City of Philadelphia

(Bill No. 090927)

AN ORDINANCE

To amend the Institutional Development District Master Plan of the Fox Chase Cancer Center, located at 333 Cottman Avenue, by allowing for the construction of a new building to be used as a comparative medical research facility.

THE COUNCIL OF THE CITY OF PHILADELPHIA HEREBY ORDAINS:

SECTION 1. Pursuant to Section 14-1107(c) of The Philadelphia Code, The Institutional Development District Master Plan of the Fox Chase Cancer Center is hereby amended by allowing for the construction of an approximately 25,000 square foot structure to be used as a comparative medical research facility as set forth in attached Exhibit "A", on file with the Chief Clerk's Office.

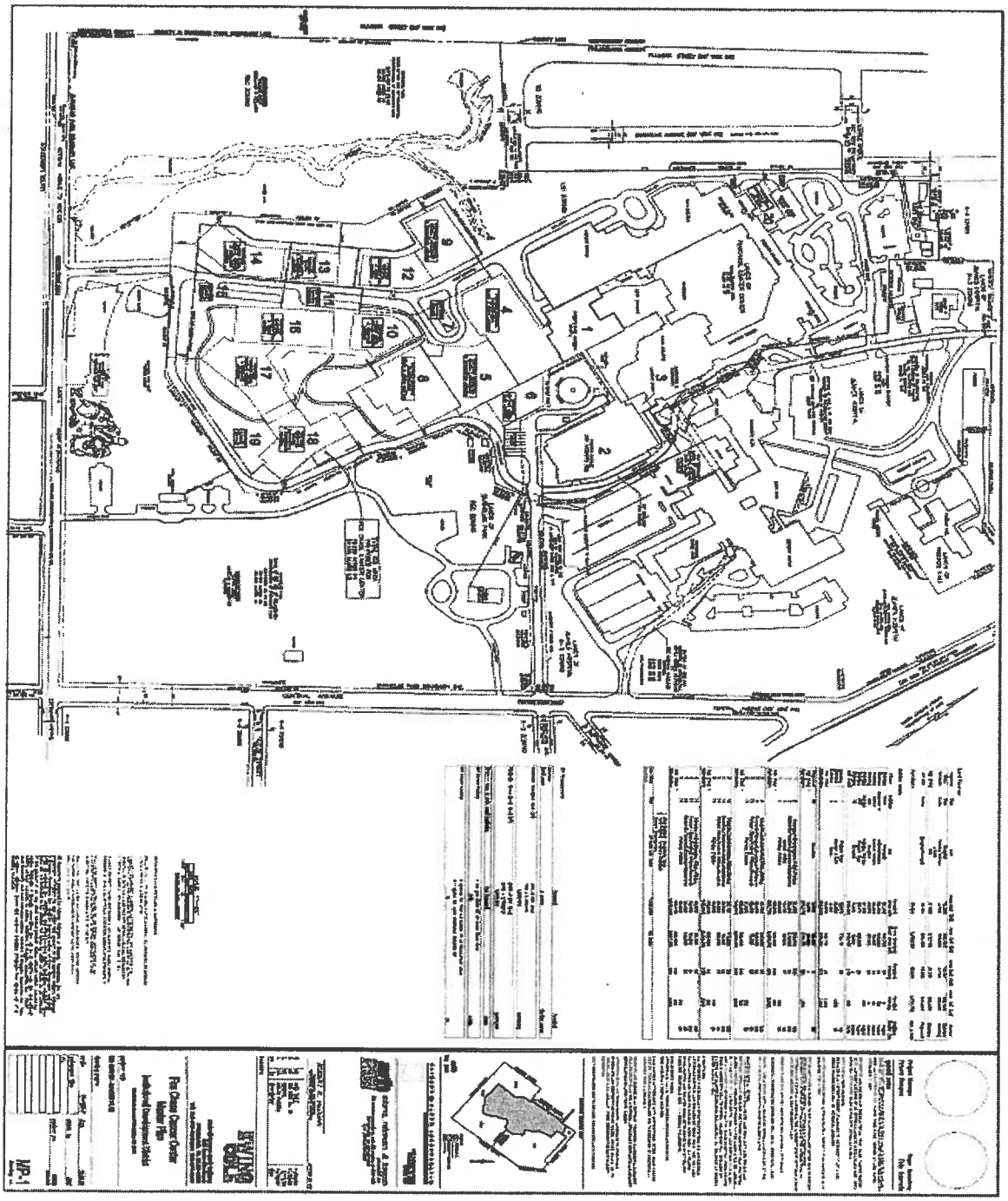
SECTION 2. This Ordinance shall take effect immediately.

City of Philadelphia

BILL NO. 090927 continued

Certified Copy

Exhibit A



City of Philadelphia

Certified Copy

CERTIFICATION: This is a true and correct copy of the original Bill, Passed by the City Council on February 25, 2010. The Bill was Signed by the Mayor on March 5, 2010.

Michael A. Decker
Chief Clerk of the City Council

Fox Chase Cancer Center

Economic Opportunity Plan

I. Project and Plan Introduction

Fox Chase Cancer Center ("FCCC") has the intention of entering into a long-term ground lease with development rights to property owned by the City of Philadelphia for the purposes of expanding its operations for the treatment of cancer and cancer research.

The purpose, standards and procedures of this Economic Opportunity Plan (the "Plan") expressed by Fox Chase Cancer Center as set forth herein. Participants shall include professional services providers and their respective consultants, the general contractor or construction manager retained by Fox Chase Cancer Center to construct the Project (the "General Contractor") and the General Contractor's subcontractors, and all vendors of supplies, services, equipment and materials for the Project (collectively, the "Participants" and each a "Participant").

It is the intent of Fox Chase Cancer Center to use good faith efforts and to require all of its Participants to use good faith and nondiscriminatory efforts to provide either joint venture partnerships, sub-consulting and/or sub-contracting opportunities for minority, women and disabled disadvantaged business enterprises (collectively, "M/W/DBE or M/W/DBEs") as certified by the City of Philadelphia's Minority Business Enterprise Council ("MBEC"). In all phases of the Project, Fox Chase Cancer Center will require that all Participants commit to the foregoing.

Neither Fox Chase Cancer Center nor any Participant shall discriminate on the basis of race, color, religion, sex, national origin, sexual orientation, gender identity, ancestry, age, or handicap in the award and performance of contracts pertaining to the Project or with respect to any and all related employment practices. All Participants in the Project shall observe and be subject to the enforcement of all relevant City of Philadelphia, Commonwealth of Pennsylvania and federal laws, ordinances, orders, rules and/or regulations regarding M/W/DBEs and locally-based business enterprises. Furthermore, affirmative action will be taken, consistent with sound procurement policies and applicable laws, to ensure that M/W/DBEs are afforded a meaningful and representative opportunity to participate in contracts relating to the Project.

For the purposes of this Plan, the term "minority" shall refer to the following: African American or Black (all persons having origins in any of the Black African racial groups); Hispanic/Latino (all persons of Mexican, Puerto Rican, Cuban, Central or South American, or other Spanish or Portuguese culture or origin regardless of race); Asian and Pacific Islander (all persons having origins from Japan, China, Taiwan, Korea, Burma (Myanmar), Vietnam, Laos,

Cambodia (Kampuchea), Thailand, Malaysia, Indonesia, the Philippines, Brunei, Samoa, Guam, the U.S. Trust Territories of the Pacific Islands (Republic of Palau), the Commonwealth of the Northern Marianas Islands, Macao, Fiji, Tonga, Kiribati, Juvalu, Nauru, Federated States of Micronesia, Hong Kong, India, Pakistan, Bangladesh, Bhutan, the Maldives Islands, Nepal or Sri Lanka; in any of the original peoples of the Far East, Southeast Asia, the Indian Subcontinent or the Pacific Islands); and Native Americans (which includes all persons who are American Indians, Eskimos, Aleuts, or Native Hawaiians).

Agencies and representatives of the City of Philadelphia and/or Commonwealth of Pennsylvania may be consulted regarding the appropriate inclusion of M/W/DBE firms and socially/economically disadvantaged professionals in this Project as outlined in this Plan and with regard to its implementation.

II. Procedures for Determination

A. Project Scope.

This Plan shall apply to contracts awarded by Fox Chase Cancer Center and sub-contracts awarded by its Participants.

B. Duration.

This Plan shall apply to contracts awarded and procurements by Fox Chase Cancer Center and all Participants throughout the entire length of construction.

C. Statement of Objectives.

The Objectives set forth in the Plan shall be incorporated in all requests for proposals, bid packages and solicitations for the Projects and communicated to all Participant levels.

D. Good Faith Efforts.

Participants shall reasonably exhaust the use of good faith efforts as defined hereunder to provide appropriate participation and utilization opportunities for M/W/DBE firms. All Project contractors and vendors will be required to do likewise, consistent with best and sound procurement practices, and with applicable law. *Good faith efforts* will be deemed adhered to when a Participant meets the criteria set forth in this section and demonstrates and documents its efforts throughout the length of the Project. If the established ranges for inclusion of M/W/DBE firms are not met, a Participant must submit a Subcontracting/Vendor Plan showing how *good faith efforts* were made to achieve said ranges. This plan must include, but not be limited to, the following:

- Written request for assistance to Fox Chase Cancer Center three (3) business days prior to the bid due date.

- Solicitation through newspapers, periodical advertisements, job fairs, etc. that focus on construction and are minority-owned and/or focused.
- Telephone logs.
- Evidence of solicitation to qualified and MBEC certified M/W/DBE firms.
- Bid results and reasons as to why no awards were made to M/W/DBE firms.
- Use of City/MBEC-certified business firms via their directory.
- Correspondence between contracting firm and any M/W/DBE firms.
- Attendance logs and/or records of any scheduled pre-bid or pre-proposal meetings.
- Specific, general and technical assistance offered and provided to M/W/DBE firms related to their portion of the project.
- Proof there was notification of and access to bid documents at company or other office locations for open and timely review.

E. Monitoring of *Good Faith Efforts*.

Requirements relative to monitoring of *good faith efforts* of Participants engaged in the Project shall be established by Fox Chase Cancer Center in consultation with appropriate city, state and federal agencies and/or private professional entities to include the following:

1) Participants shall submit copies of signed contracts and purchase orders with M/W/DBE subcontractors.

2) Participants shall be ready to provide evidence of payments to their subcontractors, sub-consultants and supply vendors for participation verification. This documentation should be provided monthly or included with every request for payment to Contractors.

3) At the conclusion of work, the Subcontractor shall provide a statement or other evidence of the actual dollar amounts paid to M/W/DBE subcontractors.

4) All On-site Contractors shall be prepared to submit "certified" payrolls listing the following items for all on-site employees to the extent permitted by applicable laws and regulations:

1. Full name
2. Full address
3. Trade classification (e.g., laborer, carpenter, apprentice, electrician, plumber, and foreman)
4. Gender
5. Race
6. Hours worked
7. All withholding (e.g., laborer, local, state, FICA, etc.)
9. Name of Contractor and Indication of Prime for Subcontractors
10. Name of Project

5) Certified payroll reports shall be signed by an authorized company officer.

6) The Participant shall comply with all applicable requirements of any federal, state or local law ordinance or regulation relating to contract and payroll compliance.

F. Documentation of *Good Faith Efforts* and Compliance.

Two components have been established to facilitate the inclusion of M/W/DBE firms as contractors and vendors, and minority/female/local residents as Project site workforce participants:

1) ***M/W/DBE contracting and vending participation levels*:** the basis for each determination will be the total dollar amount of the bid/contract OR the total dollar amount of the bid/contract for the identified Project task.

2) ***Minority/Female/Local Resident Employment Participation Levels*:** the basis for each determination will be the projected total on-site field employee hours divided by the number of minority, female and local residents' employee hours anticipated to be performed on the Contractor's payroll, and each of the Contractor's on-site subcontractors payrolls.

G. Oversight Committee.

Fox Chase Cancer Center, in consultation with the District Councilperson, any appropriate agencies and entities, will establish and identify the members of a Project Oversight Committee, including representatives from Fox Chase Cancer Center and/or the General Contractor and Construction Manager, Minority Business Enterprise Council, Organized Building Trades, and the District Councilperson. Participants will engage in monitoring, reporting and problem solving activities which are to include regular meetings to address all matters relevant to further development of the Plan, carrying out its implementation and the successful completion of the Project.

The first meeting of the Project Oversight Committee may be called by Fox Chase Cancer Center within one (1) month of the initiation of this Project and shall meet on a regular basis during all phases of the Project. Participants will engage in monitoring, reporting and problem solving activities which are to include regular meetings to address all matters relevant to further development of the Plan, carrying out its implementation and the successful completion of the Project.

III. Certified M/W/DBE Firms

A. Only businesses that are owned, managed and controlled, in both form and substance, as M/W/DBE firms shall participate in this Project's Economic Opportunity Plan. To ensure this standard, all businesses, including joint ventures, must be certified by the Philadelphia Minority Business Enterprise Council (MBEC) or members of the Pennsylvania Unified Certification Program (UCP). Both agencies are authorized to certify such enterprises.

B. M/W/DBE certification should not be the sole determination of a Bidder's or Contractor's financial or technical ability to perform specified work. Fox Chase Cancer Center reserves the right to evaluate the Contractor's or Subcontractor's ability to satisfy financial, technical, or other criteria separate and apart from said certifications before bid opening. Pre-qualification conditions and requirements shall be conveyed in a fair, open and non-discriminatory manner to all.

C. Fox Chase Cancer Center recognizes that M/W/DBE certifications may expire or the firm may experience de-certification by an authorized governmental entity. Certifications that expire during a firm's participation on a particular phase of the Project may be counted toward overall goals for participation ranges. However, said firm MUST become re-certified prior to consideration for future goal credit in the Project's Plan. If a firm has been de-certified, said firm would not be eligible to participate.

D. A M/W/DBE submitting as the prime contractor is required, like all other Participants, to submit a bid and/or RFP that is responsive to the Reauthorized Executive Order 02-05, and applicable law, and will only receive credit, in its certification category, for the amount of its own work or supply effort on the specified work in the bid and or RFP. In order to maximize opportunities for as many businesses as possible, a firm that is credited in two or more categories (e.g. MBE and WBE, or WBE and DBE) will only receives credit as either an MBE or WBE or DBE. The firm will not be credited toward more than one category. Bidders/Respondents will note with their submission which category, MBE or WBE or DBE, is submitted for credit.

E. Should Fox Chase Cancer Center enter into Joint Venture relationships with certified M/W/DBE firms, these firms must meet the following criteria in order to receive credit towards participation goals:

1) The M/W/DBE partner(s) must be certified by MBEC, UCP or a qualified governmental agency authorized by law to certify such enterprises prior to proposal/bid submission.

2) The M/W/DBE partner(s) must be substantially involved in significant phases of the contract including, but not limited to, the performance (with its own work force) of a portion of the on-site work, and of administrative responsibilities, such as bidding, planning, staffing and daily management.

3) The business arrangements must be customary (i.e., each partner shares in the risk and profits of the joint venture commensurate with their respective ownership interests).

4) If a certified partner is an MBE, WBE or DSBE, the participation will be credited only to the extent of the partner's ownership interest in the joint venture; there may remain a requirement to meet M/W/DBE goals.

IV. Non-Compliance

A. In cases where Fox Chase Cancer Center has cause to believe that a Participant, acting in good faith, has failed to comply with the provisions of the Plan, Fox Chase Cancer Center in consultation with the Project Oversight Committee and with the assistance and consultation of the appropriate agencies and professional entities, shall attempt to resolve the noncompliance through conciliation and informal talks.

B. In conciliation, the Participant must satisfy Fox Chase Cancer Center and the Project Oversight Committee that said Participant has made its *good faith efforts* to achieve the agreed upon participation goals by certified M/W/DBE firms. *Good faith efforts* on the part of the Participant/Contractor shall include:

1) Entering into a contractual relationship with the designated M/W/DBE firm in a timely, responsive and responsible manner, and fulfilling all contractual requirements, including payments, in said manner.

2) Notifying all parties, including Fox Chase Cancer Center, the M/W/DBE firm, the Project Oversight Committee and all relevant Participants, of any problems in a timely manner.

3) Requesting assistance from Fox Chase Cancer Center and/or the Project Oversight Committee in resolving any problems with any M/W/DBE firm.

4) Making every reasonable effort to appropriately facilitate successful performance of contractual duties by a M/W/DBE firm through timely, clear and direct communications.

C. In cases where Fox Chase Cancer Center and/or the Project Oversight Committee has cause to believe that any Participant has failed to comply with the provisions of the Plan, they shall conduct an investigation.

D. After affording the Participant notice and an opportunity to be heard, Fox Chase Cancer Center and/or the Project Oversight Committee are authorized to take corrective, remedial and/or punitive action. Such actions may include, but are not limited to:

1) Declaring the Participant as non-responsible and/or non-responsive, with a determination as ineligible to receive the award of a contract, continue a contract and/or ineligible for any other future contracts affiliated with this Plan;

2) Suspending the violating Participant from doing business with the Owner;

3) Withholding payments to the violating Participant; and/or

4) Pursuing and securing any relief which Fox Chase Cancer Center and/or the Project Oversight Committee may deem to be necessary, proper, and in the best interest of the Owner and the Project, consistent with applicable policy and law.

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V. Participation Goals and Ranges

The following Professional Services contract goals have been set for the combined Project:

Contracts	Minority Owned	Female Owned	Disabled Owned
Professional Services	20%	10%	Encouraged

The following Construction Contract goals have been set for the combined Project:

Contracts	Minority Owned	Female Owned	Disabled Owned
Construction	25%	20%	5%

The following Operations and Maintenance ranges have been set for the Project:

Operations and Maintenance	Minority Owned	Female Owned	Disabled Owned
Contractors	25%	20%	5%

The following employment ranges have been set for the Project:

Employment	Local Residents	Minorities	Females	Disabled
Construction Workforce	20%	25%	6%	2%

_____ _____

Fox Chase Cancer Center Date

By: Fox Chase Cancer Center
Thomas Garvey, Vice President