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TO: COUNCIL MEMBERS
FROM: David Whitaker, Director
Legislative Policy Division Staff
DATE: June 17, 2019
RE: **Community Benefits Ordinance Thresholds**

According to the City of Detroit website, the Community Benefits Ordinance is defined as the following, *“The Community Benefits Ordinance (CBO) is a law that requires developers to proactively engage with the community to identify community benefits and address potential negative impacts of certain development projects. The ordinance was approved by Detroit voters in 2016.*

When projects trigger the CBO process, a Neighborhood Advisory Council is established, with nine representatives from the project’s impact area to work directly with the developer and establish community benefits, which are included in the final development agreement approved by the Detroit City Council”¹

On November 29, 2016, Detroit City Ordinance #35-16, the *Community Benefits Ordinance*² was published in the Detroit Legal News and became effective on that date.

The Community Benefits Ordinance applies when a development project:

- *Is \$75 million or more in value*
- *Receives \$1 million or more in property tax abatements OR*
- *Receives \$1 million or more in value of city land sale or transfer*³

The Chemical Bank project, which recently received approval of both a Brownfield designation and a Public Act 210 Commercial Rehabilitation District, to date, has not been designated as a

¹ <https://detroitmi.gov/departments/planning-and-development-department/citywide-initiatives/community-benefits-ordinance>

² <https://detroitmi.gov/document/ordinance-no-35-16-community-benefits-ordinance>

³ Community Benefits webpage on the City’s website.

Tier 1 CBO project, and therefore not subject pursuant to the CBO Ordinance a Tier 1, or a CBO eligible project. Tier 1 includes the definition of a project defined as:

*“Tier 1 Development Project means a development project in the City that is expected to incur the investment of Seventy-five Million Dollars (\$75,000,000) or more during the construction of facilities, or to begin or expand operations or renovate structures, where the developer of the project is negotiating public support for investment in one or both of the following forms: (1) Any transfer to the developer of City-owned land parcels that have a cumulative market value of One Million Dollars (\$1,000,000) or more (as determined by the City Assessor or independent appraisal), without open bidding and priced below market rates (where allowed by law); or (2) Provision or approval by the City of tax abatements or other tax breaks that abate more than One Million Dollars (\$1,000,000) of City taxes over the term of the abatement that inure directly to the Developer, but not including Neighborhood Enterprise Zone tax abatements.”*⁴

According to the Brownfield Plan for the Chemical Bank Project, which entails the new construction of the new headquarters for Chemical Bank, the project required the following:

PROJECT INVESTMENT ESTIMATES

Capital Cost	Total Cost
Hard Cost	\$71,000,000 to \$72,000,000
Soft Cost	\$33,000,000
Total Capital Cost	\$104,000,000

Given the total capital costs of \$104 million for the project, given that this exceeds the \$75 million threshold, it appears that this amount qualifies the Chemical Bank Project for a CBO process under the “Tier 1 Development Project” definition in the Community Benefits Ordinance. Even if the project were to be determined to have a CBO defined investment of \$72 million, this would only be \$2 million below the established Tier 1 project designation threshold. It has been the past practice of many developers with such a close investment threshold to voluntarily enter into the CBO process. This was not the case with Chemical Bank. However, the CBO ordinance does include an exemption provision, “*Section 14-12-5. Exemptions. The requirements of this ordinance may be waived by resolution of the City Council upon submission by either the Planning Director or the Developer (identifying) reasons that the requirements of this ordinance are impractical or infeasible and identifying how the Developer will oth-erwise provide community benefits.*” This provision was not acted upon as well.

Therefore, it appears that designating the project for a waiver pursuant to the ordinance’s provision, is the only alternative to a CBO designation available for the Chemical Bank project, given the project’s \$75 million investment.

Next in line for Chemical Bank, is the pending approval of a PA 210 Certificate, which unlike its recently approved Brownfield project and its PA 210 District approvals, PA 210 certificates are subject to the provisions of the CBO Ordinance.

Due to this fact, it is important to finalize the CBO status of the Chemical Bank project.

⁴ Sec. 14-12-1. Purpose; Title

Finally, the questions to the Administration are:

- 1. Why wasn't the Chemical Bank project designated for the CBO process by the Administration?*
- 2. Since the project wasn't designated for the CBO process, why wasn't a waiver proposed?*