



## Understanding Community Benefits Agreements (CBAs)

### What are CBAs?

Community Benefits Agreements (CBAs) are agreements negotiated between a community coalition or stakeholder and the project developers that stipulates the benefits the developer agrees to in exchange for community support of the project.

### What is the City Currently Doing?

Currently, the decision to create and implement a CBA is at the discretion of the developer. The City has made efforts to ensure the community's interests are considered in the following ways:

- **Chapter 187 Cleveland Area Business Code:** vertical construction contracting goals for minority business enterprises (MBE), female business enterprises (FBE), and Cleveland small businesses (CSB): 15%, 7%, and 8% representation, respectively.
- **Chapter 188 Fannie M. Lewis Cleveland Resident Law stipulates**
  - 20% of the contracts' total workforce hours worked by Cleveland residents;
  - 4% of the 20% of the contracts' workforce hours worked by Low-Income Workers
- **Memorandum of Understanding Regarding Community Benefits and Inclusion**, which articulated voluntary goals for CBAs<sup>1</sup>.

### What are the Problems to Resolve?

- Currently, there are no systematic processes for CBAs for large development projects; this has resulted in CBAs being applied inconsistently to projects. Additionally, residents do not have a consistent avenue for providing input to development projects, which means that there is no guarantee that community needs or concerns will be addressed.
- According to the Office of Equal Opportunity (OEO) report, the minimum CSB, MBE, and FBE goals are being met by developers, however, reaching the floor should not be the overall goal. Even with developers meeting the threshold, there is still a poor representation and participation of MBEs and FBEs in the development processes. Additionally, the penalty assessed to the developers that do not meet these goals is minuscule; the penalty for not meeting the Cleveland Resident Law is for the developer to pay "[0.125%] of the final total amount of the Construction Contract for each percentage by which it fails to meet the requirement"<sup>2</sup>.
- There is currently no efficient way of keeping track of CSB, FBE, or MBE contracting goals, which makes it difficult to monitor in real-time how each of these goals is being met throughout the project timeline. Since Community Development (CD) and Economic Development (ED) contracts do not go through the Board of Control for approval, there is no centralized location for keeping track of these contracts alongside the OEO contract.

### How Can CBAs Resolve Them?

CBAs allow residents to gain meaningful and tangible benefits from development projects. It is a legally binding document that ensures the involved parties are held responsible for upholding the terms of the agreement. CBAs can potentially provide economic opportunities for the residents of a community and

---

<sup>1</sup> ■ Memorandum of Understanding Regarding Community Benefits and Inclusion [2013]

<sup>2</sup> [Chapter 188 of City Ordinance](#)

the City, which can lead to economic growth and mobility. At the current pace, this only remains a probability. However, with the legislation and implementation of a Community Benefits Ordinance (CBO), there can be more certainty. The CBO would also ensure that developments that use public funds are monitored, evaluated, and made available to the public to encourage compliance. While the cost of doing nothing is high, implementing a CBO is not without cost; there is a need for increased staff capacity for the processes to be managed efficiently and effectively, as well as an investment in a centralized data dashboard for monitoring and evaluating the goals.

### **What are the Impacts of CBAs?**

- More workforce opportunities for residents, as well as minority and female-owned businesses; a CBO can encourage more intentional practices that can truly benefit more Cleveland, minority, and female-owned businesses.
- More money is invested back into the City: a CBO would ensure that the money that is given to development projects would come back to the City through the agreed-upon benefits.
- Economic growth: a CBO would ensure that residents of the city are provided with workforce opportunities<sup>3</sup>.
- Greater accountability toward developers: publicly available information on development projects would encourage more compliance from developers. A study done by Cleveland City Council's former Policy Director in the early 2000s found that projects that were transparent and had public accountability in Cleveland were more likely to exceed their contracting goals than projects that did not have the same level of transparency and accountability to the public.

### **What is the Cost of Doing Nothing?**

- Without strategic interventions, there will be a continuation of the status quo. As reported by the Office of Equal Opportunity, developers are barely hitting the minimum goals: In 2020, 16.2% of prime contracts were awarded to MBEs; 15.6% of prime contracts were awarded to FBEs; 8.6% of prime contracts were awarded to MBE/FBEs<sup>4</sup>. As developers hit the floor of contracting goals, there hasn't been an increase in the capacity of MFBEs. As a City, the goal should be to aim beyond these numbers to be more representative of the City.
- There remains a deep representation gap in female and minority skilled-trade apprenticeships in Cleveland. Additionally, the number of people leaving the field will be greater than the number of people entering it. By 2024, it is projected that 23% of workers in the construction labor market will be over the age of 55 and near retirement, while only 13% of workers will emerge from the construction pipeline (ages 25 and below)<sup>5</sup>. This will likely result in the City's reliance on workers from outside the region, which will restrict the amount of dollars workers spend in the local Cleveland economy. Increasing the representation of female and minority workers across the sector will curb fears of the emerging labor shortage.
- In addition to a labor shortage, the current "way of doing things" has not resulted in a significant increase in the capacity of local MFBEs. As such, the City will again have to rely on construction firms from outside the region - which is already occurring in ongoing and planned development projects across the city.

---

<sup>3</sup> [Annie E. Casey Foundation: Community Benefits Agreements \(CBA\)](#)

<sup>4</sup> [2020 OEO Annual Report -FINAL.pdf](#)

<sup>5</sup> [Workforce Study of Construction Occupations \[full report\].pdf](#)

- Without an efficient means of monitoring and evaluating goals, it remains difficult to track compliance. Even though many developers are meeting the existing goals, the needle is still not moving in favor of minority or female-owned enterprises. Additionally, the City currently does not have the capacity to efficiently evaluate every development project that uses public dollars. We know that what is being watched gets done, so it is important to have a dashboard available to the public that allows them to monitor the progress of existing goals as well as agreed-upon benefits so that compliance on the part of developers is encouraged.

## **What is Possible?**

### ***Massport Model, Boston***

In 2014 in Boston, a model was developed by the Massachusetts Port Authority (Massport) that introduced a policy that set a new standard for diversity in real estate development as part of an effort to diversify the developers, construction firms, and investors that got involved in development projects in East Boston and the Seaport District. They created a decision-making guideline on a 100-point scale that contained 4 equally-weighted criteria which included: 1) ability to execute the project, 2) viability of ground rent proposal and finance plan, 3) **comprehensive diversity and inclusion program** in all aspects of the development (financing, design, construction, and ownership/investment), and 4) exceptional design and program. When the Omni Resort and Hotels project was proposed in the Seaport District, developers competed for this project based on the criteria and the developer that best met all 4 criteria was selected. This model became successful as a result of the marriage of great with great leadership. In a city where only less than 1% of the \$664 million awarded in city contracts annually went to FBE or MBE, this was a significant model that opened the door for more opportunities for those groups<sup>6</sup>.

### ***Major League Soccer Stadium Expansion, Nashville***

In 2018, the Major Leagues Soccer signed a Community Benefits Agreement between themselves, Nashville Soccer Holdings, LLC and Stand Up Nashville (SUN), a community organization for the construction of a multipurpose soccer stadium that stipulated benefits that involved affordable housing, a wage floor of \$15.50 per hour, community services and amenities such as a child-care facility and affordable retail spaces for small businesses, workforce development, and established a community advisory council to oversee implementation, monitoring, and evaluation of the agreement<sup>7</sup>.

### ***Portland's Model CBA***

In 2012 in Portland, the city introduced a pilot CBA model to address concerns about discriminatory practices in contracting for publicly-funded projects<sup>8</sup>. The pilot agreement between the developers for the City's Water Bureau, its Bureau of Environmental Services, the City, and organized labor was largely successful in improving the participation of minority and women-owned enterprises in the development processes. However, there were some concerns regarding the capacity of organized labor to monitor the implementation of the CBAs, as well as concerns regarding the conflict of interest with an organized labor entity being responsible for overseeing the implementation. Cleveland can build upon this model by having the City be responsible for monitoring the implementation of the CBO, keeping in mind state law and the need for increased capacity to efficiently monitor the agreement.

---

<sup>6</sup> ■ Massport Model Harvard Kennedy School 2019.pdf

<sup>7</sup> [Historic Community Benefits Agreement reached! | Stand Up Nashville | SUN](#)

<sup>8</sup> ■ Model CBOs Case Studies - Journal of Community Practice 06-1-2018.pdf

## Resources

■ **Memorandum of Understanding Regarding Community Benefits and Inclusion [2013]**

[Chapter 188 of City Ordinance](#)

[Annie E. Casey Foundation: Community Benefits Agreements \(CBA\)](#)

■ 2020 OEO Annual Report -FINAL.pdf

■ Workforce Study of Construction Occupations [full report].pdf

■ Massport Model Harvard Kennedy School 2019.pdf

[Historic Community Benefits Agreement reached! | Stand Up Nashville | SUN](#)

■ Model CBOs Case Studies - Journal of Community Practice 06-1-2018.pdf