

BEFORE THE CONTRACT REVIEW BOARD
OF THE METROPOLITAN SERVICE DISTRICT

FOR THE PURPOSE OF AUTHORIZING)	RESOLUTION NO. 92-1634
AN EXEMPTION TO METRO CODE)	
CHAPTER 2.04.041(C),)	Introduced by Rena Cusma,
COMPETITIVE BIDDING PROCEDURES,)	Executive Officer
AND AUTHORIZING A SOLE SOURCE)	
CONTRACT WITH EASTMAN KODAK)	
COMPANY TO PROVIDE MAINTENANCE)	
AND REPAIR SERVICE ON THE KODAK)	
300 DUPLICATOR)	

WHEREAS, Eastman Kodak Company is the sole purveyor of Kodak replacement parts for the Kodak 300 duplicator; and

WHEREAS, There are no non-Kodak replacement parts for the Kodak 300 duplicator; and

WHEREAS, Service response time is critical to the high volume production in the Print Shop; and


WHEREAS, The Kodak 300 duplicator is still under warranty to Eastman Kodak Company; and

WHEREAS, It is unlikely that such exemption will encourage favoritism in the awarding of public contracts or substantially diminish competition for public contract; now, therefore,

BE IT RESOLVED,

The Contract Review Board hereby exempts the attached contract (Exhibit A attached hereto) with Eastman Kodak Company from the competitive bidding procedures pursuant to Metro Code Chapter 2.04.041(c) because the Contract Review Boards finds Eastman Kodak Company to be the sole providers for maintenance and repair services for the Kodak 300 duplicator.

ADOPTED by the Contract Review Board of the Metropolitan Service District this 25th day of June, 1992.


Jim Gardner, Presiding Officer

*Equipment Reprographic Services,
Sale, and Supplies
(State and Local Government)*

*July 1, 1991
Schedule SLG #18291-92*



Copy Products Price Schedule



COPY PRODUCTS



**KODAK EKTAPRINT 300 Duplicator
Equipment Sales**

	CAT No.	Selling Price	Conversion-To-Sale Price
KODAK EKTAPRINT 300F Duplicator ¹	125 0927	\$97,020	N/A
KODAK EKTAPRINT 300 Finisher Accessory ¹	178 1343	5,880	N/A
KODAK EKTAPRINT 300 Finisher/Binder ²	144 8927	11,768	N/A
KODAK EKTAPRINT Continuous Forms Feeder ¹	123 5985	5,000	\$3,750

**KODAK EKTAPRINT 300 Duplicator
Equipment Maintenance Agreements**

Standard EMA:

	Price Plan Code:	Three Year [36 EA]	Annual [12EA]
KODAK EKTAPRINT 300F Duplicator.....		\$400	\$380
KODAK EKTAPRINT 300AF Duplicator.....		523	495
KODAK EKTAPRINT 300AFB Duplicator.....		559	528
Image Charge.....		.0059	.0056

High-Volume EMA:

	Price Plan Code:	Three Year [36 EH]	Annual [12EH]
KODAK EKTAPRINT 300F Duplicator.....		\$698	\$665
KODAK EKTAPRINT 300AF Duplicator.....		821	780
KODAK EKTAPRINT 300AFB Duplicator.....		857	813
Image Charge.....		.0048	.0046

Availability Run Length EMA:

	Price Plan Code:	Three Year [36 ER]	Annual [12ER]
KODAK EKTAPRINT 300F Duplicator.....		\$855	\$815
KODAK EKTAPRINT 300AF Duplicator.....		910	865
KODAK EKTAPRINT 300AFB Duplicator.....		940	895
All Meter B Images (Meter B counts 1st 10 images of each original).....		.0087	.0083
All Meter A Images.....		.0016	.0015

Non-Model Accessories/EMA:

	Price Plan Code:	Three Year [36EA/EH]	Annual [12EA/EH]
KODAK EKTAPRINT Continuous Forms Feeder ¹		31	27

Accessories/RSA:

(Installed on Purchased Equipment Under Warranty/EMA)

	Price Plan Code:	Monthly Minimum Annual Term [12CA]
KODAK EKTAPRINT 300 Finisher.....		\$200
KODAK EKTAPRINT 300 Finisher/Binder.....		415
KODAK EKTAPRINT Continuous Forms Feeder.....		135

	Installation** Charges	Removal** Charges	Standard Relocation*** Charges	Internal Relocation Charges*
KODAK EKTAPRINT 300F Duplicator.....	\$535	\$620	\$450	\$100
KODAK EKTAPRINT 300 Finisher.....	155	170	130	
KODAK EKTAPRINT 300 Finisher/Binder.....	155	170	130	
KODAK EKTAPRINT Continuous Forms Feeder.....	230	230	200	

N/A — Not Applicable

*Per equipment configuration (see Item 6 of EMA Terms)

**Any additional handling (special rigging, forklift trucks, etc.) which may be required for installation or removal is not included and will be at the customer's expense.

***The customer is responsible for all moving costs associated with the relocation of equipment. The Relocation Charge is applicable whenever a service representative participates in any standard relocation, including re-installation.

¹At Kodak's discretion, New Equipment, Newly Manufactured Equipment, or Remanufactured Equipment (as defined in Item 7 of General Purchase Terms).

²Remanufactured Equipment (as defined in Item 7 of General Purchase Terms).

General Terms and Conditions

1. **Geographic Coverage:** The contract coverage area is defined as the contiguous United States and the Island of Oahu in Hawaii. The contractor reserves the right to return orders for areas which are remote or not readily or adequately serviced by the contractor.
2. **Point of Production:** All items in this price list are of domestic origin except as stated below.

Copier Mainframe Model	Country Manufactured
Kodak ColorEdge 1525/1550 Copiers	Japan
Kodak Ektaprint 90	Japan
Kodak Ektaprint 85	Japan
Kodak IM 40	Japan
Accessories	
40/85 Sorter	Japan
40 Feeder	Japan
Stapler	Germany
3. **Discount:** All prices herein are net (discount deducted).
4. **Quantity Prices:** See individual items.
5. **Terms:** Net 30 days.
6. **Delivery:** Within 30 to 145 days.
7. **FOB Point:** Prices shown are FOB Destination within the contiguous United States and the island of Oahu in Hawaii.
8. **All remittances** should be sent to address indicated on the invoice.

The prices, terms and conditions of this price list are firm for all eligible users under the following Fiscal Years:

Schedule SLG #18291-92

<i>Fiscal Year Effective Date</i>	<i>Catalog Effective Date</i>	<i>Catalog Expiration Date</i>
July 1, 1991	July 1, 1991	June 30, 1992
August 1, 1991	August 1, 1991	July 31, 1992
September 1, 1991	September 1, 1991	August 31, 1992
October 1, 1991	October 1, 1991	September 30, 1992
November 1, 1991	November 1, 1991	October 31, 1992
December 1, 1990	December 1, 1991	November 30, 1992
January 1, 1992	January 1, 1992	December 31, 1992
February 1, 1992	February 1, 1992	January 31, 1993
March 1, 1992	March 1, 1992	February 28, 1993
April 1, 1992	April 1, 1992	March 31, 1993
May 1, 1992	May 1, 1992	April 30, 1993
June 1, 1992	June 1, 1992	May 31, 1993

Eligibility

NOTE: Eastman Kodak Company is the sole and final authority for determining the eligibility of an organization or individual to use this Catalog.

1. State and Local Governments, OR
2. Nonprofit firms providing written confirmation that 50% or more of their funding is from SLG sources, OR
3. Nonprofit firms providing written confirmation that the use of the Kodak equipment is for a project funded 50% or more by an SLG source, OR
4. Foreign Government embassies and Consulates (SIC Code 940). These entities must sign a Statewide Purchase Discount form to qualify for the State and Local Government equipment purchase discounts.
5.
 - a. Private full-time, nonprofit schools, colleges, and universities (hereinafter schools) may use this Catalog. An organization is defined as a private full-time school if it is a nonprofit, tax-exempt institution, the primary purpose of which is to provide instruction through a full-time faculty to an enrolled body of students, and is licensed by an appropriate state authority to confer degrees or diplomas which are recognized as qualifying the student to pursue a course of higher education.
 - b. Nonprofit hospitals may use this Catalog. An organization is defined as a nonprofit hospital if it is a nonprofit, tax-exempt institution and is listed as a hospital in the most current edition of the American Hospital Association Guide to the Health Care Field.
6. Prior to accepting any order, customers qualifying under paragraphs 4a or b may be required to provide Kodak with proof of its federal tax exemption status. The following methods of proof are valid.
 - a. If the customer is listed in IRS publication "Cumulative List of Organizations" as described in Section 170 (C) of the Internal Revenue Code of 1954.
 - b. If the customer provides Kodak a copy of its Federal Tax Exemption letter as listed under Section 501 (C) (3) of the IRS code.
 - c. If the customer provides Kodak with a letter signed by an officer of the institution so stating that they are a federally tax-exempt organization.
7. Partial list (examples) of customers INELIGIBLE to use this Catalog:
 - a. Any "for-profit" organizations
 - b. Youth Associations and part-time schools
 - c. Trade Associations, labor unions, political parties, or parent teacher's associations.
 - d. Social clubs, churches or charitable foundations
 - e. Doctor's offices, health clinics, and medical laboratories
 - f. Blue Cross and Blue Shield Corporations.

These examples are by way of illustration and are not all-inclusive.

General Reprographic Services Terms

1. **Taxes** — Sales, use or other taxes measured by sales or receipts are not included in the prices shown but will be added to Kodak's invoices if applicable.
2. **Shipment and Transportation** — Installation and Removal Charge rates include transportation to and from the customer's premises. Kodak reserves the right to select the carrier and point of shipment. If the customer requests expedited or a special method of transportation, the entire cost of such transportation will be charged to the customer.
3. **Terms of Payment and Acceptance of Orders** — All orders are subject to acceptance by the Kodak District Sales Manager at one of its District or Regional Marketing Centers and are subject to intervening announcements of product discontinuance, price changes (except as noted below) and revisions to these terms and conditions. In addition to acceptance of the order at the District or Regional Marketing Center, Credit Department approval must be obtained before shipment and delivery to the customer. All bids, quotations and proposals must have the approval of, and be signed by, the District Sales Manager or their designees prior to being submitted to the customer. For orders requesting performance in another Fiscal Year or on other than an immediate basis, prices will be held firm only for two calendar months from the date the order is accepted by Kodak. Invoices for reprographic services, chargeable service and supplies are payable net 30 days.
4. **Installation Charge** — A charge will apply for normal transportation for a starter kit, any necessary installation kits, routine set up and initial testing of equipment by Kodak during Kodak's normal working hours after the installation site has been prepared by the customer to meet Kodak site specifications. Any additional handling (special rigging, forklift trucks, etc.) which may be required for installation is not included and will be at customer expense. Refer to the Copy Products Price Schedule, Section IV, Miscellaneous Charges.
5. **Prices** — All prices are firm throughout the Fiscal Year covered by this catalog.

Alaska Surcharge — All Kodak equipment installed in Alaska will receive a 10% surcharge on RSA prices listed in this schedule.
6. **Billing** — Billing commences effective the day following installation.
 - A. **For the first calendar month or portion thereof** — A monthly minimum amount is prorated for the first calendar month based on the number of days installed using a 30-day month. The prorated monthly minimum will include one full month's image allowance (when applicable). Usage above the monthly image allowance will be charged at the applicable rate.
 - B. **For other calendar months** —
 - 1) The monthly minimum amount includes charges for all images produced within the first usage range (when applicable).
 - 2) Image charges for copies made will be billed at their corresponding per image rate.

The monthly minimum amount will be billed monthly in arrears for state and local government customers and monthly in advance for qualifying educational/institutional customers.

Image charges will be billed post-monthly, e.g., March image charges will appear on May invoice.
7. **Introductory Pricing Option For KODAK EKTAPRINT Products** — Introductory prices shall apply to new placements for the first three calendar months after the billing commencement date. During the introductory three-month period the customer may convert to any current plan before the 15th day of the third calendar month. If the customer has not selected a plan by the 15th day of the third calendar month, the introductory reprographic services agreement will be renewed automatically under the current annual reprographic services copy plan, except for Models 90/90E/100/150, which will be renewed automatically under the current Multiple-Year III Copy plan. For Models 90/90E/100/150, plan changes to Annual and Two-Year Reprographics Services Agreement are NOT permitted. In either event, prices will be those in effect on the date the original order was accepted by Kodak. Minimum reprographic services period is three months. Customer may terminate an Introductory Plan by giving written notice to Kodak no later than the 15th day of the third full calendar month of the introductory period.

IBM Introductory Copy Plan — The Introductory Copy Plan allows the customer to evaluate IBM Model 50's for the partial month of installation, if any, plus two full calendar months. Minimum reprographic services period is two months for the IBM 50. The Introductory Copy Plan allows the customer to evaluate IBM Models 70 and 85 for the partial month of installation, plus three full calendar months. Minimum reprographics services period is three months for the IBM 70 and 85. A monthly availability charge will apply to partial and full months of installation. There will be no additional charge for copies.

Upon expiration of the Introductory Copy Plan the customer has the option to:

 - 1) purchase the unit; or
 - 2) remove the unit.

The customer must notify Kodak in writing by the 15th day of the last calendar month of the option they have selected.

The purchase of units will be effective the 1st day of the month following the Introductory Copy Plan expiration date. The purchase price will be the price in effect on the date the original order was accepted by Kodak less the conversion to purchase usage allowance for full calendar months. Any partial month will not be applied toward reducing the purchase price when the unit converts to sale.
8. **Monthly Plan Reprographic Services Period** — For initial installations, the minimum period for the monthly plan is three months from billing commencement date. For plan changes from any three year, two year, or annual contract to a monthly plan, the minimum period for the monthly plan is 30 days from the effective date of the plan change. In all cases the unit may be converted from the monthly plan to a plan of equal or longer duration than the remainder of the minimum period.
9. **Annual Reprographic Services Period** — The annual reprographic services agreement period expires the last day of the fiscal year in which the contract became effective.
10. **Two-Year Reprographic Services Period** — The two-year reprographic services agreement period of commitment will be from the date of installation or price plan conversion through the present and next succeeding fiscal year. Refer to Section 25 for additional Terms on KODAK 1570/1575 Copier-Duplicators.
11. **Three-Year Reprographic Services Period** — The three-year reprographic services agreement period of commitment will be from the date of installation or price plan conversion through the present and two succeeding fiscal years. Kodak may increase prices on copier-duplicators and duplicators effective the beginning of the second and third fiscal year with written notice to the customer.

General Reprographic Services Terms (continued)

Increases may not exceed five percent of the prices charged during the prior 12 months. Kodak may only increase prices if the increase in the National Consumer Price Index exceeds 8 percent during the previous calendar year. (The prices of the KODAK EKTAPRINT 90/90E/85 and IM 40 copiers may be increased regardless of changes in the Consumer Price Index.) Refer to Section 25 for additional Terms on KODAK 1570/1575 Copier-Duplicators.

12. Automatic Renewal of Annual, Two-Year and Three-Year Reprographic Services Agreements — Unless the customer notifies Kodak *one month* before the end of the reprographic services period, a reprographic services agreement under an Annual, Two-Year or Three-Year contract will be renewed automatically for the succeeding reprographic services period on an equivalent plan at the prices, terms and conditions in effect on the first day of the new fiscal year. Kodak will provide advance notice of the renewal date. Refer to Section 25 for additional Terms on KODAK 1570/1575 Copier-Duplicators.

13. Reprographic Services Termination — In the event of early termination, Kodak may choose not to remove customer's equipment until customer has issued a purchase order or check for any applicable early termination charges and removal charges. Termination charges will be billed and are due contemporaneously with equipment removal.

Any Reprographics Services Agreement may be terminated by either party by giving one month's prior written notice. Customer's notice should be sent to the District Marketing Center. Customer termination prior to the expiration of the contract will be subject to the monthly minimum charges through the last day of the month of removal and the following early termination charges based upon the number of full months remaining to expiration of the contract:

Full Months Remaining to Contract Expiration	Multiple Times Monthly Minimum
24—or more	10
18—23	9
12—17	8
7—11	7
0—6	Balance of contract

When the terminated unit is being replaced by a new Kodak/IBM model, the monthly minimum amount for the removed unit will be prorated for the last calendar month based on the number of days installed using a 30 day month.

Exceptions to Reprographic Services Agreement Termination Charges

- A. If the customer purchases the installed machine.
- B. Termination of the Reprographic Services Agreement without penalty is permitted if written notification is received 30 days in advance. This cancellation notification must be signed by the official responsible for the installation and by a fiscal or financial official. The written notification must certify that funds will not be appropriated for continued installation, and that the Government will not replace the cancelled equipment for the same organizational entity in the succeeding fiscal year. This will only apply to multiple year contracts at the end of the fiscal year.

14. Changes of Reprographic Services, Accessories — When any reprographic services model designation is changed to a new configuration due to a change in accessories (e.g., KODAK EKTAPRINT 300AF Duplicator to a KODAK EKTAPRINT 300AFB Duplicator) prior to the expiration date of an Annual, Two-Year, or Three-Year, agreement, there are two options:

- A. Write a new annual, two-year, or three-year agreement at the then-current prices for the new configuration with the minimum term at

least equal to the remaining term of the existing agreement.

- B. Continue the existing annual, two-year, or three-year agreement substituting the applicable pricing for the new reprographic services configuration from the price schedule in effect at the inception of the agreement.

15. Changes of Reprographic Services, Mainframes — When any reprographic services model designation series is changed to a different configuration due to a change in mainframes series (e.g., KODAK EKTAPRINT 90 Copier series to KODAK EKTAPRINT 235 Copier-Duplicator series) prior to the expiration date of the annual, two-year, or three-year agreement, the customer must write a new annual, two-year, or three-year agreement at the then-current prices for the new configuration with the minimum term of such new agreement at least equal to the remaining term of the existing agreement.

When any class of equipment (e.g., copier, copier-duplicator, or duplicator) is replaced by another class of equipment with a lower monthly minimum prior to the expiration of the contract, the customer will be assessed a downgrade charge.

For All Reprographics Service Agreements

Full Months Remaining to Contract Expiration	Multiple Times Monthly Minimum
19—or more	6
5-18	5
0-4	No. of full months remaining

NOTE: Model changes from KODAK EKTAPRINT 100 and 150 Series Equipment to KODAK EKTAPRINT 90 Series Equipment *will be allowed* on a one-for-*two* basis without downgrade charges (e.g., one (1) KODAK EKTAPRINT 100 or 150 Series Equipment model changed to two (2) KODAK EKTAPRINT 90 Series Equipment) within a single location billing under the same "ship-to" customer number and department/address.

Model changes from KODAK EKTAPRINT 200, 220, 225, 235, 250, 300, and COLOREDGE and KODAK 1570/1575/2110/2120 Copier-Duplicator, Duplicator Series Equipment to KODAK EKTAPRINT 90 Series Equipment will be assessed a downgrade charge based on the difference between the monthly minimum of the KODAK EKTAPRINT 200, 220, 225, 235, 250, 300, or KODAK 1570, 1575, 2110, 2120 COLOREDGE Copier-Duplicator, Duplicator Series or KODAK 1570, 1575, 2110, 2120 Equipment and the *combined* monthly minimums of the two (2) EKTAPRINT 90 Series Units. Charges are based upon the number of full months remaining from the date of the physical model change to contract expiration date according to the previously outlined schedule.

Model changes from KODAK EKTAPRINT 200, 220, 225, 235, 250, 300, and COLOREDGE and KODAK 1570/1575/2110/2120 Copier-Duplicator, Duplicator Series Equipment to KODAK EKTAPRINT 90 Series Equipment *will be allowed* on a one-for-*three* basis without downgrade charges (e.g., one (1) EKTAPRINT 200 Copier-Duplicator series equipment model changed to three (3) EKTAPRINT 90 Series Equipment) within a single location billing under the "ship-to" customer number and department/address.

General Reprographic Services Terms (continued)

Model changes from KODAK EKTAPRINT 250/300/2110/2120 Equipment to KODAK EKTAPRINT 100/150/220/235 KODAK 1570/1575 or COLOREDGE Copier-Duplicator Series Equipment **will be allowed** on a one-for-two basis without downgrade charges (e.g., one (1) EKTAPRINT 300 Duplicator series equipment model changed to two (2) EKTAPRINT 220 series equipment) with a single location billing under the same "ship-to" customer number and department/address.

16. Changes of HVP, HVII, HVIII Reprographic Services —

Conversion to Purchase/Relocation — When one unit of an HVIII plan is converted to sale or relocated, the remaining units will automatically be placed on an equal length HVII plan. The price schedule and expiration date of the original HVIII contract will be transferred to the new contract. When one unit of an HVP, HVII, or two units of an HVIII are converted to sale or relocated (outside the taxing jurisdiction with an HVII/III or outside the "ship-to" location with an HVP plan), the remaining unit will automatically be placed on an equal length standard copy plan. The price schedule and expiration date of the original HVP, HVII, HVIII contract will be transferred to the new contract.

Changes of Reprographic Services Mainframes — When a unit(s) of an HVP, HVII/HVIII plan is changed to a new mainframe model designation (e.g., 100 to 220 series), prior to the expiration date of the agreement period, the customer must write a new agreement of equal or longer length than the remainder of the existing contract at the then current prices. The customer will be assessed a downgrade charge if the class of equipment is replaced by another class of equipment with a lower monthly minimum.

Termination of Unit(s) of an HVP, HVII/HVIII

Should the customer wish to terminate a unit(s) of an HVP, HVII, or HVIII prior to fulfillment of the contract, one-month advance notice is required and termination charges would apply to the unit(s) removed. When one unit of an HVIII plan is terminated, the remaining units will automatically be placed in an equal length HVII plan. The price schedule and expiration date of the original HVIII Contract will be transferred to the new contract. When one unit of an HVP, HVII, or two units of an HVIII are terminated, the remaining unit will automatically be placed on an equal length standard copy plan. The price schedule and expiration date of the original HVP, HVII, HVIII contract will be transferred to the new contract.

Addition of Copier/Copier-Duplicators to Existing Plans — Any customer on an annual, two-year or three-year contract may add one or two units to form an HVP, HVII or HVIII Plan. The units added may be net new business, model change installations, or plan changes of installed equipment.

- **For net new units** — the applicable price schedule and contract expiration must be the same as the original installation.
- **For model change installations** — units must be placed on a plan of equal or greater length than the unit which was replaced.

The new model is eligible to link with an existing unit(s) to form an HVP, HVII, HVIII plan and maintain the price schedule and expiration date of the existing plan, if the expiration date is equal to or greater than the expiration date required for the model change unit.

- **For plan changes of installed equipment** — the applicable price schedule and contract expiration will be determined by the unit with the latest contract expiration.

17. Servicing of Reprographic Services Equipment —

Kodak warrants the equipment contained in this catalog to be maintained in proper functioning order during the terms of the equipment Reprographic Services Agreement. KODAK MAKES NO OTHER WARRANTIES, EXPRESS, IMPLIED, OR OF MERCHANTABILITY, FOR THIS EQUIPMENT. If this equipment does not

function properly during the contract term, it will be repaired without charge according to the terms set forth below. NORMAL MAINTENANCE SERVICES AND REPAIR WITHOUT CHARGE ARE KODAK'S ONLY OBLIGATIONS UNDER THIS WARRANTY. KODAK WILL NOT BE RESPONSIBLE FOR ANY CONSEQUENTIAL OR INCIDENTAL DAMAGES RESULTING FROM THE RENTAL, USE, OR IMPROPER FUNCTIONING OF THIS EQUIPMENT EVEN IF LOSS OR DAMAGE IS CAUSED BY THE NEGLIGENCE OR OTHER FAULT OF KODAK. Such damages, for which Kodak will not be responsible, include, but are not limited to, loss of revenue or profit, downtime costs, loss of use of the equipment, cost of any substitute equipment, facilities or services or claims of your customers for such damages. This limitation of liability will not apply to claims for injury to persons or damage to property caused by the sole negligence or fault of Kodak or by persons under its direction or control.

- A. Repair Service** — During Kodak's normal working hours, a Kodak Customer Equipment Services (CES) Representative will, at the customer's request, provide equipment repair service on the customer's premises. In addition, Kodak agrees to perform routine periodic equipment maintenance as deemed necessary by Kodak.

Normal working hours are as follows:

All Models except EKTAPRINT 250/300 Duplicators:

8:00 a.m. to 5:00 p.m.

EKTAPRINT 250/300 Duplicators only:

8:00 a.m. to 10:00 p.m.

On-site equipment service is available for RSA customers outside normal working hours at the current overtime rates and terms.

Kodak Developer furnished by the customer will be installed by Kodak at no charge for labor. In the event the Field Engineer (FE) must change Kodak manufactured developer prematurely, the bottle of developer that was disposed will be replaced at no charge. Replacement bottle is secured from CES Emergency stock or Distribution stock.

- B. Parts Replacement** — Parts and image loops will be replaced at no charge if deemed necessary by the CES Representative. Parts removed from equipment (and replaced at no charge) remain the property of Kodak.
- C. Availability of Equipment for Servicing** — The customer agrees to make equipment immediately available for the equipment service scheduled or requested. If equipment is not available, there will be a charge for the call at the applicable U.S. Per-Call Equipment Service Rates and Terms.
- D. Other Terms** — There will be a charge if the usage meter or its sealed connection is repaired, replaced or removed by anyone other than a Kodak-authorized service representative.

The customer will be charged according to applicable Per-Call Equipment Service Rates and Terms if the need for equipment service or parts is caused by: failure to follow Kodak's care, cleaning, maintenance, and operating instructions; misuse; abuse; or circumstances beyond Kodak's control; or relocation of the equipment by other than Kodak.

General Reprographic Services Terms (continued)

There will also be a charge at the applicable U.S. Per-Call Equipment Service Rates and Terms if Kodak provides service or parts to correct problems that have resulted from misuse, abuse, unauthorized maintenance, modification or relocation of the equipment, use of any supply item which does not meet current characteristics which Kodak may have published for such supply items, customer negligence, or to correct problems that have resulted from materials used or operations performed that are contrary to Kodak's instructions. Equipment service does not include service or parts for any attachments, accessories or alterations not marketed by Kodak nor to correct problems resulting from their use.

Alterations, additions, or improvements may not be made by the customer without the prior written consent of Kodak. All additions and improvements shall belong to, and become the property of Kodak upon the expiration or termination of the contract.

18. **Conversion to Purchase/Usage Allowance** — Reprographic services customers will receive a usage allowance credit toward the purchase of continuously installed equipment.

KODAK EKTAPRINT 85/100/150/200/225/250 and COLOREdge Copier-Duplicator — Units continuously installed 12 or more months which are converted to sale will receive the Conversion-to-Sale Price listed in the schedule. No other usage allowance will apply, however, SPD discounts may be used where applicable.

KODAK 1570/1575 Copier-Duplicator Series — the usage allowance credit will accumulate at a rate of one percent of the purchase price in effect on the date of conversion for each month of installation. The maximum usage allowance credit is 24% of the then current purchase price.

KODAK EKTAPRINT 90/220/235/300 Series — The usage allowance credit will accumulate at a rate of two percent of the purchase price in effect on the date of conversion for each month of installation. The maximum usage allowance credit is 40 percent of the then-current purchase price.

KODAK 2110/2120 Duplicator — The usage allowance credit will accumulate at a rate of one percent of the purchase price in effect on the date of conversion for each month of installation. The maximum usage allowance credit is 30 percent of the then-current purchase price.

IBM Model 50 Copier — Units which are converted-to-sale at the expiration of the Introductory Copy Plan will receive the Conversion-from-Intro price listed in the schedule. No other usage allowance will apply.

Model Accessories — The usage allowance credit for Model Accessories will be consistent with the mainframe on which the accessory is installed.

Non-Model Accessories — The usage allowance credit for Non-Model Accessories (i.e.: KODAK EKTAPRINT Continuous Forms Feeder or Accent Color Accessories) will accumulate at a rate of two percent of the purchase price in effect on the date of conversion for each month of installation. The maximum usage allowance credit for Non-Model Accessories will be consistent with the mainframe on which the accessory is installed. Non-Model Accessories installed on units which have a Conversion-to-Sale Price after 12 or more months of installation will receive the Conversion-to-Sale Price listed in the schedule. No other usage allowance will apply.

Conversion to Purchase transactions must be made effective on the first day of the calendar month and may not be made retroactively. When determining the number of full months of RSA installation for a conversion-to-sale price or usage allowance calculations, any partial month of installation of 16 days or more will count as a full month of installation.

19. **Conversion to Purchase/Mainframe Change** — Reprographic Services customers will receive no usage allowance credit toward the use of continuously installed equipment when the mainframe is changed to a different mainframe series for the purpose of conversion-to-sale.

20. **Relocation of Reprographic Services Equipment** — Customer must obtain Kodak's permission prior to movement or relocation of installed equipment. Kodak should be notified fifteen days prior to equipment relocation. At its discretion, Kodak may bill a premium charge for relocations requested by customers with less than fifteen days notice.

Relocation of Equipment includes the movement of equipment to a different location at the same address (internal relocation) and movement of equipment to a new address (standard relocation).

The customer is responsible for charges related to any preparation of the equipment for the move, transportation, and/or the set-up of the equipment at the new location.

Internal Relocation — billed to a customer when equipment is moved to a different location at the same address, no pack-up kit is required and the CES Field Engineer's total involvement is 1.5 hours or less.

Standard Relocation — will apply in all other equipment relocations involving a CES Field Engineer.

In addition, the customer is responsible for the movement of the equipment and associated costs and accepts responsibility for any personal injury or damage caused to or loss of the equipment or property resulting from the move. Transportation-related charges are billed separately. (Refer to Section IV, Miscellaneous Charge)

21. **Removal Charge** — A removal charge will apply upon expiration or termination of reprographic services agreement and removal of the equipment. The removal charge will be the charge in effect at the date of termination. Any additional handling (special rigging, forklift trucks, etc.) which may be required for removal is not included and will be at customer expense. Refer to the Copy Products Price Schedule, Section IV, Miscellaneous Charges.
22. **Mainframe and Accessory Charge** — There will be a charge, as indicated in the then-current price list, for customer-requested changes in mainframe and accessories. The charge to model change within a series (e.g., KODAK EKTAPRINT 225S Copier-Duplicator to KODAK EKTAPRINT 225AF Copier-Duplicator) includes removal and installation charges for all accessories involved. The charge to model change between a series (e.g., KODAK EKTAPRINT 90 Copier to KODAK EKTAPRINT 220 Copier-Duplicator) only includes installation charges for the model being placed. No removal charges will apply for the model being removed.
23. **Reprographic Services Plan Charges** — The customer may choose to change to another reprographic services plan of equal or longer duration than the remainder of the existing contract. Such conversions may not be made retroactive and may only be effective on the first day of the calendar month. The prices applicable to the new plan will be the prices in effect on the conversion order-received date. The customer must notify Kodak by the 15th of the month in order for the change to be effective by the first of the next month. Changes received after the 15th of the month will be effective on the first day of the month two months after receipt of the plan change. A plan change which results in a reprographic services plan of shorter duration than the remainder of the previous plan length (e.g., two-year to annual, three-year to two-year) will be considered as reprographic services termination and will be subject to early termination charges as defined in section 13 of these General Reprographic Services Terms. Refer to section 25 for additional terms on KODAK 1570/1575 Copier-Duplicators.

General Reprographic Services Terms (continued)

24. **Fixed Rate Contract Terms** — Fixed Rate Contract Pricing is only available for the three-year renewal of KODAK EKTAPRINT 100/150 model series units currently on a Fixed Rate Contract plan. The Fixed Rate Contract may be terminated by either party upon one month's prior written notice. The termination charge shall be two times the monthly minimum or the balance of the contract, whichever is less. When a customer replaces one KODAK EKTAPRINT Copier-Duplicator with another KODAK EKTAPRINT Copier-Duplicator of a different model series prior to the expiration date of the contract period, the customer must write a new agreement of equal or greater duration than the remainder of the existing contract. The new agreement will be at the current SLG schedule rates. Fixed Rate Contract prices will not be applicable to the new model.
25. **KODAK 1570/1575 Copier-Duplicator RSA Prices** — For new installations the estimated average monthly image volume will be agreed upon by the customer and Kodak and used to determine the appropriate RSA price. The price for subsequent plan changes and automatic renewals will be determined by Kodak two calendar months in advance of the new contract effective date based on the actual average monthly image volume of the previous contract, provided the contract was in effect a minimum of four months.
- With written notice to the customer Kodak may adjust prices effective the beginning of the second fiscal year on multiple-year II and III agreements provided the contract was in effect a minimum of four months and the third fiscal year on multiple-year III agreements if it is determined that the actual average monthly image volume does not correspond to the prices being invoiced.
26. **Toner-Included Option** — An optional toner-included plan is available for Mid-Volume Copier equipment. A per-copy charge is billed for all images made per month in addition to reprographic services or EMA charges. If exercised, all Mid-Volume Copier units at one "ship-to" location must utilize the plan.
27. **Image Credits** — For all KODAK equipment (except the 1570/1575 Series), credits will be given for images made during installation, customer training, equipment servicing, or unacceptable images resulting from machine malfunction during the customers operation. The number of images for which the customer and Kodak agree a credit is due reduces the total number of images to be billed for the calendar month in which these image credits were recorded. For job-size pricing, image credits are applied equally to both the A and B meters. For Reprographic Services Agreement run length pricing, image credits are divided equally between the A and B meters. For Availability Run Length Pricing (Plan Code "AR"), image credits are applied to the A meter.
28. **Customer Responsibilities** — The customer agrees to:
- A. Prepare the installation site in accordance with Kodak's instructions;
 - B. With customer's approval, permit Kodak's field engineer to enter its premises at all reasonable times to service the equipment;
 - C. Provide suitable space for Kodak's field engineer to service the equipment;
 - D. Provide suitable space for storage of a minimum stock of image loops and preventive maintenance packs;
 - E. Designate a key operator for training in the use of the equipment and, in the event of personnel turnover, notify Kodak immediately for training of a new key operator;
 - F. Provide the Field Engineer with access to a telephone. If the customer subscribes to Product Initiated Remote Diagnostics (PIRD) or Remote Diagnostics (RD), it will be the customers' responsibility to supply and maintain a dedicated phone line.
- G. Promptly mail to Kodak the monthly meter reading card indicating the meter readings taken on the last working day for each month. If the meter card is not received, Kodak will determine the monthly usage based upon the previous three months service meter readings. If service meter readings are not available, Kodak will estimate the monthly usage based on prior usage;
 - H. Promptly pay invoices for equipment, chargeable service and supplies as they become due;
 - I. Care for the equipment as specified in the operator instruction manual and as instructed by Kodak representatives;
 - J. Upon expiration or termination of reprographic services agreement, return the equipment to Kodak in good condition, normal wear and tear excluded; and
 - K. Be responsible for physical damage to the equipment caused by the customer's negligence or willful act.
29. **Default** — If the customer fails to pay any invoice for equipment, chargeable service or supplies, or if the customer fails to perform any of its other obligations under the agreement, or if the customer ceases doing business as a going concern, or if a case in Bankruptcy or any proceeding under any other insolvency law is commenced by or against the customer as debtor, or if the customer attempts to remove or sell or transfer or incumber the equipment, Kodak, at its option and without prior written notice may terminate the agreement, and may immediately repossess all items of equipment and Kodak owned supplies. On termination for customer's default, the customer shall permit Kodak's representative to enter its premises to remove the equipment and shall pay all outstanding invoices, and all accrued payments, the removal charge and the termination charge and any reasonable attorneys fees and court costs incurred by Kodak to enforce the provisions of the default clause.
30. **Estimation of Usage** — Eastman Kodak Company reserves the right to estimate usage when the meter card is not received from the customer. No adjustment to billing will be done unless the difference between the actual and estimated usage is greater than 20 percent.
31. **A. Non-Model Accessories** — Non-model accessories are billed a monthly minimum in advance. For any partial month of installation in the initial or final month of the contract, non-model accessories will be billed a prorated monthly minimum based on the number of days installed using a 30-day month.
- B. AccentColor Accessories** — AccentColor Stations may only be placed on the same type of contract (e.g., RSA, purchase) which is consistent with the unit mainframe on which they are installed.
32. **Changes** — Kodak reserves the right to discontinue any of its products and services and to revoke or change any prices or terms of sale or rental, except when otherwise indicated in these Terms and Conditions.
33. **Assignment** — Without the prior written consent of Kodak, the customer shall not assign its rights under this agreement.
34. **Controlling Terms** — The terms and conditions of this price schedule shall govern despite additional or inconsistent terms or conditions included in customers' purchase orders or other documents.
35. **Attorneys' Fees/Costs** — In any action by a party to enforce its rights hereunder, the non-prevailing party shall pay the prevailing party's cost's and expenses (including reasonable attorneys' fees).
36. **Risk of Loss or Damage** — Except for damage or loss caused by negligence or other fault of the customer, Kodak is responsible for risk of loss of, or damage to machines owned by Kodak.

General Equipment Maintenance Agreement (EMA) Terms

COPY PRODUCTS

At its discretion, Kodak will make Equipment Maintenance Agreements (EMA's) available for Kodak and IBM Copier equipment purchased from Kodak and from IBM. Under terms of this EMA, Kodak agrees to provide the following services for copiers located within its established marketing areas:

On-site repair service (parts and labor), when required,

Preventive maintenance as part of on-site repair service,

Training for key operators and ongoing support of the copier.

At its discretion, Kodak will make Equipment Maintenance Agreements (EMA's) available for Kodak and IBM Series III Copier equipment **not purchased from Kodak or from IBM**. Under the terms of this EMA, Kodak agrees to provide the following services for copiers located within its established marketing areas:

On-site repair service (parts and labor), when required,

Preventive maintenance as part of on-site repair service,

Availability of a Customer Support Representative to provide training and copier support at the following rates:

Training/Support at a Kodak Facility	
— Minimum charge (includes two hours)	\$240
— Charge per hour for additional training	85
Training/Support at a customer location	
— Minimum charge (includes two hours)	\$300
— Charge per hour for additional training	110

Training/Support Services will be invoiced for a minimum of two hours. Additional hours of service will be billed as whole hours and are not subject to proration.

- 1. Availability** — EMA's are initially available for seven years from warranty expiration date (five years for KODAK COLOREDGE 1525/1550 Copiers, KODAK EKTAPRINT 90/90E/85 Copiers, and IBM, Model 50 Copiers) for units purchased from Kodak or IBM as new installations (e.g. not units converted to sale from Reprographic Services Agreements). For units which were converted to sale from Reprographic Services Agreements, the initial EMA availability period is five years from the conversion to sale date or seven years minus the time on Reprographic Services Agreement, whichever is greater (three years from the conversion to sale date or five years minus the time on Reprographic Services Agreement, whichever is greater for KODAK EKTAPRINT 85/90/90E Copiers, and IBM Model 50 Copiers.)

Equipment Maintenance Agreements will be automatically renewed during the initial period of availability for a period of one year at the prices, terms, and conditions, in effect on the first day of the new fiscal year. The initial availability period applies only to machines that were purchased directly from Kodak or from IBM. Additionally, at Kodak's sole discretion, the initial availability period may be terminated prior to the above-stated periods due to a lapse in Kodak equipment maintenance coverage from a Kodak Equipment Maintenance Agreement.

After the expiration or termination of the initial availability period, EMA extensions may be offered; however, if deemed necessary by Kodak, an annual inspection of the equipment at the then-current inspection fee and/or remanufacturing of the equipment at customer expense may be required. After inspection and/or remanufacturing, if required, EMA coverage may be continued.

- 2. Items Covered by an Equipment Maintenance Agreement (EMA)** — During the working hours of the EMA, a Kodak Field Engineer (FE) will perform the following services at no additional charge to the customer:

- A.** Perform any machine adjustment and/or replacement of parts necessary to repair equipment.

- B.** Perform any necessary periodic maintenance that is required.

During the hours of the EMA, there is no charge for travel. Parts removed from equipment (and replaced at no charge) become the property of Kodak.

- 3. Items not covered by an EMA** — The following services and circumstances are not covered by an EMA and if available will be charged at Kodak's Per-Call Equipment Service Rates (other premium rates may apply):

- A.** Maintenance and parts requirements caused by misuse, neglect, use for purposes other than for which specifically designed, installation or attachment of non-Kodak or IBM authorized equipment modifications, use of supplies (including toner and developer) that are not recommended, service performed by other than Kodak personnel, natural disasters and other damage not caused through normal equipment use, wear, and tear.
- B.** Time spent in locating equipment not at the specified location, or waiting for equipment availability will be charged at Kodak's Per-Call Equipment Service Rates and Terms.
- C.** Installations, Relocations, and Removals of customer equipment, attachments or removals of modifications to equipment and any electrical work required which is external to the machine.
- D.** Model conversions, including upgrades and downgrades between models and machine types, or installation or removal of a Kodak feature.
- E.** Installation and support of any software drivers, analog input devices, or their inter-connection being utilized with the KODAK COLOREDGE 1500 Series digital processors.

- 4. On-Site Service Availability/Response Time** — It is Kodak's practice to give priority service to EMA (and RSA) customers. Kodak's objective, during normal working hours, is to respond to requests for repair service from its EMA and RSA customers within three hours. On-site service, when required, will be provided Monday through Friday during Kodak's normal working hours excluding locally celebrated holidays.

Normal working hours are as follows:

All Models except EKTAPRINT 250/300 Duplicators: 8:00 a.m. to 5:00 p.m.
EKTAPRINT 250/300 Duplicators only: 8:00 a.m. to 10:00 p.m.

On-site equipment service is available for EMA customers outside normal working hours at the current overtime rates.

Additional Terms and Conditions (which may include, but are not limited to, additional charges and longer response time goals) may apply to Equipment Maintenance Agreements which are offered to customers physically located beyond Kodak's normal service areas. Any additional terms that are required due to the location of these customers will be provided by the servicing district.

- 5. Customer Responsibilities** — The customer agrees to:

- A.** Purchase, stock, and replace all items identified in the current price list as supply items (Note: Kodak developer used in EKTAPRINT Copiers, KODAK 1570/1575 Copier-Duplicators and 2110/2120 Duplicators, furnished by the customer, will be replaced at no charge if less than 80,000 images have been made since last developer change with the exception of the COLOREDGE Copier-Duplicator which will be replaced if less than 20,000 images and the KODAK 1525/1550 which will be replaced if less than 10,000 images have been made since the last developer change).

General Equipment Maintenance Agreement (EMA) Terms (continued)

- B. Provide the Field Engineer with access to a telephone. If the customer subscribes to Product Initiated Remote Diagnostics (PIRD) or Remote Diagnostics (RD) it will be the customer's responsibility to supply and maintain a dedicated phone line.
- C. Provide suitable storage space for a minimum stock of Kodak owned parts and supplies.
- D. Promptly mail to Kodak the meter reading card indicating the meter readings taken on the last working day of each month. If the meter card is not received, Kodak will determine the monthly usage based upon service meter readings. If service meter readings are not available, Kodak will estimate the monthly usage based on prior usage. (Meter readings will not be necessary for the KODAK 1570/1575 Copier-Duplicators or if an electronic meter device (EMD) has been installed on an EKTAPRINT Copier and/or Copier-Duplicator.
- E. Designate a key operator for training in the use of equipment and inform Kodak immediately of any operator changes.
- F. Provide adequate working space for the FE.
- G. The customer agrees not to interfere with the proper operation of the machine's meter.
- H. The customer is responsible for removing, controlling and replacing or reloading funds contained in a device attached to the machine. Kodak will service machines containing funds only when the cash container cannot be opened prior to repair by Kodak, in which case the customer will remove the funds as soon as the container is or can be opened.

6 Relocation of Equipment Covered by Warranty or Equipment Maintenance Agreement — Customer must obtain Kodak's permission prior to movement or relocation of installed equipment. Kodak should be notified fifteen days prior to equipment relocation. At its discretion, Kodak may bill a premium charge for relocations requested by customers with less than fifteen days notice.

Relocation of equipment includes the movement of equipment to a different location at the same address (internal relocation) and movement of equipment to a new address (standard relocation).

The customer is responsible for charges related to any preparation of the equipment for the move, transportation, and/or the set-up of the equipment at the new location.

Internal Relocation — billed to a customer when equipment is moved to a different location at the same address, no pack-up kit is required and the CES Field Engineer's total involvement is 1.5 hours or less.

Standard Relocation — will apply in all other equipment relocations involving a CES Field Engineer.

In addition, the customer is responsible for the movement of the equipment and associated costs and accepts responsibility for any personal injury or damage caused to or loss of the equipment or property resulting from the move. Transportation-related charges are billed separately. (Refer to Section IV, Miscellaneous Charges, in the Copy Products Price Schedule.)

7. Replacement — If Kodak, in its sole judgment, cannot maintain the equipment to Kodak's specifications, Kodak will replace the equipment with another unit of the same or in the case of unavailable models due to product discontinuance, a similarly featured model. The following points apply:

- A. Kodak's decision to replace an accessory will not obligate Kodak to replace the mainframe.
- B. Replacement of a unit will not extend the period of EMA availability.

- C. Replacement applies **only** during the initial period of EMA availability.
- D. Replacement applies only to equipment purchased initially and directly from Kodak or IBM.

8 Accessories — Generally, all items of equipment that are mechanically or electronically interconnected must be inspected, tested, and adjusted as one operating unit to diagnose and correct malfunctions effectively. Therefore, if any item of equipment is covered by an EMA, all other interconnected equipment must also be covered by RSA, warranty, or an EMA. To provide for uninterrupted service, equipment and accessories which are interconnected to equipment currently covered by an EMA will be automatically placed under an EMA at warranty expiration, if an EMA is available.

9 Termination — EMA's may be cancelled by either the customer or Kodak upon 30 days written notice. Customer termination of an EMA prior to the expiration of the contract period will be subject to the monthly minimum charge through the last day of the termination month and the following early termination charges based on the number of full months remaining to contract expiration.

Full Months Remaining to Contract Expiration	Multiple Times Monthly Minimum
24—or more	10
18—23	9
12—17	8
7—11	7
0—6	Balance of contract

There will be a charge according to Per-Call Equipment Service Rates and Terms for any parts and service labor provided on or after the expiration date of the EMA.

Customers who cancel their EMA contract, then decide to reinstate within 30 days, will have the Pre-Installation Inspection Fee waived. The effective date of the EMA reinstatement would be retroactive to the expiration date of the old EMA, and the new agreement must be annual or three year in length.

"Termination of the EMA without penalty is permitted if written notification is received 30 days in advance. This cancellation notification must be signed by the official responsible for the installation and by a fiscal or financial official. The written notification must certify that funds will not be appropriated for continued installation, and that the Government will not replace the cancelled equipment for the same organizational entity in the succeeding fiscal year."

10. Consumables — Copy quality, reliability and uptime are functions of optimum relationship between equipment design and toner/developer formulation. Use of Kodak consumables assures maximum equipment performance and copy quality.

11 Continuation of EMA Coverage or Availability of Per-Call Service on Used KODAK or IBM Copier Equipment Acquired from other than Eastman Kodak Company — Equipment which was covered by an EMA or was serviced on a per-call basis at a previous Kodak customer's site and has been purchased from a vendor other than Eastman Kodak Company requires a pre-installation inspection. When requested to make such an inspection, Kodak will advise the potential customer if the location in which the equipment is to be placed is within present Kodak service capability. If service capability exists and the site where the equipment is to be installed meets Kodak's published site specifications, Kodak will inspect the copier to determine if it meets Kodak's standards. The price of the inspection includes replacement of the image loop (supply item) if deemed necessary by the Field Engineer (this inspection does not include parts replacement). This inspection will be billed to the customer at the applicable inspection rate. If the copier is found to meet Kodak's standards, an EMA or service on

General Equipment Maintenance Agreement (EMA) Terms (continued)

a per-call basis will be offered at current prices. If work is required to return the copier to proper operating standards, parts and labor required to make EMA coverage or per-call service feasible will be billed to the customer at the current per-call hourly labor rates and applicable parts prices. Kodak will provide a rough estimate of costs, with the understanding that the customer will be charged for labor and parts required even though the total price may exceed the estimate. These charges would be in addition to the pre-installation inspection charge. At Kodak's discretion, EMA renewal may be contingent upon actual field performance utilizing non-Kodak toner and developer.

Note that renewals of EMA's for equipment purchased from other than Kodak or from IBM may require an annual renewal inspection, since an initial EMA availability period applies only to pieces of equipment purchased directly from Kodak or IBM.

At Kodak's discretion EMA renewal may be contingent upon actual field performance utilizing non-Kodak toner and developer.

12. **Conversion from per-call service to EMA** — Equipment currently serviced by Eastman Kodak Company on a per-call basis may require inspection to determine the amount of parts and labor required to make EMA coverage feasible. This inspection will be billed to the customer and calculated using the current rates and terms.

After completion of the inspection, Kodak will make an initial determination if it is feasible to add, at the customer's location, the necessary mandatory modifications, as well as other components required to bring the product up to current operating specifications. If Kodak determines that necessary on-site changes and modifications are feasible, Kodak will provide a rough estimate of costs, with the understanding that the total price may exceed the estimate. The customer would be billed on a time and materials basis (current per-call hourly service rates and applicable parts prices) which would be in addition to the reinstallation inspection charge.

If Kodak determines it is not feasible to attempt to make the necessary changes to the product due to the extent and involved nature of the repair, remanufacturing of the machine at current rates would be required.

After necessary repairs or remanufacturing, an EMA would be made available. Note that EMA renewals for such equipment may require an annual inspection since the EMA availability period may have been terminated when the equipment had not continuously been serviced on a Kodak Equipment Maintenance Agreement.

13. **Acceptance of Orders, Billing and Terms of Payment** — All orders are subject to acceptance by Kodak at one of its District or Regional Marketing Centers and are subject to intervening announcements of product discontinuance, price changes, and revision to these terms and conditions. In addition, Credit Department approval must be obtained before shipment and delivery to the customer. For orders requesting performance on other than an immediate basis, prices will be held firm only for two calendar months from the date the order is accepted by Kodak. The monthly minimum amount will be billed monthly in arrears. Payment terms are net 30 days. Usage charges for images made will be billed post monthly. Credits will be given for images made during equipment servicing or for poor images resulting from machine malfunction during the customer's operation. The number of images for which the customer and Kodak agree a credit is due reduces the total usage to be billed for the calendar month in which these images were recorded. A monthly minimum amount is prorated for the first calendar month based on the number of installed days using a 30-day month. The prorated monthly minimum includes one full month's image allowance. Images charges for images made will be billed at their corresponding per image rate.

14. **Other Terms** — In the situation where a Kodak copier is being leased from a company other than Kodak, the EMA will be issued to the individual or firm using the equipment, not to the leasing company. The Customer

represents that the customer is either the owner of each machine under this Agreement or is authorized to use each machine under a lease from a company other than Kodak.

Maintenance service or services for additional charge do not assure that the operation of the machines will be uninterrupted or error-free.

15. **Assignment** — Without the prior written consent of Kodak, the customer shall not assign its rights under this agreement.
16. **Length of Program** — For Kodak and IBM installations, the EMA shall expire at the end of the 12th calendar month (36th calendar month for three year EMA's) following the installation date, conversion-to-sale date, conversion from per-call date or expiration of the previous EMA period. The EMA charges will not be increased during the agreement period.
17. **Automatic Renewal of EMA Agreements** — Unless the customer notifies Kodak *one month* before the end of the EMA period, the EMA agreement will be renewed automatically for the succeeding EMA period at the prices, terms, and conditions in effect on the first day of the month two calendar months before the renewal date. Kodak will provide advance notice of the renewal date. Refer to Section 19 for additional Terms on Kodak 1570/1575 Copier-Duplicators.
18. **Equipment Maintenance Agreement Plan Changes** — The customer may choose to change to another EMA plan of equal or longer duration than the remainder of the existing contract. Such conversions may not be made retroactive and may only be effective on the first day of the calendar month. The prices applicable to the new plan will be the prices in effect on the conversion order-received date. The customer must notify Kodak by the 15th of the month in order for the change to be effective by the first of the next month. Changes received after the 15th of the month will be effective on the first day of the month two months after receipt of the plan change. A plan change which results in an EMA plan of shorter duration than the remainder of the previous plan length (e.g., three-year to annual) will be considered as an EMA termination and will be subject to early termination charges as defined in Section 9 of these General Equipment Maintenance Agreement Terms. Refer to Section 19 for additional Terms on KODAK 1570/1575 Copier-Duplicators.
19. **KODAK 1570/1575 Copier-Duplicator EMA Prices** — For new installations the estimated average monthly image volume will be agreed upon by the customer and Kodak and used to determine the appropriate EMA price. The price for subsequent plan changes, automatic renewals, and units converted from RSA to sale will be determined by Kodak two calendar months in advance of the new contract effective date based on the actual average monthly image volume of the previous contract, provided the contract was in effect a minimum of four months.
20. **Prices** — Generally, the following rules will be utilized, but they are subject to modification by the terms as specified in subsequent price change announcements.
- A. **Price Increases** — The new higher prices will apply to all orders received on or after the increase effective date except as noted below.
- Installed Units — The monthly Equipment Maintenance Agreement prices will not be increased during the annual or three-year agreement period.
- B. **Written Bids and Proposals** — Prices contained in written bids and proposals will be quoted as follows:
- 1) Products for which no price increase has been announced — prices may be quoted as firm for orders received within 30 days from the date of quotation.

General Equipment Maintenance Agreement (EMA) Terms (continued)

- 2) Products for which a price increase has been announced — both old and new prices, as well as the effective date of the new price should be quoted. Orders received on or after the effective date of the price increase will be billed at the new price.
- C. Alaska Surcharge** — All Kodak equipment installed in Alaska will receive a 10% surcharge and all IBM equipment installed in Alaska will receive a 25% surcharge on EMA prices listed in the schedule.
- 21. Taxes** — Please note that sales, use or other taxes measured by sales or receipts are not included in the prices listed but, where applicable, will be added to the invoice if a valid certificate is not furnished.
- 22. Default** — If the customer fails to pay any invoice for equipment, chargeable service or supplies, or if the customer fails to perform any of its other obligations under the agreement, or if the customer ceases doing business as a going concern, or if a case in Bankruptcy or any proceeding under another insolvency law is commenced by or against the customer as debtor, or if the customer attempts to remove or sell or transfer or encumber the equipment, Kodak, at its option, and without prior written notice may terminate the agreement, and may immediately repossess all items of Kodak owned equipment and Kodak owned supplies. On termination for customer's default, the customer shall permit Kodak's representative to enter its premises to remove the equipment and shall pay all outstanding invoices, and all accrued payments, the removal charge and the termination charge and any reasonable attorneys fees and court costs incurred by Kodak to enforce the provisions of this default clause.
- 23. Casualty Loss or Damage** — Except for damage or loss caused by the sole negligence or other fault of Kodak, Kodak is not responsible for loss or damage to copier equipment owned by other than Kodak. This includes, but is not limited to, the perils of fire, theft, sprinkler leakage, electrical power surges, natural disasters, and vandalism.
- 24. Image Credits** — For Kodak and IBM units on an EMA; image credits will be given for images made during installation, customer training, or equipment servicing. The number of images for which the customer and Kodak agree a credit is due reduces the total number of images to be billed for the calendar month in which these image credits were recorded. For all EMA plans including Availability Run Length Pricing, image credits will be applied to the A meter. Image credits will not be available for the KODAK 1570/1575 Copier-Duplicators.
- 25. Limitations** — THE SERVICES OUTLINED IN THESE TERMS ARE KODAK'S ONLY OBLIGATIONS UNDER THE EMA. KODAK WILL NOT BE RESPONSIBLE FOR ANY CONSEQUENTIAL OR INCIDENTAL DAMAGES RESULTING FROM THE USE OR SERVICE OF THE SOFTWARE OR EQUIPMENT, EVEN IF LOSS OR DAMAGE IS CAUSED BY THE NEGLIGENCE OR OTHER FAULT OF KODAK. Such damages, for which Kodak will not be responsible, include but are not limited to, loss of revenue or profit, downtime costs, loss of use of equipment, cost of any substitute equipment, facilities, or services, or claims of your customers for such damages. This limitation of liability will not apply to claims for injury to persons or damage to property caused by the sole negligence or fault of Kodak or by persons under its direction or control.
- 26. Breach** — If the customer fails to pay in a timely manner for the Equipment for which Maintenance Services are being provided, Kodak can withhold Maintenance Services from the Equipment, even if an Equipment Maintenance Agreement is in effect.
- 27. The terms and conditions outlined above may not be applicable if equipment is not purchased directly from Kodak.**
- 28. Controlling Terms** — The terms and conditions of this price schedule shall govern despite additional or inconsistent terms or conditions included in customers' purchase orders or other documents.
- 29. Changes to Equipment Maintenance Agreement Terms and Conditions** — These terms may change without prior notice.

General Supplies Terms — Supplies

1. **Eligibility** — The customer and its domestic subsidiaries (any domestic corporation in which the customer owns at least 51 percent of the voting stock) are entitled to purchase supplies under one agreement. It is the responsibility of the customer to inform Kodak via written notice of any domestic subsidiaries that can purchase under the single agreement. Eligibility of the subsidiary to receive the customer price will begin on receipt of the written notice. Shipments will be made only to the customer or its subsidiary's designated business address(es). If customer's ownership of the voting stock of a designated domestic subsidiary falls below 51 percent, customer will notify Kodak of its change of ownership in writing and Kodak, at its option, may remove the subsidiary from the list of customer's eligible and designated subsidiaries.
2. **Agreement Level Qualification** — A customer may qualify for an agreement level (1-4) if the minimum supply amount (determined by Kodak) that the customer would purchase during an annual period is 26 or more supply units. The agreement level annual supply amount will be based on the customer's entire current installed machine population (or all machines shown under their common owner number), actual prior 12 month average image volume (or estimated image volume if machine has been installed less than 4 months), and published supply yields (if applicable). Those customers that are not authorized by Kodak to purchase under an agreement, will be offered non agreement level prices. Customer stipulates that all supplies purchased hereunder are for the Customer's internal use and not for resale. Kodak reserves the right to refuse future orders or to limit quantities to those necessary for customer's internal use if Kodak reasonably believes that customer is reselling any supplies purchased hereunder.
3. **Shipment Quantity Selection for Price Discounts** —
 - A. Kodak authorizes agreement and non-agreement customers to receive shipment quantity price discounts for the total number of supply units placed on a single order to a single shipping location. (example: A customer orders 8 cartridges of KODAK EKTAPRINT K toner, 2 bottles of KODAK EKTAPRINT K developer, and 12 boxes of KODAK 101 Plain Transparencies; i.e. 22 supply units. The customer would receive the 6-23 shipment size price on all of these products.)
 - B. Pallet pricing is available on selected items on supply agreements levels 2-4 for pallet quantities of the same product only. Combination of multiple products to form pallet quantities is not permitted to receive pallet price discounts.

If a customer orders supply units in excess of a pallet quantity of the same product, the excess would be billed at the applicable shipment size price. The excess can be combined with other products to receive higher shipment size price discounts (example: A customer orders 200 cartridges of KODAK EKTAPRINT K toner and 16 bottles of KODAK EKTAPRINT K developer. The customer would receive the 24-47 shipment size price for the 8 additional bottles of K toner (200 - 192 per pallet = 8 in excess) and the 24-47 shipment size price for the 16 bottles of K developer.)
 - C. To determine the correct price level for IBM supplies on agreements, multiply the estimated annual supply unit commitment times a factor of 4 and choose the corresponding supply level. (example: 4 cartridges of IBM High Density Toner x 4 = 16 units, and is a 6-23 unit price within an agreement level.)
 - D. For combined IBM/EKTAPRINT supply agreements, determine IBM annual supply units as in above example and add the EKTAPRINT supply units. (example: IBM: 4 x 4 (as above), plus EKTAPRINT: 8 cartridges of KODAK EKTAPRINT K toner and 2 bottles of KODAK EKTAPRINT K developer, is 16 + 8 + 2 = 26, and is a 24-47 unit price within an agreement level.)
- E. For non-agreement orders of IBM supplies, multiply the total shipment quantity x 4 to determine the correct level pricing.
- F. For non-agreement orders of IBM and EKTAPRINT supplies, multiply the IBM total shipment quantity x 4 (as in example above) and add EKTAPRINT total shipment quantity to determine the correct level pricing.
- G. If an agreement customer orders other than the required minimum/multiple shipping quantity for any product, the price will be based on the applicable non-agreement level shipment size price.
4. **Acceptance of Supply Agreements/Orders** — All new supply agreements/orders and renewals of existing supply agreements will be effective the date of receipt and acceptance by the Kodak Copy Products Information Center in Rochester, NY and are subject to intervening announcements of product discontinuance and price changes. Customer credits will not be issued for delays due to mailing and handling. Acceptance includes Credit Department approval.
5. **Taxes** — Sales, use, or other taxes measured by sales or receipts are not included in the prices shown but will be billed if applicable.
6. **Shipment and Transportation** — Orders will be shipped F.O.B. point of shipment, transportation paid to destination. Kodak reserves the right to select the carrier and point of shipment. If the customer requests expedited or a special method of transportation, the entire costs of such transportation will be charged to the customer.
7. **Expedited Orders** — All agreement and non-agreement customers requesting an expedited order will receive an expedited order quantity at that shipment size level price. The expedited order is a separate order from the original order placed. The original order quantity will be adjusted by the expedited order and will be priced at the remaining shipment size quantity.

Example: Original order is for 48 units of supplies. Customer requests 4 cartridges of KODAK EKTAPRINT K Toner to be expedited. The pricing would be:
 1. 4 cartridges of K Toner at the 1-5 shipment size price.
 2. 44 other supply items at the 24-47 shipment size price.
8. **Billing and Terms of Payment** — Supplies will be billed as of the date of shipment. Subject to Kodak Credit Department approval, terms of net 30 days from date of invoice will apply.
9. **Returns** — Supplies are sold without return privileges unless Kodak gives prior authorization for return. Customer requests for returns must be for supplies purchased within the last twelve months from Kodak and if a discontinued product, the product must be returned within nine months of date of discontinuance. Kodak may authorize return of supply products, at the lowest published price, for exchange within 90 days of equipment removal for trade to other Kodak equipment unless the supply products are obsolete or discontinued.

All returned supply products must be in complete unopened cartons and in good resalable condition. The customer is responsible for return arrangements and freight charges. A Kodak restocking charge of \$100.00 will apply for all returns and will be deducted from the total return credit. Freight and restocking charges do not apply to supply products damaged in shipment, supply products that fail under warranty or supply products being returned for exchange as a result of machine trade or upgrade to other Kodak equipment.

- 10 Prices** — This section applies to non-agreement orders. Generally, the following rules will be utilized; but they are subject to modification by the terms as specified in subsequent price change announcements.
- A Price Increase** — The new higher prices will apply to all orders received on or after the increase effective date.
- B Written Bids and Proposals** — Prices contained in written bids and proposals will be quoted as follows:
- 1) Products for which no price increase has been announced — Prices may be quoted as firm for orders received within 30 days from the date of the quotation.
 - 2) Products for which price increase has been announced — Both old and new prices, as well as the effective date of the new price, should be quoted. Orders received on or after the effective date of the price increase will be billed at the new price.
- 11 Assignment** — The customer shall not assign its rights under a supplies agreement.
- 12 Limitation of Liability/Remedy** — Supplies furnished will be replaced if defective in manufacture, labelling, or packaging or if damaged or lost by Kodak. Except for such replacement, the sale, use, or other handling of these supplies for any purpose is without warranty or liability even though defect, damage, or loss is caused by Kodak's negligence or other fault.
- 13 Supply Agreement Terms** — The term of a supplies agreement will be 12 months in length. Prices will remain firm for the agreement quantity and any additional quantity which is shipped by Kodak and accepted by the customer within the 12 month term of the contract. If the customer has successfully attained 90% of the minimum agreement supply amount thirty days prior to the agreement expiration date, a supplies agreement will automatically be renewed for a successive twelve month period. The renewal agreement will be at the prices, terms and conditions prevailing at the time of renewal. A blanket purchase order may be written for the supply agreement prices. Prices are those in effect the day the blanket purchase order is accepted by Kodak and will remain firm through a twelve month period for the supply agreement quantity and any additional quantity of supply agreement items, delivery of which must be taken within the twelve month period in which the agreement became effective.
- If a blanket purchase order is required by the customer, it must be written for the level 1-5 shipment size supply prices. However, shipment against the blanket purchase order will be billed at the prices applicable to the shipment size in which shipment quantity falls.
- 14 Agreement Cancellation** — In consideration of the advantageous terms offered, supplies agreements are noncancelable. The prices shown assume that the agreement supply quantity ordered will be shipped by Kodak and accepted by the customer in a period not to exceed 12 months from the date the agreement is accepted by Kodak.
- The contract will be deemed complete when the agreement supply quantity has been shipped by Kodak and accepted by the customer in a period not to exceed 12 months from the date the agreement is accepted by Kodak.
- 15 Agreement Default** — If the customer fails to accept the minimum agreement supply amount within their respective level, in the 12 month agreement period, Kodak Copy Products Information Center may deny renewal of the agreement at this level for subsequent renewal periods, or the customer will be granted a revised level for the next consecutive agreement period. The new agreement will be established at the customer's qualifying agreement level for the 12 month period. If customer acceptance of a supplies agreement (new or renewal) is not received by the Kodak Copy Products Information Center 30 days after issuance by Kodak, the customer will receive non-agreement level prices.
- 16 Agreement Plan Change** — The customer may plan change its agreement under the following conditions:
- A** The customer has a current agreement and is adding additional machines and copy volume that would warrant a new level, and
 - B** The new agreement is equal to or longer than the remaining time on the current agreement and the new agreement level is greater than the current level, and
 - C** The customer is current as related to time (e.g., if an agreement has been in effect for four months, the customer must have accepted not less than one-third of this agreement level.)
- Agreement Plan Changes will be at the prices and terms and conditions in effect at time of the change.
- 17 Scheduled Shipments** — Supplies may be shipped at regular intervals upon customer request. All scheduled shipments must be shipped within and not to exceed the customer's supplies agreement period. Non-agreement customers may receive scheduled shipments at the prices effective at the time of shipment.

FINANCE COMMITTEE REPORT

RESOLUTION NO. 92-1634, AUTHORIZING AN EXEMPTION TO THE COMPETITIVE BIDDING PROCEDURES AND AUTHORIZING A SOLE SOURCE CONTRACT WITH EASTMAN KODAK COMPANY TO PROVIDE MAINTENANCE AND REPAIR SERVICE

Date: June 23, 1992

Presented By: Councilor Van Bergen

COMMITTEE RECOMMENDATION: Pam Juett, Office Services Manager, presented the Staff Report. She pointed out that the District is in the fourth year of a five-year lease purchase with Eastman Kodak for the Kodak 300 Duplicator. The current maintenance contract with the Company expires at the end of June 1992 and a new contract is needed. She indicated this request is in compliance with the provisions of the Metro Code in that it is unlikely this exemption will encourage favoritism or substantially diminish competition since Eastman Kodak is the only provider of the service and will be the only available bidder based on the reasons stated in the Staff Report.

STAFF REPORT

CONSIDERATION OF RESOLUTION 92-1634 FOR THE PURPOSE OF AUTHORIZING AN EXEMPTION TO METRO CODE CHAPTER 2.04.041(c), COMPETITIVE BIDDING PROCEDURES, AND AUTHORIZING A SOLE-SOURCE CONTRACT WITH EASTMAN KODAK COMPANY TO PROVIDE MAINTENANCE AND REPAIR SERVICE ON THE KODAK 300 DUPLICATOR.

Date: June 6, 1992

Presented by Pam Juett

FACTUAL BACKGROUND AND ANALYSIS

Metro is in the fourth year of a five-year lease purchase of a Kodak 300 duplicator at the Metro Center location. Eastman Kodak is the current contractor providing maintenance and repair until July 1, 1992, when the present contract #901564 expires. A new contract is needed to continue coverage of maintenance and repair of this machine. Under the provisions of ORS 279.015 (2)(a)(b), a sole source exemption is requested in the awarding of the new contract to Eastman Kodak Company. The exemption is sought on the basis that it is unlikely that this exemption will encourage favoritism or substantially diminish competition, and that Eastman Kodak Company is the only provider of the service and would be the only available bidder for the reasons stated below.

1. The Kodak 300 duplicator involves use of patented technology in the sole control of Eastman Kodak.
2. Eastman Kodak is the sole purveyor of sales and replacement parts for the Kodak 300 duplicator. They do not sell replacement parts on the open market, therefore no Kodak parts are available from non-Kodak suppliers.
3. There is no market availability of non-Kodak replacement parts from independent suppliers for the Kodak 300.
4. It is critical to the high volume production in the Print Shop to provide the minimal service response time that Eastman Kodak can provide with its available stock of replacement parts.
5. No service providers other than Eastman Kodak have been located in the Portland area through a search of the business directory and the MBE/WBE directory. Contacts at City of Portland duplicating service and independent duplicating services indicate that they do not have any service other than Eastman Kodak for their Kodak machines, and that they do not know of independent providers of service.

6. The Kodak 300 duplicator is still under warranty with Eastman Kodak for replacement should it become inoperable and non-repairable. Use of service and parts other than Eastman Kodak would void this warranty.

Budget Impact

\$40,750 is budgeted for this contract. Actual amount spent will be dependent on the number of copies made on the Kodak 300 during the 1992-93 fiscal year.

EXECUTIVE OFFICER'S RECOMMENDATION

The Executive Officer recommends adoption of Resolution No. 92-1634 exempting Eastman Kodak from competitive bidding on the Kodak 300 duplicator.

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