhibit B: Concessionaire’s Proposal

Exhibit C: Concessionaire’s Proposal Supplement Exhibit D:
Bill No.

Exhibit E: Concessionaire’s “Standard Operating Procedures for Content Shipping & Receiving: Imaging Department, Content” and “Content Handling Guidelines”

1.04. Incorporation of Other Documents. Subject to Section 10.01 below, Exhibits A, B, C, and D are incorporated into, and are part of, this Concession Agreement.

ARTICLE 2 LICENSE

2.01 License. Beginning on the Development Term Start Date, subject to the provisions of this Concession Agreement and the other Concession Documents, the City gives Concessionaire a License to perform the Concession Services. The License is exclusive and non-assignable. The License is effective only during the Term.

2.02 License to Work in Archives Building. The License includes permission to perform some or all of the Concession Services in the Archives building identified in RFP Section 2.2. Concessionaire shall confer with the Project Manager to arrange times, procedures, and conditions by which Concessionaire may work in the Archives building. Concessionaire may enter and work in Archives only during times expressly approved in advance in writing by the Project Manager. The Archives building is open on days City offices are open (excluding the offices of City police, fire, and other essential departments); the building is closed on weekends and national and City holidays.

2.03 Conditions to Exercise of License and Work in Archives Building. Without limiting the effectiveness of Concession Agreement 3.2.2, Concessionaire's exercise of the License is subject to the "AS IS" condition of the Archives building. Concessionaire previously observed and inspected space in Archives in which Concessionaire may work under this Concession Agreement. With respect to the Archives building and other City-owned property, Concessionaire releases the City from liability in accordance with Appendix 2, Section A-2.3.

2.04 No City Financial Commitment. Despite any other provision of this Concession Agreement and the other Concession Documents, and without limiting the effect of Concession Agreement Section 3.16, **this Concession Agreement and the other Concession Documents do not obligate the City to appropriate or spend money at any time or for any reason, or to incur costs and expenses at any time or for any reason. If there is a conflict, express or implied, between this Section 2.04 and any other provision of this Concession Agreement or the other Concession Documents, this Section 2.04 controls.**

2.05 RFP Effectiveness; Award of Concession Agreement. Subject to Section 10.01 below, and except as amended by this Concession Agreement, the Concessionaire is bound by the terms and conditions of the RFP Documents in all respects. The Concessionaire shall comply with all the obligations, prohibitions, limitations, and conditions imposed on the Concessionaire's exercise of the License and performance of Concession Services under the RFP Documents.

ARTICLE 3

DEVELOPMENT TERM; OPERATING TERM; CONCESSION SERVICES, DISENTANGLEMENT

RFP Section 3 [Concession Agreement: Definitions; Specific Provisions; Development Services; Concession Services; Disentanglement] is replaced in its entirety by the following:

3.1 Term; Licenses to Concessionaire and City; Ownership and Interests; Development Services; Operating Services; Additional Provisions

- 3.1.1 A. The "**Development Term**" under the Concession Agreement starts on the last day all the following have occurred (the "**Development Term Start Date**"): (A) the City executes the Concession Agreement; (B) Philadelphia City Council passes an ordinance that becomes law which authorizes the Concession Agreement with its multi-year term; and (C) all the conditions set forth in RFP Section 8.2 [Concession Agreement Effectiveness] have been fully satisfied. The Development Term expires at 11:59:59 P.M. the day before the 24-month anniversary of the

Development Term Start Date.

- B. The “**Operating Term**” under the Concession Agreement starts the earlier of (A) 12:00 AM immediately following expiration of the Development Term, and (B) 12:00 AM the third Business Day [defined in RFP Schedule 1, Defined Terms] following the day Concessionaire delivers written notice to the City that Concessionaire has posted or uploaded some or all of the Record Images on Concessionaire’s System for access by users of Concessionaire’s System (the “**Operating Term Start Date**”). The Operating Term expires at 11:59:59 P.M. the day before the 10th anniversary of the Operating Term Start Date.

3.1.2 The City, at its sole discretion, may renew the Operating Term for up to two successive five-year periods (each five-year period, a “**Renewal Term**”). Each Renewal Term starts at 12:00 A.M. immediately following expiration of the initial Operating Term or preceding Renewal Term, as the case may be. To renew the Operating Term, the City must provide written notice to the Concessionaire of the City’s desire to renew the Operating Term (the “**Renewal Notice**”) no later than 180 days before expiration of the initial Operating Term or then-current Renewal Term, as the case may be.

- A. After expiration of the second Renewal Term, the City in its sole discretion may extend the Operating Term for successive two-year periods (each, an “**Extension Period**”), in each case by sending a Renewal Notice not later than 120 days before expiration of the second Renewal Period or then-current Extension Period, as the case may be. The Concessionaire may, if it desires, send the Project Manager a notice in advance of the Renewal Notice deadline reminding the Project Manager about the deadline and inquiring whether the City wants to renew the Operating Term.

- B. If the City doesn’t provide a timely Renewal Notice, then the Concession Agreement expires at the end of the Operating Term, then- current Renewal Term, or then-current Extension Period, unless after the Renewal Notice deadline the City sends a written request asking the Concessionaire to waive the deadline and within 30 days following receipt of the City’s request the Concessionaire agrees in writing to waive the deadline.

3.1.3 In the Concession Agreement, the following definitions apply:

- A. “**Term**” means the Development Term, the Operating Term, and all Renewal Terms, if any, and Extension Periods, if any.
- B. “**Concession Agreement Ending Date**” means the date the Concession Agreement expires, is terminated, or otherwise ends for any reason.

3.1.4 [Reserved]

3.1.5 Start Date: Development Term and Extension of Development Term.

A. The Development Term Start Date under Section 3.1.1 is

_____.

B. The Development Term expires at 11:59:59 PM _____, 2027.

C. Despite Concession Agreement Section 3.1.1 and Concession Agreement Section 3.1.2, Concessionaire may request an extension of the Development Term by submitting a written request to the Project Manager no later than 90 days before the end of the Development Term. In its extension request, Concessionaire must explain in detail (A) the status of Concessionaire’s Development work to date; (B) the reason Concessionaire is requesting the extension, including any unexpected obstacles or requirements in performing the Concession Services and measures the Concessionaire took to address them; and (C) the duration of Concessionaire’s proposed extension. If Concessionaire’s extension request is commercially reasonable, the Project Manager may not unreasonably withhold approval of Concessionaire’s request. In no event, however, may the Development Term extend more than an additional 24 months.

3.2 License to Concessionaire; Records’ Conditions

3.2.1. License to Concessionaire. Upon the Development Term Start Date, subject to the provisions of the Concession Agreement, the City gives the Concessionaire an exclusive, irrevocable, nontransferable, non-assignable license (the “**License**”) to use the Records to the extent necessary to perform the Concession Services, including for the following purposes:

- A. To digitize the Records.
- B. To make the Record Images available to users of the Concessionaire’s System to search, access, view, read, copy, store, print, and use.
- C. To provide the necessary customer service support to users of the Concessionaire’s System in connection with online public access to the Record Images and searching, viewing, reading, copying, storing, printing, and otherwise using them.
- D. To promote and market the Concessionaire’s System and the Record Images in various media formats and through various media channels or social media, including providing occasional free samples of the Record Images.
- E. Through Concessionaire’s System, to host, publish, distribute, reproduce, index, transcribe, translate, and use the Record Images on a world-wide basis, subject to limitations of the Concessionaire’s System’s functionality, existing and future technology, and Concessionaire’s own terms of service (as Concessionaire may amend the terms of service from time to time).

3.2.2 Records in AS IS Condition. Concessionaire’s exercise of the License is subject to the “AS IS” condition of the Records, the City’s existing images of the Records, and the media in which the City makes the Records available to Concessionaire. The City makes no representation or warranty, express or implied, in fact or in law, regarding the quality, nature, condition, legibility, or usability of the Records, the City’s existing images of the Records, the media in which the Records are stored, or the Records’ suitability for Concessionaire’s performance of the Concession Services.

3.3 License to City; Department Use of Concessionaire’s System; City Access

- 3.3.1 Throughout the Operating Term (including all Renewal Terms and Extension Periods), subject to the provisions of the Concession Agreement, Concessionaire gives to the City, a free, irrevocable, non-exclusive, nontransferable license to use the Concessionaire's System for the following purposes (the "Concessionaire's System License"):
- A. To make Record Images available to search, locate, access, view, read, copy, store, download, save, and print, and other use by users of Concessionaire's System, whether internally by Department officials or by other City officials, and by Philadelphia residents and Philadelphia real property owners. The City may charge a fee to Department patrons to whom Department staff provide copies of Record Images or information about Record Images.
 - B. To provide the necessary customer service support in connection with online public access and use for users of Concessionaire's System.
 - C. To promote and market the Records, Record Images, and the Concessionaire's System, in any media format and through any media channel or social media.
 - D. To include on the City's website a link to Concessionaire's website so that persons using the City's website can connect to and use Concessionaire's System, subject to Concessionaire's usual and customary charges for access to Concessionaire's System.
- 3.3.2 The City shall not use the Concessionaire's System License to distribute, lease, loan, license, sell, transfer, assign, or otherwise make available the Record Images to any commercial third party or for commercial purposes.
- 3.3.3 The Concessionaire shall provide free access to Concessionaire's System for all Department staff and City of Philadelphia Law Department attorneys for internal purposes only, to search indexes, locate, access, view, read, copy, store, download, save, print, and make other use of the Record Images, and not for any commercial purpose. The City may, however, charge a fee to Department patrons to whom Department staff provide copies of Record Images, or information about the Record Images, that Concessionaire creates.
- 3.3.4 If reasonably practicable, the Concessionaire shall create a separate portal for the City to use the Concessionaire's System free of charge.
- 3.3.5 The Concessionaire shall issue the City access to Ancestry Institution, which will provide free access to the Record Images and associated indexes on Concessionaire's System through the City's computer workstations at the Archives building, the Records Department's offices in City Hall, and Law Department offices, through IP authentication.
- 3.3.6 Concessionaire shall provide free, direct access to Concessionaire's System via its AncestryClassroom product at each public high school and public middle school in the City of Philadelphia. Concessionaire shall work in good faith with Philadelphia School District officials and individual school officials to implement the free access as expeditiously as reasonably possible, but in any event shall complete the implementation not later than the end of the Development Term.
- 3.3.7 Concessionaire shall provide to the City and each public high school and public

middle school updates to Concessionaire's System free of charge according to Concessionaire's standard update process for all Concessionaire's System users.

3.4 Ownership and Interests

3.4.1 Ownership and Interests in the Records and Record Images.

- A. The Concession Documents do not grant or convey to the Concessionaire any title, copyright, or other interest in the Records or Record Images. The Concession Documents do not give the Concessionaire any implied rights or interests. The Concession Agreement gives Concessionaire only those rights that the Concession Agreement expressly states. At all times during the Term, the City owns the Records and Record Images and all copyright in them.
- B. The City has sole and absolute title to all Record Images the Concessionaire makes or creates. The City may use the Record Images without restriction, subject only to the provisions of the Concession Agreement.
- C. To the extent a Record Image embodies a copyrightable work, including a “**Compilation**” (defined in RFP Schedule 1), the copyrightable work is deemed a “**Work Made for Hire**” (defined in RFP Schedule 1) by the Concessionaire for the City.
- D. To the extent a Record Image or Concessionaire's work product embodies one or more copyrightable works but is neither a Compilation nor any other form of Work Made for Hire, by executing the Concession Agreement the Concessionaire assigns all copyrights in the Record Image to the City. The Concessionaire shall promptly execute all instruments necessary to evidence its assignment of all copyrights in the Record Image to the City at no or nominal cost to the Concessionaire.
- E. Concessionaire shall cause all “**Deliverables**” (defined in RFP Schedule 1) which embody a copyrightable work to bear the following designation, or a similar designation approved in writing in advance by the Commissioner:

© 2025 City of Philadelphia (or then-current year in which the copyrightable materials are fixed in a tangible medium of expression).
- F. Concessionaire has sole and absolute title to all indexes the Concessionaire makes or creates with respect to the Record Images.
- G. As directed by the Commissioner, the Concessionaire shall include on each Record Image the City copyright notice, and reference to the City as source of the Record Image, subject to the standards and limitations of Concessionaire's typical digital document presentation.

3.4.2 Ownership and Interests in the Record Images and the Concessionaire's System. If Concessionaire has not already sent all the Record Images to the City, then

immediately upon occurrence of the Concession Agreement Ending Date, the Concessionaire shall, at no cost to the City, send all Record Images to the City in a standard .tif, .jpg or similar file type, with the corresponding metadata in a CSV or Excel format. Alternatively, if the City so elects, Concessionaire shall destroy the Record Images; except that the Concessionaire is not obligated to destroy any Record Images that, pursuant to Concessionaire's reasonable belief based upon the advice of counsel, is subject to a claim, dispute, lawsuit, or subpoena, or in any other circumstances in which Concessionaire reasonably believes the destruction of Record Images would be unethical or unlawful until that issue is resolved. Concessionaire shall pay the cost to prepare an encrypted medium the City, in its reasonable discretion, designates in writing to Concessionaire on which Concessionaire is to deliver the data to the City.

3.5 Development Services.

3.5.1 Development Services Generally.

During the Development Term, following Concessionaire's receipt of Records from the City or at the City Archives, the Concessionaire shall diligently and in good faith do each of the following to the Commissioner's reasonable satisfaction (collectively, the "**Development Services**"):

- A. Scan each Record into .tif format to create a Record Image of it.
- B. Copy or transfer into .tif format those Records the Department has already digitized.
- C. Expand the existing descriptive data fields for each Record Image.
- D. [Reserved]
- E. Create research data options for each Record Image.
- F. Associate data fields with each Record Image.
- H. Improve the clarity of each Record Image by de-speckling and de-skewing each image, removing background "noise," and other measures.
- I. Transfer or upload each Record Image to the Concessionaire's System in an organized way to make the Record Image easy to search, locate, access, view, read, copy, store, download, save, and print.
- J. Upload, store, and organize the Record Images on the Concessionaire's System to make them easily searchable and viewable in a common format, with links to the relevant Record Image.

3.5.2. Specific Development Service Requirements: Scanning the Records, Enhancing Each Record Image, and the Commissioner's Review.

- A. The Concessionaire is not obligated to identify missing Records, but the Concessionaire shall work in good faith with the Commissioner to identify Records the Commissioner identifies as missing.
- B. In those instances where the Commissioner does not provide a Record in digital format or hard copy, Concessionaire shall use its best faith efforts to scan the Record from microfilm or microfiche master copies.
- C. Regarding each Record for which Concessionaire cannot reasonably scan a suitable image from available microfilm or microfiche or cannot reasonably transfer a suitable image of the Record, Concessionaire shall scan the Record at the Department's offices from the Record's original hard copy.
- D. If a Record has information, type, handwriting, or a stamp on both sides of a page, Concessionaire shall scan or transfer an image of both sides of that page.
- E. Concessionaire shall scan the Records or transfer the Records, as the case may be, into .tif format, with excellent visual quality and a density of not less than 300 dots per inch.
- F. Concessionaire shall review each Record Image for sharpness, clarity, completeness, verticality, and overall quality. Without limiting the general requirement of the immediately preceding sentence, Concessionaire shall review each Record Image for the following and correct it as necessary and reasonably practical:
 - 1. Resolution.
 - 2. Noise (spots, image inconsistency, etc.).
 - 3. Sharpness.
 - 4. Clarity.
 - 5. Completeness.
 - 6. Verticality or straightness.
 - 7. Legibility.
 - 8. Contrast.
 - 9. Density.
 - 10. Correct pagination.
 - 11. Flatness.
 - 12. Correct black border around the Record Image.
 - 13. Unwanted interference in the image, including streaks, fingers, fingerprints, dust, paper and other foreign particles, and equipment.
- G. Concessionaire shall not at any time remove any hard copy Record from the City's Archives facility identified in RFP Section 2.1. If Concessionaire determines it must scan a Record from its hard copy, Concessionaire shall do so only in the Archives facility. Concessionaire shall provide the necessary equipment to scan hard copy Records in the Archives.

3.5.3. Unacceptable Record; Corrective Measures. For each Record Image that is not acceptable under the quality standards required by Sections 3.5.1 and 3.5.2, Concessionaire shall re-scan or re-transfer the image and take reasonable corrective measures to improve the Record Image.

3.5.4. Commissioner's Review; Corrective Measures. Concessionaire shall provide to the Commissioner a small, partial pilot scans at the start of the Development Term for each medium in which the Records exist (paper or microfilm).

- A. The Commissioner may review for acceptability the pilot scans, in the Commissioner's reasonable determination.
- B. If the Commissioner reasonably determines that a Record need to be re-scanned or reprocessed, the Concessionaire shall re-scan or reprocess the Record to address its acceptability.
- C. Once the Commissioner has approved a pilot scan, the Concessionaire shall in good faith continue scanning Records with the same quality processes and used for the pilot the Commissioner approved.
- D. The Concessionaire shall upload Record Images to the Concessionaire's System when Concessionaire has completed the Development Services

3.5.5. Uploading Record Images to Concessionaire's System Using Pertinent Indexes. Concessionaire shall upload the approved Record Images to the Concessionaire's System and ensure that each Record is property indexed with the Record-specific pertinent data so the Record is easily searchable online in accordance with its standard practices.

A. Index Data Fields. Concessionaire shall save, organize, and index data fields for the Record Images so that individuals may use common and reasonably foreseeable search queries to locate Record Images relevant to individuals, family members, friends, demographic groups, geographic areas, and other common research purposes. Concessionaire shall capture as many data fields from each type of Record Image as reasonably practical and useful, but Concessionaire may decide in its sole discretion the composition of the indexes (including the fields that are captured from each type of Record Images). For example, without limitation, for birth certificates, Concessionaire shall capture data fields, where listed on the certificate, for

- 1. the child's full name;
- 2. the child's sex;
- 3. the child's race;
- 4. the child's birth date (day, month, and year);
- 5. the child's place of birth (including, where available on the certificate, street address and hospital or other facility);
- 6. each parent's full name;
- 7. the parents' place of residence (where available on the certificate);

and

8. each parent’s country and locality of origin.

- B. Confer With Commissioner About Metadata. Before digitizing each type of Record, Concessionaire shall confer with the Commissioner to determine the proper metadata to be indexed for that type of Record. Also, where a type of Record over the years used different standard forms, before digitizing the different groups of forms for each type of Record, the Concessionaire shall confer with the Commissioner to determine the proper metadata to be indexed for the different forms for that type of Record. Despite the preceding provisions of this Section 3.5.5.B, the Concessionaire has sole discretion to decide the final composition of the indexes (including the fields that are captured from each type of Record Images).
- C. Additional Data Field Inputs. Concessionaire shall determine, in its reasonable discretion, whether information on the Record Images is illegible or unclear and will provide a list of those Record Images to the Commissioner. Concessionaire shall also confer with the Project Manager to clarify and confirm place and street names and other information on the Records. Concessionaire shall work with the Commissioner and Project Manager to determine a suitable solution for addressing Record Images that are illegible or unclear. Concessionaire is not obligated to upload images of index cards, registers, or a return¹ of a Record where the original clear, legible Record, or an image of it, exists in a format that Concessionaire reasonably can scan or transfer into a digital format and upload to Concessionaire’s System.
- D. [Reserved.]
- E. Record Repository. While uploading the approved Record Images to the Concessionaire’s System, the Concessionaire shall ensure all of the following:
 - 1. Each individual Record Image is associated with the specific index for that Record and is appropriately linked to the proper Record.
 - 2. Each Record Image is searchable online on the Concessionaire’s System through an infrastructure that executes searches on the expanded indexes.

3.5.6. Providing Record Images to City. Concessionaire shall deliver all Record Images to the Commissioner prior to the end of the Development Term.

¹ A “return” is the notification to the City of a birth, marriage, or burial. “Registers” have daily listings of births, marriages, and deaths. “Index cards” replaced registers and have individual listings of births and deaths.

Concessionaire shall deliver the Record Images at no cost to the City as a complete collection in a standard tif, jpg, or similar file type with the corresponding metadata

(created and maintained by the City before Concessionaire took the Records for scanning) in a CSV or Excel format. Concessionaire shall deliver the Record Images to the Commissioner after Concessionaire completes the digitization and its quality control measures.

- 3.5.7 Concessionaire's System Features. In designing how the Record Images and associated indexes appear on Concessionaire's System, Concessionaire shall make it possible for users to search the Record Images like all other records on Concessionaire's site. Before the Operating Term Start Date, Concessionaire shall deliver to the Commissioner a beta-link that allows the Commissioner, the Project Manager or the Commissioner's other designee, to perform a full test on the Concessionaire's System of the Record Images, their related indexes, and Record Image searches. The Concessionaire shall address systematic errors and make changes during this period to ensure Concessionaire achieves the functionality and quality the City expects under the Concession Agreement. The City may raise, and the Concessionaire shall address, issues related to Record Image quality in the pilot program during the Development Term pursuant to Section 3.5.4.
- 3.5.8. Subcontractor for Document Indexing. Subject to Concession Agreement Section 3.8 [Subcontracting; Third Party Providers], Concessionaire may engage one or more Subcontractors (defined below) to scan and index the Records. Concessionaire shall notify the Commissioner of the Subcontractors Concessionaire hires to help perform the Concession Services under the Concession Agreement.
- 3.5.9. Incorporation into Concessionaire's Existing Infrastructure. Concessionaire shall make the Record Images accessible to online users of Concessionaire's System. The Concessionaire shall make the Record Images available online to search, locate, access, view, read, copy, store, download, save, and print, in the same manner and over the same bandwidth as the other documents and data available on Concessionaire's System.

3.6 Operating Services; Periodic Reporting; Contact Person

- 3.6.1. Website Users' Access to Records. On the Operating Term Start Date and for the remainder of the Operating Term, Concessionaire shall make and keep the Record Images accessible to online users to search, locate, access, view, read, copy, store, download, save, print, and make other common uses of historical documents.
- 3.6.2. Charges to Online Users. With respect to online users' searching, locating, accessing, viewing, reading, copying, storing, downloading, saving, and printing of the Record Images on Concessionaire's System, Concessionaire shall charge not more or less than its customary fees for similar use of other documents of similar nature on Concessionaire's System; except only for promotional discounts and providing free samples in connection with Concessionaire's Promotional Activities (defined in Concession Agreement Section 3.7.1 below).
- 3.6.3. Concessionaire's System. Concessionaire shall keep Concessionaire's System in good operating and functional condition so that the Record Images are available to online users without interruption (subject to normal business outages). Concessionaire shall implement industry best practices and measures to protect Concessionaire's System from hacking and to protect the Record Images from unauthorized use, distortion, alteration, deletion, and other dangers.
- 3.6.4. [Reserved.]

- 3.6.5 Information About Online Traffic (Usage). Concessionaire shall provide to the Commissioner and Project Manager access to an online reporting tool that will show daily traffic in the form of views of Record Images and associated indexes. The Concessionaire shall cause each type of Record to have its own usage metrics. The Concessionaire shall provide access to this tool through a username and password provided to the Commissioner and Project Manager only.
- 3.6.6 Re-Scan Faulty Record Images. For Record Images that are identified as faulty during the pilot project period during the Development Term, and without limiting Concessionaire's obligations under Concession Agreement Section 3.5.2.F, Section 3.5.3, Section 3.5.4, and other Concession Agreement provisions that require Concessionaire to correct faulty Record Images, Concessionaire shall promptly re-scan or reprocess the Records, as the case may be. Concessionaire shall upload all the Record Images as provided in Concession Agreement Section 3.5.4.D.
- 3.6.7 [Reserved]
- 3.6.8 Contact Person. Concessionaire shall designate a senior officer who is knowledgeable about the Concession Agreement and Concessionaire's online content ("Concessionaire's Contact Official") who will be reasonably available to the Commissioner by telephone and e-mail to discuss matters that may arise under or related to the Concession Agreement and the Concessionaire's performance of the Concession Services. Concessionaire shall cause its Contact Official in good faith (A) to communicate with the Commissioner (or the Commissioner's designee) about matters that arise under or related to the Concession Agreement, (B) if not available when the Commissioner calls or e-mails, to call back or reply to the Commissioner reasonably promptly relative to the nature and urgency of the matter (but in any event not more than two Business Days after the Commissioner's call or e-mail), and (C) otherwise communicate as necessary and prudent to ensure the optimal success of the Concession Activities.

3.7 Promotional Activities

- 3.7.1. The Concessionaire may, in its reasonable discretion, market, publicize, advertise, and promote the Records and their accessibility through Concessionaire's System by all commercially reasonable means, including: the internet; social media; newspapers, magazines, and other printed media; radio, television, and other broadcast and streaming media; other media; and possibly providing occasional free sample images of the Records. The Concessionaire's marketing, publicity, and advertising activities with respect to the Records are referred to collectively as the "**Promotional Activities.**"
- 3.7.2. The Concessionaire shall include in its print, television and radio broadcast, online, and electronic Promotional Activities related to the Record Images a prominent, easily legible statement that reads as follows, or similar wording the Project Manager expressly approves in writing in advance:
- [Concessionaire's name] provides City of Philadelphia records under an agreement with the City of Philadelphia. All the City of Philadelphia's records are the property of the City of Philadelphia.
- The Commissioner may provide to Concessionaire a logo of the Department or Archives and, if the Commissioner does, Concessionaire shall include the logo on the Record Images or on Concessionaire's webpages that display the Record Images.
- 3.7.3. The Concessionaire shall obtain the Project Manager's prior written approval when Concessionaire directly references the City of Philadelphia or the Record Images in any of Concessionaire's Promotional Activities. The Concessionaire may propose a written plan to the Project Manager for its Promotional Activities. If the Concessionaire obtains the Project Manager's written approval of its plan for

Promotional Activities (the “**Approved Promotional Plan**”), then, as long as the Concessionaire strictly complies with the Approved Promotional Plan, the Concessionaire is not obligated to obtain additional approval of its Promotional Activities. The Concessionaire may not change the Approved Promotional Plan without the Project Manager’s prior written approval.

- 3.7.4. The City may actively market the Record Images and their accessibility on Concessionaire’s System in the City’s sole discretion, but the City is not obligated to do so.
- 3.7.5. Subject to Concession Agreement Section 3.7.3, as part of its Promotional Activities, Concessionaire may offer promotional discounts for users to access the Record Images and provide free samples of Record Images.

3.8 Subcontracting; Third-Party Providers

3.8.1 The following words have the meanings assigned to them below:

“**Subcontract**” means a contract between the Concessionaire and a Subcontractor that is made in writing, orally, electronically, or by other means.

“**Subcontractor**” includes any person or firm (and the firm’s employees) who provides services, supplies, or equipment in connection with Concessionaire’s performance of Concession Services under the Concession Agreement. For example, without limitation, “Subcontractor” includes the following when providing services, supplies, or equipment on Concessionaire’s behalf: a person or firm that scans documents into digital format; a person or firm that creates indexes or libraries of the Record Images or expands the data fields that can be used to search the Record Images; a person or firm that writes or installs new computer programming to manage indexes of the Record Images, or that makes the Record Images searchable through Concessionaire’s System; and advertising agencies.

3.8.2 Subject to the prohibitions set forth in Concession Agreement Section 4.12 [No Assignment Without City Consent] and the requirements set forth in RFP Section 6.14 [Participation of Minority, Woman and Disabled Owned Business Enterprises in Concession Agreements....], the Concessionaire may enter into one or more Subcontracts to obtain services, supplies, and equipment in support of the Concessionaire’s performance of the Concession Services.

- A. Despite entering into any Subcontract, the Concessionaire is not relieved of any of its obligations under the Concession Agreement nor released from compliance with any other provision of the Concession Agreement.
- B. The Concessionaire shall cause each Subcontractor to comply with the Concession Agreement. Any Subcontractor’s failure to comply with the Concession Agreement is deemed Concessionaire’s failure to comply with the Concession Agreement and is subject to Concession Agreement Section 4.5 [Default....].
- C. [Reserved.]
- D. Despite the location of any Subcontractor’s business, at no time during the Term may Concessionaire permit any of its Subcontractors to remove any hard copy Record from the City’s Archives facility.

3.8.3 Concessionaire anticipates using Subcontractors to complete scanning and

indexing work and shall notify the Commissioner promptly after selecting each Subcontractor. Concessionaire shall cause each Subcontract to specify the following:

- A. The Subcontract is subject to the Concession Agreement.
- B. The City is a third-party beneficiary of the Subcontract but is not obligated to the Subcontractor in any manner or for any reason.
- C. The Subcontractor is bound by the same requirements as the Concessionaire under the Concession Agreement to (A) indemnify and defend the City, and (B) to name the City as additional insured on the Subcontractor's insurance.
- D. At least 20 business days before a Subcontractor begins work under the Concession Agreement on the Concessionaire's behalf, the Subcontractor shall provide to the Project Manager a certificate of insurance which shows that the Subcontractor has obtained the types and amounts of required insurance and that the City is named as additional insured under the insurance.

3.8.4 [Reserved.]

3.8.5 Despite Concession Agreement Section 3.8.4, if the City terminates the Concession Agreement or the Concession Agreement Ending Date otherwise occurs, Concessionaire shall not prevent the City from directly contracting with any Subcontractor.

3.8.6 Any purported Subcontract Concessionaire makes in violation of Concession Agreement Section 3.8 is void as it relates to the Subcontractor's exercise of the License.

3.8.7 Concessionaire shall supervise the activities of all Subcontractors and shall ensure their compliance with the Concession Agreement. In addition, without limiting the effect of the immediately preceding sentence, Concessionaire shall cause each Subcontractor to comply with the requirements set forth in Concession Agreement Section 3.8.3.

3.9 Industry Best Practices

In providing the Concession Services, the Concessionaire shall adhere to standards at least equal in quality to the genealogy industry and online research industry best practices.

3.10 [Reserved.]

3.11. Disentanglement.

3.11.1. Disentanglement Measures. Subject to Concession Agreement Section 3.11.1.I and J, Concessionaire shall begin the disentanglement process on the earlier of the following dates: (X) 180 days prior to the end of the License as provided in Section Concession Agreement

3.1.2.B; or (Y) if the City terminates the Concession Agreement following an Event of Default and Concessionaire's failure to timely cure the Event of Default, then immediately following receipt of the City's termination notice (in either case, the "**Disentanglement Date**"). Concessionaire remains obligated to implement Disentanglement Measures (defined below) after the Concession Agreement Ending Date and pursue them diligently without interruption until fully completed. The Concessionaire shall promptly do or start each of the following (the "**Disentanglement Measures**") on or before the Disentanglement Date or, if that is not possible as a practical matter (as with termination following an uncured Event of Default), as soon as reasonably possible after the Disentanglement Date:

- A. Cease all work digitizing the Records.
- B. Terminate online access to all the Record Images, except for Record Image copies that users of Concessionaire's System have previously saved or downloaded.
- C. Return to the Commissioner all hard copies of the Records and all hard drives, servers, and other recording devices or implements on which Concessionaire scanned or copied any of the Records. For any Record Images the Concessionaire has not already provided to the Commissioner, Concessionaire shall, at no cost to the City, return all the Record Images to the Commissioner in standard .tif, .jpg, or similar file type, with the corresponding metadata in a CSV or Excel format.
- D. After returning the Record Images to the Commissioner, erase, remove, or otherwise destroy all the Record Images from the Concessionaire's System and servers or otherwise in Concessionaire's possession or control, except for Record Image copies that users of Concessionaire's System have previously saved or downloaded.
- E. Erase or otherwise remove from Concessionaire's System all Record Images related to the Records, except for Record Image copies that users of Concessionaire's System have previously saved or downloaded.
- F. Take all other measures necessary and appropriate to ensure that the Record Images are not accessible through Concessionaire's System or otherwise through Concessionaire's business, except for Record Image copies that users of Concessionaire's System have previously saved or downloaded.
- G. [Reserved.]
- H. Deliver a written statement from Concessionaire's Contact Official to the Commissioner by which the Contact Official, on Concessionaire's behalf, certifies that Concessionaire has completed all the Disentanglement Measures and that the Record Images are no longer accessible through Concessionaire's System or otherwise through Concessionaire's business.
- I. Render to the Commissioner reasonable cooperation, assistance, and services to facilitate the orderly transition and migration of the Record Images in Concessionaire's possession, to the City or its designee. If the Commissioner directs Concessionaire in writing, the Concessionaire shall continue to provide the Development Services or other Concession Services, as the case may be, until all of the Record Images in Concessionaire's possession have been

completely converted and transferred to the City's alternative system provider.

- K. Concessionaire shall cooperate in good faith with the City and otherwise promptly take commercially reasonable steps required to assist the City in implementing a complete disentanglement. Concessionaire shall provide sufficient information to the City as needed for disentanglement. Concessionaire shall provide for the prompt and orderly transfer of the Record Images in Concessionaire's possession and the conclusion of all work, as the City may reasonably direct, including completion or partial completion of some projects, documentation of work in process, and other measures to ensure an orderly transition to the City or the City's designee.
- K. Concessionaire's obligation to perform the disentanglement measures is deemed not completed until the Commissioner notifies Concessionaire in writing that the Commissioner is satisfied Concessionaire has completed the disentanglement to the Commissioner's reasonable satisfaction. Concessionaire shall perform all Disentanglement Measures at its sole cost and expense.

3.11.2. Survival of Disentanglement Requirements. Concessionaire's disentanglement obligations under Concession Agreement Section 3.11 survive the Concession Agreement Ending Date until the Commissioner notifies the Concessionaire it has completed the disentanglement pursuant to Concession Agreement Section 3.11.1.K.

3.12 Concession Fee: Minimum Annual Guaranteed Amount; Gross Revenue Percentage Fee; Payment Procedures; and Reports.

3.12.1 Concession Fee: Definitions. For purposes of calculating the fee that Concessionaire is obligated to pay to the City, the following definitions apply:

“**Concession Fee**” means the combined MAG and the Gross Revenue Percentage Fee.

“**Gross Revenue**” means all revenue, however characterized, the Concessionaire receives in connection with its performance of the Concession Services and exercise of the License.

“**Gross Revenue Percentage Fee**” means the amount Concessionaire stated in its Proposal as the percentage of its Gross Revenue that it will pay to the City, in addition to the MAG.

“**MAG**” means the minimum annual guaranteed amount Concessionaire stated in its Proposal that it will pay to the City each year during the Term. The MAG stands independently from, and in addition to, Concessionaire's Gross Revenue Percentage Fee. The MAG is not dependent on Concessionaire realizing Gross Revenue from providing the Concession Services and exercising the License.

3.12.2 Concession Fee Payment. In exchange for the License, each year during the Operating Term, Concessionaire shall pay the MAG in a single, up- front payment by the end of the first month of that Operating Term year.

3.12.3 Manner, Place, and Timing of Concession Fee Payment.

- A. Manner of Payment. The Concessionaire shall make all its Concession Fee payments to the City by check that references this Concession Agreement and is made payable to the “**City of Philadelphia,**” and shall deliver its payment

to:

Commissioner
City of Philadelphia Records Department City Hall -
Room 156
Philadelphia, PA 19107

- B. Timing of Payments. For each year of the Operating Term, Concessionaire shall pay the Concession Fee no later than the last day of the first month of that Operating Term year.
- C. Obligations Survive. Concessionaire's obligations under Concession Agreement Section 3.12 survive the Concession Agreement Ending Date until Concessionaire has paid the entire amount of the Concession Fee due to the City under the Concession Agreement, plus any applicable late fees and other fees and charges.
- D. [Reserved.]
- E. If the City intentionally makes the bulk of the Record Images available to any third party during the Operating Term, except as contemplated by the RFP and this Concession Agreement, the Concessionaire is not obligated to pay any additional Concession Fee after that occurrence. The City may, however, provide access to the Record Images to colleges, universities, non-profit organizations that do not directly compete with Concessionaire's business of providing images of record documents, governmental and quasi-governmental organizations, and cultural institutions (such as museums and other repositories of historical documents (for example, the Federal Reserve Bank of Philadelphia), including bulk downloads or other means of delivery, in which case the Concessionaire remains obligated to pay the Concession Fee.

3.12.4 Late Payments; Returned Payments.

Without limiting the application of Concession Agreement Section 4.5 [Default], the following provisions apply to Concessionaire's payment of the Concession Fee:

1. If the Concessionaire fails to timely pay any portion of the Concession Fee within five Business Days after it is due, then in addition to the unpaid portion of the Concession Fee the Concessionaire shall pay to the City a late fee equal to 10% of the unpaid portion of the Concession Fee.
2. If the Concessionaire presents a Concession Fee payment check to the City that a bank returns unpaid, the City may require the Concessionaire to make all subsequent Concession Fee payments to the City by certified check, money order, or electronic transfer. In addition, for each returned check, the Concessionaire shall pay to the City a returned check fee of \$35 (or more if the City's bank charges a greater fee to the City), plus all

other reasonable fees, costs, charges, and expenses the City incurs arising from or related to the collection of Concessionaire's required payments. Also, the provisions of Concession Agreement Section 3.12.4.1 apply to Concessionaire's Concession Fee payment that is late because Concessionaire's payment check is returned unpaid.

3.13 Books & Records; Reports

3.13.1 Books & Records. Concessionaire shall keep complete and accurate books of accounts, financial records, and other records (collectively, the "**Books & Records**") relating to the Concession Agreement, Concessionaire's exercise of the License and performance of the Concession Services.

- A. Without limiting the general requirement of the immediately preceding sentence, Concessionaire shall maintain an online usage report that shows the daily, monthly, and yearly counts of Record Image and associated index views. Concessionaire shall give the Commissioner and the Project Manager access to this report in accordance with Concession Agreement Section 3.6.5.
- B. Concessionaire shall maintain its Books & Records in accordance with generally accepted accounting principles consistently applied.

3.13.2 [Reserved.]

3.13.3 [Reserved.]

3.13.4. [Reserved.]

3.13.5 [Reserved.]

3.13.6 Reporting Obligations Survive. Concessionaire's obligations under Concession Agreement Section 3.13 survive the Concession Agreement Ending Date until Concessionaire has paid the full amount of the Concession Fee and other fees and charges it owes the City.

3.14 [Reserved]

3.15 [Reserved.]

3.16 Concessionaire's Sole Financial Obligation; No City Contribution

The Concessionaire shall perform the Concession Services at its sole cost and expense. The Concession Agreement and the other Concession Documents do not obligate the City to appropriate or spend money at any time or for any reason or to incur any costs or expenses at any time or for any reason. If any provision in the Concession Documents expressly or impliedly conflicts with this Section 3.16, this Section 3.16 controls.

**ARTICLE 4
GENERAL CONTRACT STANDARD PROVISIONS**

RFP Section 4 [General Contract Standard Provisions] is replaced in its entirety by the following:

4.1 Compliance with Applicable Laws

4.1.1 “**Applicable Laws**” mean all present and future Commonwealth of Pennsylvania, federal, and municipal laws, ordinances, regulations, orders, rules, official opinions and interpretations, and requirements, that apply to any of the following: the Records, the Record Images, the RFP, the Concession Agreement, the License, the Concessionaire, the Concession Services, the Concessionaire’s System, and the Concessionaire’s exercise of the License and use of the Records.

4.1.2 Throughout the Term, the Concessionaire shall promptly comply with all Applicable Laws. The Concessionaire shall obtain and maintain all licenses, permits, certificates, and other approvals that Applicable Laws require for the Concessionaire to operate its business and perform the Concession Services.

4.2 Indemnification, Release and Insurance: Appendix 2

4.2.1 The Concessionaire shall promptly indemnify and defend the City, as set forth in RFP **Appendix 2**.

4.2.2 By executing the Concession Agreement, the Concessionaire releases the City as set forth in Appendix 2.

4.2.3 On or before the Development Term Start Date, the Concessionaire shall obtain the types and at least the minimum amounts of insurance set forth in Appendix 2 and shall maintain those types and amounts of insurance throughout the Term. As a condition precedent to the effectiveness of the License, Concessionaire must provide the City of Philadelphia Risk Manager with a certificate of insurance that shows the Concessionaire has obtained the types and amounts of insurance required under Appendix 2. Concessionaire shall cause copies of all certificates of insurance to be delivered to all the officials at the addresses specified in Appendix 2.

4.3 No Discrimination; Ethical Requirements; Wages and Benefits

4.3.1 Discrimination Prohibited. Concessionaire shall comply with the provisions of the Philadelphia Home Rule Charter (the “**Charter**”), the Fair Practices Ordinance (Philadelphia Code Chapter 9-1100), and City of Philadelphia Mayoral Executive Order No. 04-86 (the “**Executive Order**”), as each may be amended from time to time. In Concessionaire’s use of the Records and the Record Images, and performance of the Concession Services and other activities under or related to the Concession Agreement, Concessionaire shall not discriminate or permit discrimination against any individual on the basis of actual or perceived race, ethnicity, color, sex (including pregnancy, childbirth, or a related medical condition), sexual orientation, gender identity, religion, national origin, ancestry, age, disability, marital status, familial status, source of income, genetic information; domestic or sexual violence victim status; or Human Immunodeficiency Virus infection status. Without limiting the scope or application of the previous provisions of this Section 4.3.1, Concessionaire shall not discriminate against any individual on a basis prohibited by United States federal law, Commonwealth of Pennsylvania law, or any other law applicable to Concessionaire, the Records, the Record Images, the Concession Agreement, or Concessionaire’s performance of the Concession Services. Concessionaire’s breach of this Section 4.3.1 is an Event of Default under Section 4.5.1 without opportunity to cure and entitles the City to immediately exercise its remedies under Section 4.5.2, including to suspend or terminate the Concession Agreement.

4.3.2 Membership Fees in Private Organizations.

A. In accordance with Philadelphia Code Chapter 17-400, the Concessionaire’s payment or reimbursement of membership fees or other expenses associated with participation by its employees in an exclusionary private organization, insofar as

that participation confers an employment advantage or constitutes or results in discrimination with regard to hiring, tenure of employment, promotions, terms, or privileges or conditions of employment on the basis of race, color, sex, sexual orientation, religion, national origin or ancestry, constitutes a material Event of Default of the Concession Agreement by the Concessionaire that entitles the City to all rights and remedies provided in the Concession Agreement or otherwise available at law or in equity.

- B. The Concessionaire shall include Section 4.3.2.A immediately above, with appropriate adjustments for the identity of the parties, in all Subcontracts that the Concessionaire enters into for work to be performed pursuant to the Concession Agreement.
- C. The Concessionaire shall cooperate with the City's Commission on Human Relations in any manner which the Commission deems reasonable and necessary for the Commission to carry out its responsibilities under Chapter 17-400 of the Philadelphia Code. Concessionaire's failure to cooperate with the Commission on Human Relations is an Event of Default under Concession Agreement Section 4.5.1 without opportunity to cure that entitles the City to exercise all rights and remedies provided in Concession Agreement Section 4.5.2, in the Concession Agreement, or otherwise available to the City at law or in equity.

4.3.3 Non-Indebtedness

- A. The Concessionaire represents, warrants, and certifies that Concessionaire, and all its Related Companies (defined below), are not on the Start Date indebted to the City. Concessionaire shall not at any time during the Term be indebted to the City for or on account of any delinquent taxes (including taxes collected by the City on behalf of the School District of Philadelphia), water bills, sewer bills, stormwater fees, liens, judgments, fees or other debts for which no written agreement or payment plan satisfactory to the City has been established. The Concessionaire shall remain current during the Term with all those payments and shall inform the City immediately upon receipt of any notices of delinquent payments. In addition to any other rights or remedies available to the City under the Concession Agreement, at law, or in equity, the Concessionaire acknowledges that any breach or failure to conform to Concessionaire's representations, warranties, and certification in this Concession Agreement Section 4.3.3.A may, at the option of the City, be deemed an Event of Default without opportunity to cure and entitle the City to terminate the Concession Agreement pursuant to Concession Agreement Section 4.5.2 (in which case the Concessionaire is liable for all the City's' excess costs and other damages resulting from the termination). In addition, Concessionaire understands that false certification or representation is subject to prosecution under Title 18 Pa.C.S.A. § 4904.
- B. The Concessionaire shall cause each Subcontractor to make a certification to the City similar to that made by the Concessionaire in Concession Agreement Section 4.3.3.A. The Concessionaire shall include the provisions in Concession Agreement Section 4.3.3.A in each Subcontract, with appropriate adjustment for the name of the Subcontractor.

4.3.4 No Gifts to City Officials

- A. In accordance with Executive Order No. 10-16, issued by the Mayor of Philadelphia on October 26, 2016, the Concessionaire shall not offer, make, or render any “Gift” (defined below) to any City official or employee where the official or employee would be prohibited from accepting or receiving the Gift under Section 2 of that Executive Order. Prohibited Gifts include, for example, those from any person who at the time of rendering the gift or within the prior 12 months seeks or sought official action from the City official or employee, has operations or activities regulated by the official’s or employee’s department, or has a financial or other substantial interest in acts or omissions taken by that official or employee. The City advises Concessionaire to review the full text of Executive Order No. 10-16 and to consult with private legal counsel if the Concessionaire has any questions or concerns about the Executive Order.
- B. Any person who offers or gives anything of value to any City official or employee, the receipt of which would violate Executive Order No. 10-16, may be subject to sanctions with respect to future City contracts to the extent expressly stated in that Executive Order, which may range from disqualification from participation in a particular contract, to debarment, depending on the nature of the violation.
- C. In the Executive Order, “Gift” means any payment, subscription, advance, forbearance, rendering or deposit of money, services, entertainment, invitation, food, drink, travel or lodging, or anything of value given to, or for the benefit of, a City officer or employee, unless consideration of equal or greater value is received. “Gift” does not include a political contribution otherwise reportable as required by law, a commercially reasonable loan made in the ordinary course of business (such as a home mortgage loan), or a gift received from a family member of the officer or employee.
- D. If the Concessionaire offers or gives, directly or indirectly, a Gift to any City official or employee in violation of Executive Order 10-16, the Concessionaire will have committed a material Event of Default under Concession Agreement Section 4.5.1 that entitles the City to exercise all rights or remedies available under Concession Agreement Section 4.5.2, the Concession Agreement, at law and in equity. In addition, the Concessionaire’s violation of Executive Order 10-16 may be subject to sanctions, including disqualification from participation in City contracts, debarment, or loss of financial assistance, depending on the nature of the violation.

4.3.5 Philadelphia 21st Century Minimum Wage and Benefits Standard

If the Concessionaire or any Subcontractor at any tier is an “Employer” subject to the requirements of Chapter 17-1300, as that term is defined in Philadelphia Code Section 17-1302 and Section 17-1303, then, absent a waiver, during the Term, in addition to any applicable state and federal requirements, Concessionaire shall provide its

Employees, and shall cause all Subcontractors at any tier that are also Employers to provide their respective covered Employees, with at least the minimum wage standard and minimum benefits standard and notice of them, as required under Applicable Laws.

4.4 Tax Requirements

4.4.1 The Concession Agreement is entered into in the City of Philadelphia, Pennsylvania. Any Respondent who bids on and signs the Concession Agreement is subject to Philadelphia's business tax ordinances and regulations. The Concessionaire's delivery, sale, or rental of goods in the City, or provision or performance of services in the City, is "doing business" in the City and subjects the Concessionaire to the City's tax requirements, including one or more of the following taxes:

- A. Business Income and Receipts Tax.
- B. Net Profits Tax.
- C. City Wage Tax.

4.4.2 Promptly following the Development Term Start Date, if the Concessionaire is not already paying the taxes listed in Concession Agreement Section 4.4.1, the Concessionaire shall apply to the City of Philadelphia Department of Revenue for a tax account number and file appropriate business tax returns as required by Applicable Laws. Applications may be submitted through the Business Services Portal at: [Business Services <http://business.phila.gov/>](http://business.phila.gov) or to the Department of Revenue at:

Municipal Services Building Public
Service Concourse 1401 John F.
Kennedy Blvd. Philadelphia, PA 19102.

Questions about the application and the taxes may be directed to the Taxpayer Service Unit at: (215) 686-6600.

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

4.4.4 The City is not obligated to pay any Assessments related to the Concession Agreement, the License, the Concession Services, the Record Images, or the Concessionaire's other activities under the Concession Agreement.

4.4.5 The Concessionaire's failure to timely pay any Assessments, or Concessionaire's failure to otherwise pay an Assessment as required by Applicable Laws, is an Event of Default under Concession Agreement 4.5.1.B.

4.5 Default: Cure Periods, Remedies, Notice, No Non-Express Waivers

4.5.1 It is an "**Event of Default**" by the Concessionaire if any of the following

occur:

- A. Concessionaire fails to timely make its Concession Fee payments to the City in full.
- B. Concessionaire fails to timely comply with or otherwise breaches any other provision of the Concession Agreement applicable to Concessionaire, including the RFP and other Concession Documents.

4.5.2 Remedies. If the Concessionaire commits an Event of Default under Concession Agreement Section 4.5.1 and fails to cure the Event of Default within the applicable cure period specified below, or if the Event of Default is not susceptible of cure, then without further notice the City may, in its absolute discretion, immediately suspend or terminate the Concession Agreement, in whole or in part, without liability to the City, and may exercise all other remedies available to the City at law and in equity.

- A. In the case of an Event of Default under Section 4.5.1.A regarding the Concession Fee, the period within which Concessionaire must cure the Event of Default is five Business Days after the City delivers notice to the Concessionaire of the Event of Default.
- B. In the case of an Event of Default under Section 4.5.1.B, the period within which Concessionaire must cure the Event of Default is 30 calendar days after the City delivers notice to the Concessionaire of the Event of Default.
- C. In the case of an Event of Default under Section 4.5.1.B that cannot reasonably be cured within 30 calendar days after the day the City delivers notice to Concessionaire of the Event of Default,
 - (1) Concessionaire shall actively start the cure within 30 days after the City delivers notice to the Concessionaire of the Event of Default and shall provide clear evidence to the City of the steps Concessionaire has taken to start the cure, and
 - (2) the Concessionaire shall completely cure the Event of Default within 90 calendar days after the day the City delivers its notice of the Event of Default.
- D. In the case of any Event of Default that poses a threat of imminent harm to persons or property, there is no cure period, and the City may exercise the remedies available to it under this Section 4.5.2, at law, and in equity, and Concessionaire shall implement the Disentanglement Measures immediately upon receipt of the City's notice of the Event of Default.
- E. If the City suspends the Concession Agreement pursuant to Concession Agreement Section 4.5.2, Concessionaire shall immediately stop all work related to digitizing the Records and stop all activity on, and access to, the Concessionaire's System related to the Record Images, including blocking access to the related libraries and indexes, and preventing searches and location of, access to, viewing, reading, copying, storing, downloading, saving, and printing any Record Image. The Concessionaire may resume all the suspended activities only if the City subsequently reinstates the

Concession Agreement. If the City subsequently terminates the Concession Agreement, the Concessionaire shall promptly institute the Disentanglement Measures in accordance with Concession Agreement Section 3.11.

4.5.3 Damages. In addition to the City's rights and remedies under Concession Agreement Section 4.5.2, Concessionaire shall pay all damages, costs, and expenses the City suffers or incurs that arise from or relate to the Event of Default.

4.5.4 Remedies Cumulative. The City's remedies under the Concession Agreement, at law, and in equity, are cumulative. The City may exercise its remedies separately, cumulatively, successively, and repeatedly, in the City's absolute discretion.

4.5.5 No Waiver.

- A. The City's failure to insist in writing, orally, or otherwise, that Concessionaire strictly comply with any provision of the Concession Agreement does not waive that provision or Concessionaire's breach of it.
- B. The City's failure or delay in providing written notice to Concessionaire of an Event of Default, (1) does not relieve or excuse the Concessionaire from any liability arising from or related to the Event of Default; (2) does not waive any of the City's rights or remedies following the City's delivering written notice to the Concessionaire of the Event of Default and Concessionaire's failure to cure the Event of Default within the applicable cure period provided under Section 4.5.2, or immediately and without notice in the case of an Event of Default that poses a threat of imminent harm to person or property.
- C. The City's failure to promptly exercise a remedy following an Event of Default and Concessionaire's subsequent failure to timely cure the Event of Default does not waive any of the City's rights or remedies with respect to the Event of Default.
- D. No breach by Concessionaire of any provision in the Concession Agreement is waived for any reason unless the City waives it in a writing that expressly identifies itself as a waiver of a specific breach and that is signed by the Commissioner.
- E. The City's waiver of any breach of any provision in the Concession Agreement or any other Concession Document does not waive that provision and does not waive Concessionaire's subsequent breach of the same provision or any other provision in the Concession Agreement or any other Concession Document.

4.6 **Contract Preparation Fee**

Pursuant to Philadelphia Code Section 17-702, the Concessionaire shall pay a contract preparation fee for the Concession Agreement and (if applicable) bond preparation by the City's Law Department. The fee is calculated using the Concessionaire's projected Gross Revenue for the Operating Term:

<u>Projected Gross Revenue</u>	<u>For-Profit Fees</u>	<u>Non-Profit Fees</u>
	<u>Contract</u>	<u>Contract</u>
\$0-\$30,000	\$50	\$50
\$30,001-\$100,000	\$200	\$100
\$100,001-\$500,000	\$500	\$200
\$500,001-\$1,000,000	\$900	\$300
Over \$1,000,000	\$1,500	\$500

Concessionaire shall pay the contract preparation fee online, payable to the City of Philadelphia, at the following webpage: [Make a Payment](#). The Concessionaire may pay the contract preparation fee by either: (1) e-check, or (2) credit or debit card.

In its discretion, the Law Department may grant a full or partial waiver of any of the above fees in exceptional cases for good cause shown, such as violation of a grant covenant. Governmental entities are exempt from the fees. The Law Department reserves the right to collect up to twice the stated fee if extensive negotiation is required to reach a final contract with the successful Respondent.

4.7 Validity of City Approvals

4.7.1 Unless expressly specified otherwise in the Concession Agreement, any review, approval, permission, or consent that the Concessionaire is required to obtain from the City under the Concession Agreement is not valid or binding on the City unless obtained from the Commissioner in the manner the Concession Agreement requires.

4.7.2 Unless expressly specified otherwise in the Concession Agreement, the Concessionaire shall submit to the Commissioner all reports, notices, plans, specifications, certificates, requests for approval, and submissions that the Concessionaire is required to provide to the City.

4.8 Confidential and Proprietary Information of the City

The Concessionaire shall treat all information it obtains from the City that is not generally available to the public as confidential and proprietary to the City (the “**City’s Confidential Information**”). The Concessionaire shall exercise all reasonable precautions to prevent any of the City’s Confidential Information from being disclosed to any other person or entity. The Concessionaire shall promptly indemnify, defend, and hold harmless the City from and against all claims, liabilities, demands, suits, losses, damages, causes of action, fines, and judgments (including attorneys’ and experts’ fees) resulting from or related to any use or disclosure of any of the City’s Confidential Information by the Concessionaire, its employees, or Subcontractors, or by any person acquiring that information, directly or indirectly, from the Concessionaire, its employees, or Subcontractors. The Concessionaire’s obligations under Concession Agreement Section 4.8 survive the Concession Agreement Ending Date.

4.9 Time of the Essence

Time is of the essence for Concessionaire’s performance of the Concession Services and compliance with the Concession Agreement.

4.10 Force Majeure Event

4.10.1 “**Force Majeure Event**” means any extreme weather or natural occurrence (for example, hurricane, tornado, earthquake, flood), war or military action, terrorism, riot, insurrection, epidemic or pandemic,

government action or order that severely restricts commercial operations, regional or national emergency, regional or national telecommunications infrastructure breakdown, embargo, or labor strike or other work stoppage that makes it impossible for a party to comply with a provision of the Concession Agreement despite making commercially reasonable alternative arrangements. "Force Majeure Event" does not include a labor strike or work stoppage by Concessionaire's own employees or those of its Subcontractors or hacking of Concessionaire's System.

- 4.10.2 Concessionaire is excused from compliance with those provisions of the Concession Agreement rendered impossible by a Force Majeure Event only until Concessionaire can reasonably make alternative arrangements to enable its compliance with those provisions. If the Force Majeure Event renders impossible Concessionaire's compliance with a material provision of the Concession Agreement, and if the Force Majeure Event continues for 60 calendar days or longer, then the City may terminate the Concession Agreement in the City's sole discretion without liability to the Concessionaire.
- 4.10.3 If a Force Majeure Event occurs, the City is excused from complying with the Concession Agreement for the duration of the event.

4.11 No Joint Venture or Partnership

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

4.12 No Assignment Without City Consent

- 4.12.1 Concessionaire shall not assign its rights or delegate any of its obligations under the Concession Agreement without the Commissioner's express prior written consent on behalf of the City.
- 4.12.2 If the City consents to an assignment or delegation by Concessionaire, then the Concessionaire shall pay the City a one-time payment equal to 20% of the proceeds or value of other consideration that the Concessionaire receives for the assignment or delegation.
- 4.12.3 An assignment or delegation under Concession Agreement Section 4.12 includes a change of control of the Concessionaire by agreement, court order, operation of law, or by sale, purchase, or exercise of an option to acquire or sell, shares or an equity interest in Concessionaire or any of its parent companies at any tier. Without limiting the general application of the immediately preceding sentence, if Concessionaire is a partnership or joint venture, an assignment or delegation also includes withdrawal, buyout, or expulsion of a partner or joint venturer.
- 4.12.4 Any assignment or delegation in violation of Concession Agreement Section 4.12 is void, is unenforceable against the City, and is deemed an offer by Concessionaire to the City to immediately terminate the Concession Agreement, which the City may accept or decline in the City's sole discretion. This Concession Agreement Section 4.12 does not limit Concessionaire's right to enter into Subcontracts in accordance with Concession Agreement Section 3.5.8 and Concession Agreement Section 3.8 [Subcontracting; Third-Party Providers].

4.13 Successors and Assigns

Without limiting the effect of Concession Agreement Section 4.12 [No Assignment Without City Consent], the Concession Agreement binds and benefits the City and Concessionaire and their respective permitted successors and assigns.

4.14 Interpretation

- 4.14.1 The rule of interpreting any ambiguities in an agreement against the drafter of the agreement does not apply to the interpretation of the Concession Agreement, including the RFP Documents.

- 4.14.2 The words “include,” “includes,” and “including” have the same meaning as “including but not limited to.”
- 4.14.3 The word “shall” signals an obligation; the word “must” signals a condition precedent or condition to effectiveness.
- 4.14.4 The language in all parts of the Concession Agreement is to be construed as a whole according to its fair meaning and not strictly for or against either City or Concessionaire. When the context of the Concession Agreement requires, the neuter gender includes the masculine and feminine, and the singular includes the plural.
- 4.14.5 The captions used in the Concession Agreement, including the RFP, are for the purpose of convenience only and do not limit or extend the meaning of any provision of the Concession Agreement.

4.15 [Reserved.]

4.16 Place of Contract; Governing Law

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

4.17 Venue

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

ARTICLE 5
CONCESSIONAIRE’S OBLIGATIONS; RFP REVISIONS

5.01 Concessionaire Bound by Proposal. Concessionaire shall comply with its Proposal in all respects; except that to the extent the Proposal is modified by this Concession Agreement the Concessionaire shall comply with those modifications.

5.02 Concessionaire’s Performance. Concessionaire shall exercise the License and perform the Concession Services diligently, in good faith, without unnecessary interruption or delay, and in compliance with Applicable Laws. Without limiting the general application of the immediately preceding sentence, the Concessionaire shall ship and handle the Records in strict accordance with its “Standard Operating Procedures for Content Shipping & Receiving: Imaging Department, Content,” and its “Content Handling Guidelines,” each of which is attached to this Concession Agreement as **Exhibit E** and is incorporated into this Concession Agreement. Concessionaire shall cooperate and work with City officials and staff to ensure all boxes of Records are accurately and completely logged into and out of Archives building.

5.03. Concession Fee. Concessionaire is not obligated to pay a Gross Revenue Percentage Fee to the City. Concessionaire is obligated only to pay the MAG set forth in Concessionaire’s Proposal in accordance with Section 3.12.

5.04. Concession Agreement Revisions. References in the Concession Agreement and RFP amendments 1 and 2 to RFP sections 3 or 4 (and any subsections in them) mean the provisions with the corresponding section number in this Concession Agreement.

ARTICLE 6
OVERSIGHT OF CONCESSION; CONTACT PERSONNEL

6.01. Concessionaire Contact Person. In accordance with Section 3.6.8 and RFP Section 6.9.4, Concessionaire has designated the following individual as Concessionaire's Contact Official who will be reasonably available to City officials by telephone and e-mail to discuss matters that may arise related to the Concession Agreement and Concessionaire's performance of the Concession Services:

Jared Akenhead, Senior Manager - Content Acquisition Mobile
Phone Number: 801-995-1165 jakenhead@ancestry.com

6.02. City Oversight of Concessionaire: Project Manager. The City has designated the Project Manager identified in RFP Section 1.6 as the official with chief, direct responsibility to oversee Concessionaire's exercise of the License and performance of Concession Services under the Concession Documents. The Concessionaire shall promptly respond to the Project Manager's request for information related to the Concessionaire's exercise of the License and performance of the Concession Services during regular business hours in the Eastern time zone.

ARTICLE 7
CONCESSIONAIRE'S REPRESENTATIONS AND WARRANTIES

7.01. Representations and Warranties. Concessionaire represents and warrants the following:

1. The information in Concessionaire's Proposal is true and correct in all respects.
2. Concessionaire's execution of this Concession Agreement, and Concessionaire's compliance with all the provisions of the Concession Documents, does not violate Concessionaire's organizational documents or any contract to which Concessionaire is a party.
3. The person signing this Concession Agreement on behalf of Concessionaire is duly authorized to do so in accordance with Concessionaire's organizational documents and by-laws or organizational agreement, as the case may be.
4. Concessionaire is not subject to any agreement, claim, or litigation that restricts or impairs Concessionaire's ability to execute this Concession Agreement or to fully perform all its obligations under the Concession Documents.
5. Concessionaire is a Virginia corporation that is duly organized and that validly exists under the laws of the Commonwealth of Virginia. Concessionaire's vice president is .

6. Concessionaire is not subject to any ongoing or threatened litigation that challenges, or that could affect, Concessionaire's legal right and ability to execute this Concession Agreement and Concessionaire's complete and faithful performance of the Concession Services and Concessionaire's compliance with this Concession Agreement.

7. Concessionaire has taken all necessary corporate action to authorize the execution, delivery, and performance of this Concession Agreement.

ARTICLE 8 [RESERVED]

ARTICLE 9

SURVIVAL OF OBLIGATIONS AFTER CONCESSION AGREEMENT ENDING DATE

9.01. [Reserved.]

9.02. Concessionaire's Other Obligations. Unless expressly provided otherwise in the Concession Documents, all of Concessionaire's obligations under the Concession Documents which the City would reasonably expect Concessionaire to perform or complete after the Concession Agreement Ending Date survive the Concession Agreement Ending Date.

ARTICLE 10 GENERAL PROVISIONS

10.01. Concession Documents: Order of Precedence. If there is a conflict between any of the Concession Documents as read individually and as if not incorporated into this Concession Agreement, the order of precedence between the Concession Documents is as follows, from highest or precedent, to lowest or subordinate:

1. Concession Agreement.
2. RFP Amendments.
3. RFP.
4. Proposal Supplement.
6. Proposal.

10.02. Interpretation.

1. Except as expressly provided otherwise in this Concession Agreement, all references in this Concession Agreement to articles, sections, subsections, and exhibits are references to the articles, sections, subsections, and exhibits of this Concession Agreement.

2. Whenever the words "include," "includes," or "including" are used in this Concession Agreement and the RFP Documents, they have the same meaning as "including but not limited to," except if this Concession Agreement or the RFP Documents expressly provide otherwise.

3. The article and section headings in this Concession Agreement and the RFP Documents are for convenience only and do not govern the meaning of the substantive provisions of this Concession Agreement or the RFP Documents, as the case may be.

10.03. Notice.

1. To be effective, the City and Concessionaire must send all notices, consents and other communications which are required or which may be given under this Concession Agreement in writing, delivered to the person at the address specified below, and sent by (1) pre-paid certified mail with return receipt requested, or (2) overnight or courier service with delivery receipt obtained.

If to the City: James Leonard, Commissioner
City of Philadelphia Records Department City Hall -
Room 156
Philadelphia, PA 19102

James.Leonard@phila.gov

and: Ronald Hovey, Commissioner
City of Philadelphia Procurement Department Municipal
Services Building - 1st Floor
1401 JFK Boulevard
Philadelphia, PA 19102

Ronald.hovey@phila.gov

with a copy to: Divisional Deputy City Solicitor
Real Estate and Economic Development One
Parkway Building - 17th Floor 1515 Arch Street
Philadelphia, PA 19102

Maryjosephine.markle@phila.gov

If to Concessionaire: Jared Akenhead, Senior Manager - Content Acquisition
[address to follow]

jakenhead@ancestry.com
<<mailto:jakenhead@ancestry.com>>
1-801-995-1165

2. Notice given in accordance with the requirements set forth in Section 10.03.1 above is deemed delivered upon receipt or upon the intended recipient's refusal to accept delivery.

3. The City or Concessionaire may change the person or address to which notice is to

be given under this Concession Agreement by providing notice to the other party in accordance with Section 10.03.1 above.

10.04. No Assignment. For purposes of Concession Agreement Section 4.18, an assignment or delegation includes a change of control of Concessionaire by agreement, merger or acquisition, or by operation of law. Any assignment or delegation in violation of this Section 10.04 is void. This Section 10.04 does not limit Concessionaire's right to enter into Subcontracts in accordance with Concession Agreement Section 3.11 (Subcontracting).

10.05. Binding Effect on Successors and Assigns. Without limiting the effectiveness of Section 10.04 above, this Concession Agreement and the other Concession Documents are binding upon, and inure to the benefit of, the City and Concessionaire and their respective successors, assigns, and heirs, as the case may be.

[Remainder of page intentionally left blank. Signature page follows.]

AS EVIDENCE OF THEIR AGREEMENT TO ALL THE PROVISIONS SET FORTH ABOVE, the City and Concessionaire have caused this Concession Agreement to be executed and delivered by their duly authorized officials and officers on the date stated in the Preamble.

Approved as to form:
Renee Garcia, City Solicitor

CITY OF PHILADELPHIA:
Records Department

Per: Lawrence K. Copeland
Senior Attorney
City of Philadelphia Law Department

By: James Leonard
Commissioner
Procurement Department

By: Ronald
Hovey Commissioner

CONCESSIONAIRE:
Ancestry.com Operations, Inc.

By: Name:
Title:

EXHIBIT A

**TO CONCESSION AGREEMENT BETWEEN
THE CITY OF PHILADELPHIA
AND**

ANCESTRY.COM OPERATIONS INC.

REQUEST FOR PROPOSALS C-104-24, I
NCLUDING TWO AMENDMENTS TO IT

EXHIBIT B

TO CONCESSION AGREEMENT BETWEEN
THE CITY OF PHILADELPHIA
AND
ANCESTRY.COM OPERATIONS INC.

CONCESSIONAIRE'S PROPOSAL

EXHIBIT C

TO CONCESSION AGREEMENT BETWEEN
THE CITY OF PHILADELPHIA
AND
ANCESTRY.COM OPERATIONS INC.

CONCESSIONAIRE'S PROPOSAL SUPPLEMENT

EXHIBIT D

TO CONCESSION AGREEMENT BETWEEN
THE CITY OF PHILADELPHIA
AND
ANCESTRY.COM OPERATIONS INC.

BILL NO.