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**TO:** Detroit City Council

**FROM:** David Whitaker, Director  
Legislative Policy Division 

**DATE:** August 26, 2020

**RE:** **Community Benefits Ordinance Supplemental Report**

At the request of Council Member James Tate, Chairman of the Planning and Economic Development Standing Committee, the Legislative Policy Division (LPD) has given the second presentation in regards to the proposed revisions to the Community Benefits Ordinance. The July 22, 2020 presentation was given specifically to solicit feedback from commercial developers and/or consultants engaged in large scale developments within the City of Detroit who would likely be impacted by, and/or held to standards and requirements of the city's Community Benefits Ordinance's proposed revisions submitted by the Legislative Staff Work Group.

The following is an annotated account of the public testimony received from members of the public, the administration, DEGC, members of the development community, etc., and should be considered as a supplement to the March 11, 2020, LPD staff report.

***CBO Public Meeting Comments***

The following comments are a summary (not meant to be exhaustive) of the verbal comments that were given by the public during the July 22, 2020, public meeting held via Zoom by the Legislative Policy Division.

1. Rod Hardiman – Expressed concerns over the city's ability to ensure that a large intersection of citizens in the City of Detroit can participate in development. The proposed amendments to the ordinance add time, man-power, resources, and by lowering the threshold from \$75 million to \$50 million, more barriers are put in place for developers, particularly developers of color to participate in development. The smaller

the project is, the harder it is to absorb the extra costs needed to manage these processes as outlined in the proposed amendments to the ordinance.

In regards to the \$1 million threshold for the value of a tax abatement a question of congruence can be raised. If there was congruence between a \$50 million or \$75 million developments the tax abatement should be valued at around \$5 million rather than \$1 million. By having a \$1 million threshold the value of a development project would be lowered to approximately \$15 million to \$20 million.

It was stated that the lowering of the threshold for a Tier 2 development from \$3 million to \$300,000 would have a similar effect in stifling development in the City of Detroit.

Mr. Hardiman was generally supportive of the proposed amendments concerning community engagement, dialogue, and the addressing of community concerns. However, not supportive of amendments, such as in recommendation #15 which changes the language from “may” to “shall” which alters the spirit of the ordinance, and serves as a barrier for some developers.

2. Richard Hosey – Stated that there are in fact congruency issues between the threshold amounts and the tax abatement thresholds cited in the ordinance. Conservatively for a \$1 million tax abatement amount over a typical 15-year abatement period the development would be approximately \$10 million to \$12 million developments.

It was stated that the survey soliciting public feedback on the 17 proposed amendments which was issued to approximately 1,500 individuals within the City of Detroit, was not widely distributed or made available to members of the development community. It was recommended that the survey be reopened to allow for additional responses, considering that only 75 responses were received during the initial survey response window during September 2019.

Concerns were also expressed over balancing the needs and wants of the community as well as developers. The aim is to ensure that community objections over a specific type of development, which may not have negative or deleterious effects aren't sidelined because a host community might find the developer objectionable. The Field Street development was referenced as an example. Whereas smaller developments might not have the wherewithal to withstand community objections, larger developments, i.e., FCA, etc. are aided by existing relationships within city government. The city should be careful to not create and or support that dichotomy

3. Amin Irving – Inquired if there would be any additions to the ordinance which would help mitigate risk for the developer upon participating in the CBO process. It appears that several of the procedural amendments add to the risk of a development deal being carried out timely and on budget.

Mr. Irving was generally supportive of the proposed amendments which increase community engagement, and disclosure on the part of the developer regarding what the development will entail. However, would like to see language incorporated which states the requests of the NAC inform the ultimate development agreement rather than dictate the content of the development agreements between the developer and the City of Detroit.

4. Richard Barr – Several developers have looked at the existing Community Benefits Ordinance and have stated that this process is not for them and have simply walked away. Others have looked at the process and have not been able to determine what to make of it, given its unpredictability, and have ultimately moved forward with developments that do not meet the \$75 million threshold.

The issue with the ordinance in general is that it creates uncertainty, unpredictability, undefined costs, and undefined time which leads to projects not being developed. The CRIO report which evaluated the compliance of each of the CBO developments to date was referenced showing that many of the developments are meeting and or exceeding their targets. Mr. Barr stated that there appears to be a misconception that the CBO process is not working, and/or is being abused by developers, however, this sentiment is not supported by facts presented by City Departments such as CRIO.

Not supportive of the lower threshold from \$75 million to \$50 million. Considering that there have been 12 projects that have gone through the process since 2017, rather than boarding the scope of projects, the process should be refined to ensure it is working for the projects that meet the current criterion, to make it predictable, affordable and meets the needs of the community and the developers.

It remains unclear how the investment is measured. If it is based on hard cost, soft cost, or if there is no association between the cost of the development and the level of investment associated with the agreed-upon community benefits. There needs to be clarity on what is expected.

The reduction from \$3 million to \$300,000 for a Tier 2 development is less problematic, considering that the Tier 2 process has worked pretty well to date. The issue at hand doesn't appear to be with the large-scale Tier 1 projects, but rather with community engagement around small-scale projects, where community engagement is still being defined on a project-by-project basis, typically around the \$5 million to \$10 million projects.

Concerns were expressed over amendment #6 which would band the developer from attending the initial public meeting at which the role of the NAC would be discussed. It is believed that it sends the wrong message to developers, i.e., an "us" versus "them" mentality, which ultimately leads to a lack of trust and a lack of collaboration.

There are concerns over amendment #11 which codifies the requirement for five meetings. It is believed that there are situations where fewer meetings may be required given development timelines, etc. Additionally, large-scale developers may find the process too burdensome and opt not to move forward with a multi-million dollar development in the City of Detroit.

There are concerns over amendment #12 which required the disclosure of financial information, environmental information, etc., most of which are proprietary and may be under non-disclosure agreements. The NAC should be able to rely upon DEGC, HRD, MEDC, and others to do their jobs in regards to financial reporting, rather than having proformas shared with the NAC on the front-end.

5. Amir Faruqui. – Development in the City of Detroit has slowed dramatically over the past two years, and developers should be seen as community partners who need assistance rather than predatory entities that come into communities to harm.
6. Rian Barnhill – Stated that the City should focus on incentivizing the types of development the City would like to see rather than making it more difficult for development to occur. The City wants to see more equitable development and the ordinance should make it easier rather than harder.

### **Conclusion**

At this point, LPD staff is prepared to receive further direction from the Planning and Economic Development Standing Committee for the next steps in this process. The City Council may want to review and consider the additional proposed amendments and public input that has been received and detailed in this and the original report. There was also discussion early on in this process concerning dialogue with the Administration related to the proposed amendments that are under consideration. LPD will proceed with the next steps as directed by this Honorable Body.