



City of Philadelphia

City Council
Chief Clerk's Office
402 City Hall
Philadelphia, PA 19107

**BILL NO. 210957
(As Amended, 3/1/22)**

Introduced December 2, 2021

Councilmember Gauthier

**Referred to the
Committee on Rules**

AN ORDINANCE

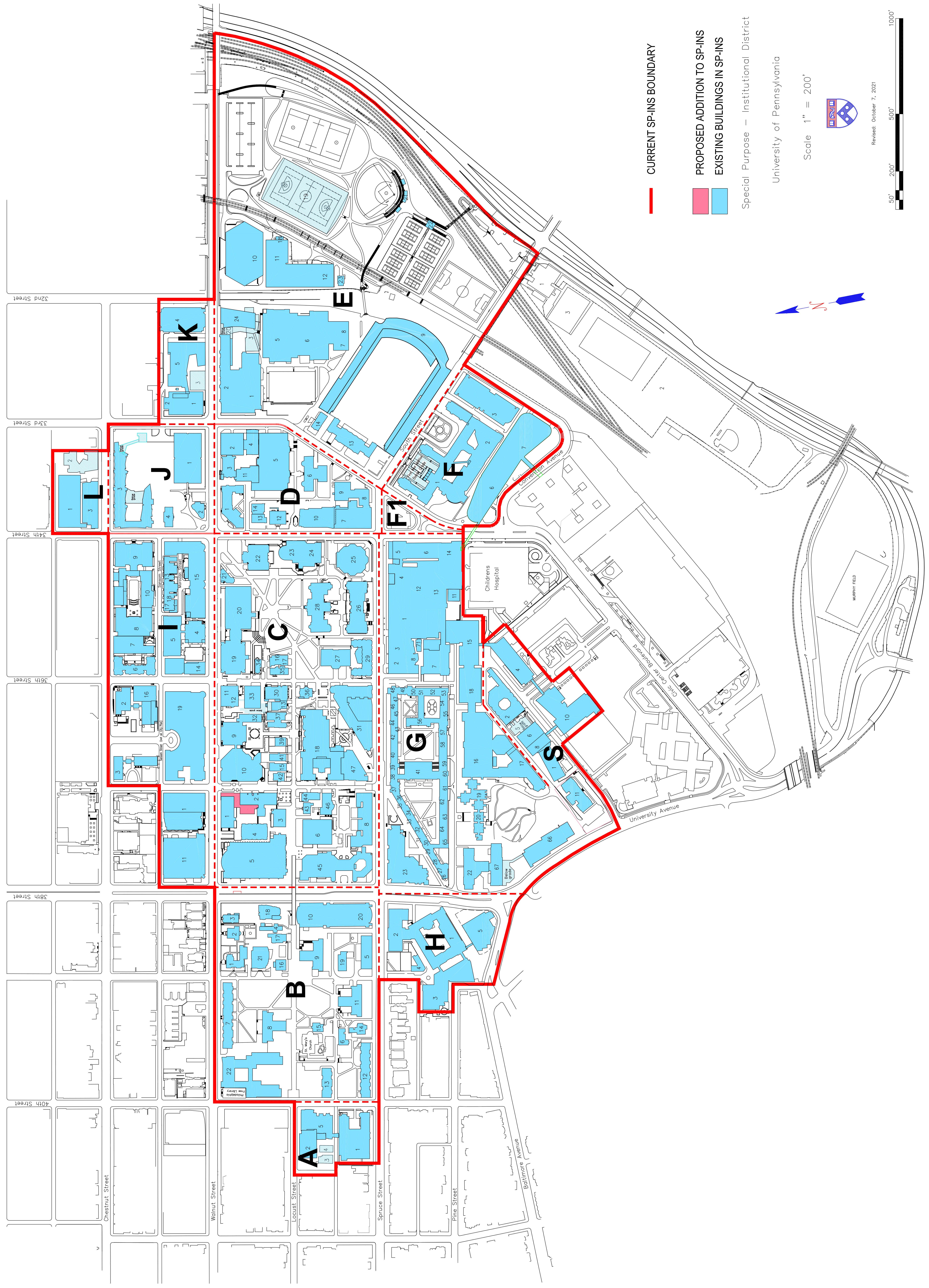
To approve amendments to the University of Pennsylvania Master Plan in the area bounded by Walnut Street, 34th Street, Spruce Street, and 40th Street, related to the Graduate School of Education building at 3700 Walnut Street.

THE COUNCIL OF THE CITY OF PHILADELPHIA HEREBY ORDAINS:

SECTION 1. Pursuant to Section 14-304(4) of The Philadelphia Code, the University of Pennsylvania Master Plan is hereby amended, as set forth in attached Appendix "A" Master Plan dated October 7, 2021, along with Appendix "B" Master Plan Zoning Calculation Chart, which is on file with the Chief Clerk's Office, and a copy of which is attached hereto for reference.

SECTION 2. This Ordinance shall become effective immediately.

APPENDIX "A". University of Pennsylvania, Master Plan SP-INS Amendment. Building addition to the "Graduate School of Education" building and "Stiteler Hall", identified in Block C as buildings #1 and # 2, located at 3700 Walnut Street, to include 7,844 sf of new occupied area and 21,031 sf of new gross floor area.



APPENDIX "B" - University of Pennsylvania Master Plan Summary Table. This SP-INS District would remain compliant with the governing occupied area and gross floor area maximum requirements, as well as with the parking space minimum requirements, following adoption of the proposed master plan amendment to include the addition to Building #2 in Block C.

BLOCK AREA	OCCUPIED AREA (Sq. Ft.)			PERC OCC.	GROSS FLOOR AREA (Sq. Ft.)			PERC F.A.R.	NOTES
	EXISTING	PROPOSED	TOTAL		EXISTING	PROPOSED	TOTAL		
A	117,311	71,151	71,151	61%	269,371		269,371	230%	
B	804,824	232,397	232,397	29%	1,559,550		1,559,550	194%	
C	1,418,282	609,532	7,844	44%	2,822,338	21,031	2,843,369	200%	Proposed addition to School of Education and Stiteler Hall
D	337,602	165,832	165,832	49%	723,316		723,316	214%	
E	2,311,507	530,483	530,483	23%	1,156,572		1,156,572	50%	
F	383,797	218,877	218,877	57%	1,469,527		1,469,527	383%	
F-1	16,596	Undeveloped			0		0	0%	
G	1,114,542	618,468	618,468	55%	3,345,944		3,345,944	300%	
H	206,718	104,879	104,879	51%	403,774		403,774	195%	
I	722,340	457,549	457,549	63%	1,740,660		1,740,660	241%	
J	250,613	86,647	86,647	35%	393,628		393,628	157%	
K	136,673	82,965	82,965	61%	154,556		154,556	113%	
L	77,381	66,760	66,760	86%	139,458		139,458	180%	
M	** 586,246	*44,049							Not in SP-INS
N	** 397,737	Undeveloped							Not in SP-INS
S	289,887	109,979	109,979	38%	926,371		926,371	320%	
TOTALS					SP-INS	TOTALS	TOTALS		
8,188,073				3,355,519	7,844	21,031	15,126,096	185%	
					Required Parking 3,792 spaces				Parking Provided 7,202 spaces

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CITY OF PHILADELPHIA
UNIVERSITY OF PENNSYLVANIA
GRADUATE SCHOOL OF EDUCATION EXPANSION PROJECT
Economic Opportunity Plan

The Trustees of the University of Pennsylvania (“University”) submit this Economic Opportunity Plan (“Plan”) in connection with the University’s Graduate School of Education Expansion project (“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 SP-INS, Institutional (Special Purpose) district that is required to implement the Project.

The Owner/Purchaser hereby verifies that all information submitted to the Office of Economic Opportunity ("OEO") in response to this Plan, is true and correct and take notice that the submission of false information is subject to the penalties of 18 PA C. S. Section 4904, relating to unsworn falsification to authorities and 18 PA C. S. Section 4107.2 (a)(4), relating to fraud in connection with minority business enterprises or women's business enterprises.

Scope of Work: The Graduate School of Education Expansion project includes the following scope:

The proposed Graduate School for Education Expansion addition and renovation of the existing Stiteler and 3700 Walnut Street buildings includes approximately 16,200 gross square feet (GSF) of new and 16,900 gross square feet (GSF) of renovated lobby, classrooms, offices, and student spaces. The project includes a four-story addition to the east end of 3700 Walnut Street, a two-story addition to the west side of Stiteler and a three-story infill building connecting the two structures.

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

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set forth in below, and shall use its best efforts, as defined therein, to achieve the following participation percentage goals:

Contracts	Minority Owned	Female Owned	Disabled Owned	Total
Construction/ Professional Services	20%	10%	BGFE	30%

The University of Pennsylvania agrees to exhaust Best and Good Faith Efforts (BGFE) to employ minority persons and females in its workforce of apprentices and journeymen at the following levels:

Race/Ethnicity	Total Hours
African-American	18%
Hispanic	8%
Asian	2%
Total Hours	28%
Women (all races/ethnicities)	4%

Minority Apprentices: 50% of all hours worked by all apprentices.
Female Apprentices: 5% of all hours worked by all apprentices.

Local Residents
25%

The University has negotiated a Construction Management Agreement with P Agnes (the “Construction Manager”) for construction of the Project. 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.

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- (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. 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, the Office of Economic Opportunity 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.

D. Equity Ownership

“Economic Opportunity Plans,” to require that each Economic Opportunity Plan include information concerning the Equity Ownership (as defined) of (1) the contractor, developer and/or recipient of financial assistance required to submit the Plan; (2) participants (as defined) engaged by the contractor, developer and/or recipient of financial assistance; and (3) the eventual owner or owners of the project or contract to which the Plan relates; and requiring periodic reports for the purpose of updating Equity Ownership information; all under certain terms and conditions.

Identify the current equity owners of the project.

Type of Ownership	% Minority Owned	% Women-Owned	% Disabled Persons
Sole Proprietorship	N/A	N/A	N/A
Partnership	N/A	N/A	N/A

Corporation	N/A	N/A	N/A
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If the project is privately owned, the following individuals will become the anticipated Equity Owners upon completion.

Type of Ownership	% Minority Owned	% Women-Owned	% Disabled Persons
Sole Proprietorship	N/A	N/A	N/A
Partnership	N/A	N/A	N/A
Corporation	N/A	N/A	N/A

Following the completion of the project, the project owner is responsible for meeting the reporting guideline identified in the Philadelphia Code.¹

D. Diversity Practices

In compliance with Chapter 17-1603 entitled Equal Opportunity Plan: Contents The Economic Opportunity Plan shall contain a statement from the contractor, developer and/or recipient of financial assistance summarizing past practices by identifying and describing examples of processes used to develop diversity at any/all levels of its organization including, but not limited to, Board and managerial positions. This statement shall also summarize strategic business plans specific to current or past practices of M/W/DSBE utilization on government and non-government projects and procurement.

Where appropriate, such a statement should contain:

1. Describe employment and recruitment policies used to achieve diversity in your workforce.

An extensive description of employment and recruitment policies used to achieve diversity at the University of Pennsylvania is set forth at

<http://www.upenn.edu/almanac/volumes/v55/n18/aapolicy.html>.

2. Provide the race, gender, and residential (local) status of your:

A. Directors	The University's Board of Trustees has a diverse and international membership. The members of the Trustees of the University of Pennsylvania are listed on Attachment B1 to Exhibit A of this EOP. There are 60 Trustees of which 18 are women. Ten Trustees are local residents.
B. Management	Of the five members of the University's senior management team, 20% are women and 20% are African American. The remainder are Caucasian. All are local residents.
C. General Workforce	Women, 52%; African American, 13%; Asian, 10%; Latino, 3%. Virtually all are local residents and work at a University location.

¹ Philadelphia Code 17-1603

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3. Identify your organization’s methods of solicitation and utilization of Minority, Woman and Disabled Businesses (M/W/DSBEs). Please be specific in describing outreach and any procurement policies that are focused on creating or sustaining business relationships with M/W/DSBEs.

See extensive information at <http://cms.business-services.upenn.edu/economic-inclusion.html>.

4. What percentage of your company’s total spend with vendors and suppliers is attributable to M/W/DSBEs? Please include a list of the largest M/W/DSBEs used by your organization in the last 12 months.

A. Identify the type of goods or services purchased.	The University purchases a wide variety of goods and services to operate the University and its Health System.
B. Amount of the contract.	The University averages approximately \$100 million per year in total construction spending on projects of \$5 million or more, and averages over \$30 million per year or 30% of this spending with minority and women-owned businesses.
C. Indicate if any of these M/W/DSBEs are listed in the City of Philadelphia’s Office of Economic Opportunity Registry.	Many of the firms utilized by the University are listed in the City’s registry.
D. Are these companies certified as M/W/DSBEs? Do you rely on any particular certifying agency?	Penn requires that minority or women-owned businesses have a certification from a recognized certifying agency, and does not rely on one particular certifying agency.
E. If there is no previous M/W/DSBE utilization, the Plan shall contain a statement that explains the reason for the lack of M/W/DSBE participation in past contract(s) or project(s).	N/A

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5. Describe any initiatives made by your organization to increase investment and promote equity ownership by minorities and women.

In addition to the Economic Inclusion Committee and project inclusion goals described above, Penn has been involved in many initiatives to promote Economic Inclusion. Penn supported the PennAssist program, has presented capital project opportunities at meetings of the National Minority Contractors Association and the Enterprise Center, and has conducted minority and women owned business subcontractors in the construction industry capital project information sessions. These information sessions included presentations on upcoming University and Penn Medicine capital projects, along with the prequalification and bid processes for subcontractors. The events concluded with networking sessions with many of the construction managers and general contractors that work on Penn projects. Penn has sponsored six classes of approximately 25 students in the ACE (Architecture, Construction, and Engineering) Mentor program for high school students, and intend to sponsor an additional class next academic year.

M J Dausch

2/10/2022

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

Date

Vince Gumbs Jr

1/25/22

Vincent Gumbs Jr.
Director of Data & Policy
City of Philadelphia

Date