

CITY OF PHILADELPHIA
UNIVERSITY OF PENNSYLVANIA
NEURAL AND BEHAVIORAL SCIENCES BUILDING
Economic Opportunity Plan

The Trustees of the University of Pennsylvania (“University”) submit this Economic Opportunity Plan (“Plan”) in connection with the University’s New College House (“Project”). This plan is submitted in compliance with the City of Philadelphia’s requirements as set forth in Title 17, Section 1600 et seq. of the City Code and in support of the University’s request for approval by the City Council of a change to its Institutional Development District Master Plan that is required to implement the Project.

Scope of Work: The Neural and Behavioral Sciences Building consists of a mixed-use development located between 3550 and 3600 Pine Street in the City of Philadelphia. The Project is proposed to include approximately 76,500 gross square feet, and provide dry and clinical research and teaching laboratories, seminar rooms, offices, a 180-seat auditorium, and support spaces for the Biology and Psychology Departments.

A. General Statement of University Policy

It is the policy of the University to promote the utilization of women and minorities in all phases of the design, development, construction and maintenance of the Project. The fundamental goal of the University is that all contractors, vendors, and consultants who contract with the University satisfy the University that they have made their “best efforts” to involve in such work as many women and minorities, or firms owned by women and minorities, as possible. This has been a long standing principle of the University’s procurement policies and as a result, the University has developed extensive experience in maximizing economic opportunities for minorities and women in connection with its day to day operations as well as its development initiatives. The University will bring this experience to bear in ensuring the successful implementation of the Economic Opportunity Plan for this Project.

B. Economic Opportunity Obligations of the University’s Contractor

The University will require that the Construction Manager responsible for executing the Project prepare and implement an Economic Opportunity Plan for the Project as more fully set forth in below, and shall use its best efforts, as defined therein, to achieve the following participation percentage goals:

- Contract Goals: 15-20% MBE, 10-15% WBE/DSBE
- Journey Persons Workforce Goals: 23%-32% M, 5-10% W/D
- Apprentices: 50% M, 7% W (new goal of City not previously tracked by Owner)

The University has negotiated a Construction Management Agreement with P. Agnes, Inc. (“P. Agnes”) for construction of the Project. On projects it has previously undertaken

for the University, P. Agnes has demonstrated a strong commitment to the University's Economic Opportunity Goals and its Economic Opportunity Plans have been implemented effectively and have consistently met or exceeded the University's goals.

The Construction Manager's obligation to develop and implement the Plan for this Project is expressly set forth in the Construction Management Agreement to be executed between the Construction Manager and the University for the Project. The Construction Manager has agreed to execute a contract incorporating the provisions set forth in this Plan.

The Cost of the Work, against which the Contract Goals percentages are applied, shall be adjusted downward by any portions of the Work categorized and approved by the University as a "non-opportunity deduct".

The Plan incorporated in the Construction Management Agreement is set forth below.

I. Equal Employment Opportunity.

A. Equal Employment Opportunity Commitments. In connection with the performance of Work under this Contract, the Construction Manager agrees as follows:

(1) The Construction Manager will not discriminate against any employee or applicant for employment because of race, color, religion, sex, sexual or affectional preference, national origin, handicap, or because he or she is disabled or a veteran of the Vietnam Era. The Construction Manager will take affirmative action to ensure that applicants are employed, and that employees are treated during employment, without regard to their race, color, religion, sex, sexual or affectional preference, national origin, handicap, or because he or she is disabled or a veteran of the Vietnam Era. Such action shall include, but not be limited to, the following: employment, upgrading, demotion or transfer; recruitment or recruitment advertising; layoff or termination; rates of pay or other forms of compensation; and selection for training, including apprenticeship. The Construction Manager agrees to post in conspicuous places, available to employees or applicants for employment, notices to be provided setting forth the provisions of this nondiscrimination clause.

(2) The Construction Manager will, in all solicitations or advertisements for employees placed by or on behalf of the Construction Manager, state that all qualified applicants will receive consideration for employment without regard to race, color, religion, sex, sexual or affectional preference, national origin, handicap, or because he or she is disabled or a veteran of the Vietnam Era.

(3) The Construction Manager will send to each labor union or representative of workers with which it has a collective bargaining agreement or other contract or understanding, a notice to be provided advising the said labor union or workers' representative of the Construction Manager's commitments under this subparagraph and shall post copies of the notice in conspicuous places available to employees and

applicants for employment.

(4) The Construction Manager will comply with all provisions of Executive Order 11246, as amended (the "Executive Order"), with Section 503 of the Rehabilitation Act of 1973, as amended (the "Rehabilitation Act") and Section 402 of the Vietnam Era Veterans Readjustment Assistance Act of 1974 (the "Readjustment Assistance Act") as these articles make reference to the Executive Order, and with the rules, regulations, and relevant orders of the Secretary of Labor.

(5) The Construction Manager will furnish all information and reports required by the Executive Order, by Section 503 of the Rehabilitation Act and Section 402 of the Readjustment Assistance Act as these articles make reference to the Executive Order, and by the rules, regulations, and orders of the Secretary of Labor, or pursuant thereto, and will permit access to its books, records and accounts by the governmental agency or agencies administering grant funds for the Project and the Secretary of Labor for purposes of investigation to ascertain compliance with such rules, regulations, and orders.

(6) In the event of the Construction Manager's noncompliance with the nondiscrimination clauses of the Contract Documents or with any of the said rules, regulations or orders, the Contract may be canceled, terminated or suspended, in whole or in part, and the Construction Manager may be declared ineligible for further contracts or federally assisted construction contracts in accordance with procedures authorized in the Executive Order, and such other sanctions may be imposed and remedies invoked as provided in the Executive Order, or by rule, regulation, or order of the Secretary of Labor, or as otherwise provided by law.

(7) The Construction Manager will include the portion of the sentence immediately preceding subparagraph (1) and the provisions of subparagraphs (1) through (7) of this Section in every Trade Contract or purchase order unless exempted by rules, regulations, or orders of the Secretary of Labor issued pursuant to Section 204 of the Executive Order, of Section 503 of the Rehabilitation Act and Section 402 of the Readjustment Assistance Act as these articles make reference to the Executive Order, so that such provisions will be binding upon each Trade Contractor or vendor.

(8) Anything herein elsewhere contained to the contrary notwithstanding, the Construction Manager shall submit to the jurisdiction of one of the following authorities, as selected by the University, concerning alleged violations of the terms of the Contract relating to discrimination of the Executive Order:

- (a) Philadelphia Human Relations Commission; or
- (b) Equal Employment Opportunity Commission; or
- (c) United States Secretary of Labor

B. Codes, Laws, and Ordinances. In addition to the University's specified programs and requirements, the Construction Manager shall comply with all applicable requirements of any federal, state or local law, ordinance or regulation relating to affirmative action, equal

opportunity and nondiscrimination in employment, and shall use its best efforts to meet all local goals relating thereto.

The Construction Manager represents that it is familiar with all applicable Codes, regulations, labor agreements, minority participation and economic opportunity requirements and other conditions relating to the Project, and has made adequate provision therefore in the Guaranteed Maximum Price.

The Construction Manager shall prepare and administer a program of supervision to assure that the Trade Contractors comply with all legal requirements, all safety and insurance requirements and other standards and requirements applicable to the Work. The program shall be subject to the University's approval; however, the University's review or approval shall not relieve the Construction Manager of its duty to comply fully with all appropriate legal, safety and insurance requirements.

C. MBE/WBE/DSBE Plan. The Construction Manager acknowledges that in constructing the Project, it is the intent of the University to encourage the maximum practicable participation of minority, female and disabled-owned business enterprises, and minority, female and disabled employees in the Project, so that such enterprises and persons shall have maximum achievable opportunity to compete for contracts and jobs associated with the Project. The Construction Manager agrees to assist the University in encouraging such participation and agrees to utilize its best efforts in achieving the following goals: (i) to engage minority-owned firms to complete a reasonable portion of the construction costs; and (ii) to engage female-owned firms to complete a reasonable portion of the construction costs; and (iii) to engage disabled-owned firms to complete a reasonable portion of the construction costs. Any specific participation percentages applicable to these goals are set forth above in Section A of this Plan. The Construction Manager shall, promptly upon the University's request, provide to the University evidence of the Construction Manager's efforts to encourage such participation.

Construction Manager's compliance with the University's Economic Opportunity Plan is part of the Construction Manager's base scope of work.

II. ECONOMIC OPPORTUNITY PLAN

A. Policy. The fundamental goal of the Plan is that all contractors, vendors, and consultants who contract with the University satisfy the University that they have made their "best efforts" to involve in such work as many women, minority or disabled persons or firms owned by women, minority or disabled persons as possible. The burden of proving that a "best effort" has been made will be met if the level of participation in any particular phase of the Project is deemed to be "meaningful and substantial" under criteria adopted by the University. The "best efforts" requirement may also be satisfied if it can be demonstrated that "meaningful and substantial" levels of participation are not possible for a legitimate reason.

"Meaningful and substantial" shall be interpreted by the University as meaning a level of

participation which reflects the availability in the Philadelphia Metropolitan Statistical Area, of bona fide minority, women and disabled owned businesses, and actual hours worked by minority, female and disabled workers.

B. Procedures for Implementation.

(1) Statement of Objectives. The objectives set forth in this Economic Opportunity Plan shall be communicated in all requests for proposals and solicitations for the Project and to such professional, contracting and community organizations as may be determined by the University.

(2) Bidding Requirements. With respect to construction of the Project, the University shall determine what level of minority, disabled and/or female participation is "meaningful and substantial" in connection with the work of the Construction Manager and shall include this information in any bid, request for proposal or solicitation for such work. The Construction Manager shall have responsibility for exercising best efforts to achieve this participation and the University shall monitor the implementation of this Plan by the Construction Manager. If, however, the proposed level of MBE/WBE/DSBE participation falls below the determined level, the Construction Manager must prove to the satisfaction of the University that, notwithstanding its "best efforts", its proposed level of MBE/WBE/DSBE participation is the best that can be attained. Actions by the Construction Manager which demonstrate "best effort" include:

- (a) Advertising in general circulation media, trade association publications and minority-focused media concerning subcontracting opportunities.
- (b) Requesting assistance from appropriate agencies in identifying potential certified MBE/WBE/DSBE firms for specific subcontract opportunities.
- (c) Participating in pre-bid conferences and seminars specifically for the promotion of this Economic Opportunity Plan for the Project.
- (d) Timely notifying minority and women business enterprises and soliciting their participation on this Project.
- (e) Providing sufficient information about plans, specifications, and requirements of the contract to interested minority and female-owned business.
- (f) Providing evidence of reasonable efforts to negotiate with minority and female-owned businesses for specific sub-bids, including the names, addresses and telephone numbers of minority and female-owned businesses that were contacted.
- (g) Undertaking such further efforts to achieve the goals of the Plan as are identified in Title 17, Section 1603(1)(d) of the City Code as constituting Best and Good Faith Efforts.

(3) Workforce Utilization. The University shall work with the Construction Manager to seek the cooperation of Trade Contractors and their respective trade unions and labor organizations in seeking to encourage women and minorities to enter union apprentice programs. Where appropriate, the University may require the development and implementation of employment and training programs to meet the policy objectives of the Plan. The Construction Manager shall itself and shall require all Trade Contractors to

submit monthly employment reports in the form of certified payroll records with minority and female designations. The University requires all labor to be provided by the Philadelphia Building Trade Unions, thus local residents are typically in excess of 50% of the hours worked. The certified payrolls will be audited by the Urban Affairs Coalition, and they will prepare monthly reports to the University to confirm that best and good faith efforts are being implemented to employ minority persons and females as apprentices and journeymen in the workforce at the goal levels defined for the project.

(4) Project Compliance Officer. The University will designate a Project Compliance Officer who will perform such duties as are delegated to him or her to effectively implement this Plan including interacting with local businesses and the community (both to disseminate information and to receive suggestions and criticisms) and coordinating all aspects of the Project as they relate to this Plan.

(5) Economic Opportunity Consultant. The University has retained the services of the Urban Affairs Coalition as an agent or consultant to assist in the development, implementation and monitoring of the Plan. The Urban Affairs Coalition will assist the Contractor in developing bid packages to increase inclusion, and bid lists with MBE/WBE/DSBE firms. The Urban Affairs Coalition will audit contract agreements, payments, and certified payrolls, and prepare reports to document contracted and workforce participation. The Urban Affairs Coalition will report these results to the University's Oversight Committee known as the Economic Inclusion Committee.

(6) Oversight Committee. The University has a longstanding Economic Inclusion oversight committee consisting of representatives of the University and other public and/or private agencies. The committee shall oversee the implementation of this Plan. Such oversight shall include periodically reviewing the economic Opportunity plans of contractors, vendors, lessees, and consultants and making recommendations with respect to the achievement of participation goals.

(7) Monitoring. The University shall (utilizing the assistance of the Urban Affairs Coalition), in accordance with this plan and under the direction of the Project Compliance Officer, monitor all Economic Opportunity Activities, including workforce utilization, and shall give the Oversight Committee monthly reports on the levels of minority and female participation. Monitoring shall include visits to worksites and business offices to verify information given to the University.


(8) Remedies for Noncompliance. The economic Opportunity obligations pursuant to this Plan which are applicable to individual University contracts shall be part of each direct contract between the University and contractors, vendors, or consultants for the Project, and shall be as enforceable as any other contractual term or condition. Remedies for breach of an economic Opportunity contractual obligation may include cancellation of the contract, suspension of payment pending remedial efforts to comply with the Plan and/or disbarment from future contracting opportunities with the University.

C. Miscellaneous Economic Opportunity Provisions


(1) Scope. This plan applies to all employment and contracting by the University for the Project including professional services, construction, and supply of material and service. Notwithstanding the foregoing, no privity of contract exists between the City and any MBE/WBE/DSBE identified in any contract resulting from implementation of the Plan. Neither the University nor the City intends to give or confer upon any such MBE/WBE/DSBE any legal rights or remedies in connection with subcontracted services under any law or policy or by reason of any contract resulting from implementation of the Plan except such rights or remedies that the MBE/WBE/DSBE may seek as a private cause of action under any legally binding contract to which it may be a party.

(2) Certification. The University is committed to the utilization of bona fide minority and women-owned businesses, and, therefore will require that each MBE/WBE/DSBE be appropriately certified provided that such certification is available through an approved certification agency or office. An MBE/WBE/DSBE may be excluded from a contractor's economic opportunity plan if, after investigation, it is determined that it is no longer a bona fide MBE/WBE/DSBE.

(3) Use of Philadelphia Firms. The University recognizes the importance of the Project to the West Philadelphia community and Philadelphia Metropolitan Area as a whole. In implementing this Plan, consistent with applicable state and federal laws and regulations, the University will make special effort to provide employment and contracting opportunities to firms and individuals based within West Philadelphia and the Philadelphia Metropolitan Area.



Michael J. Dausch, P.E. 6.5.13
Executive Director, Design and Construction Management
University of Pennsylvania
Facilities and Real Estate Services Date



Angela Dowd-Burton 6.5.13
Executive Director
City of Philadelphia
Office of Economic Opportunity Date