

## CHAPTER 190A – COMMUNITY BENEFITS AGREEMENTS

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### § 190A.01 Definitions

For purposes of this chapter:

- (a) "City Financial Assistance" means any City-funded grant, loan, tax increment financing, residential multi-family tax abatement in compliance with Ordinance No. 482-2022, passed March 25, 2022, Section 3, below market-value land transfer, and/or City-funded capital infrastructure improvements associated with a development project;
- (b) "Community Benefits Agreement" or "CBA" means a legally enforceable agreement between the City of Cleveland and the Developer that provides community benefits;
- (c) "Community Benefits" means the amenities, benefits, or commitments described in Sections 190A.02 and 190A.03;
- (d) "Developer" means any person, firm, partnership, limited liability company, corporation, joint venture, proprietorship, or other entity that proposes a Development Project, excluding public improvement projects, in the City of Cleveland; and
- (e) "Development Project" means new construction of and alterations to buildings and structures located in the City.

(Ord. No. 297-2023. Passed 6-5-23, eff. 9-6-23)

### § 190A.02 Community Benefits Agreement Required

To receive City Financial Assistance of two hundred fifty thousand dollars (\$250,000) or more towards a Development Project, a Developer shall enter into an agreement with the appropriate City director that provides at least the following Community Benefits:

- (a) A plan to meet Minority Business Enterprise, Female Business Enterprise, and Cleveland Area Small Business (MBE, FBE, and CSB) participation goals, consistent with Chapter 187, from any or all of the following, including at team leadership, preconstruction, construction, trade and craft sub-contractor, professional services, including architectural and engineering design, real estate and property management, and/or post-project hiring levels;
- (b) A plan to meet resident and low-income resident employment goals the City establishes for each Development Project;
- (c) Participation in mentor / protégé programs for certified MBEs, FBEs, CSBs and residents;
- (d) Registered apprenticeship and internship opportunities for adult Cleveland residents and City of Cleveland community college students that are Cleveland residents; and providing pre-apprenticeship, internship, and/or information and networking session opportunities for City of Cleveland high school graduates and students that are Cleveland residents;
- (e) A commitment to meet periodically with community stakeholders to gain community input on the Development Project;
- (f) Additionally, the agreement shall require the Developer to provide quarterly reports to the Office of Equal Opportunity (OEO) regarding compliance with the above workforce, contracting and subcontracting, and community benefits commitments, in addition to and coordination with the reports required by Codified Ordinance Section 187.24 in the spirit of collaboration and partnership with OEO that serves as a resource to Developers.

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### § 190A.03 Community Benefits for Large Development Projects

To receive City Financial Assistance of two hundred fifty thousand dollars (\$250,000) or more towards a Development Project expected to cost twenty million dollars (\$20,000,000) or more, a Developer shall enter into an Agreement providing the Community Benefits required in Section 190A.02, and additionally include those of the following development-specific Community Benefits, as determined by the director of the applicable department in consultation with the Developer, in that Agreement:

- (a) Joint-venture, co-development, and owner's representative opportunities for MBEs, FBEs, and CSBs;
- (b) Associate partner opportunities for MBEs, FBEs, and CSBs;
- (c) Promotion, support, and participation in workforce collaborations, similar to those supported in the manufacturing, information technology, and healthcare sectors, that expand job opportunities for communities of color and women;
- (d) Hosting job fairs and contractor information and networking sessions about upcoming contracting opportunities;

- (e) Unbundling construction work into smaller bid packages of sizes suitable for competition by MBE, FBE, and CSB firms;
- (f) Facilitating access to bonding, financing, insurance, and other capacity-building assistance to MBEs, FBEs, and CSBs;
- (g) Promoting opportunities for investment in the Development Project, including but not limited to community investment trusts and community land ownership;
- (h) Incorporating LEED principles, and additional sustainable business practices, into the design and construction of the Development Project;
- (i) Providing neighborhood infrastructure and safety improvements, including but not limited to curbs, street paving, sidewalks, multi-purpose and bicycle paths, pedestrian traffic-calming measures, parks and greenspace, landscaping, lighting, security cameras, bicycle racks, signage, public art, and blight removal, to the extent not provided by the City or other public entity;
- (j) Affordable housing units in conjunction with the Development Project and/or contribution to a fund for that purpose;
- (k) Use of project financing from a financial institution that has submitted an Affidavit of Intent required under Codified Ordinance Section 178.05 and in the form contained in Section 178.07, affirming its lending and financing opportunities and defined lending program in support of residential and commercial development in Cleveland's neighborhoods;
- (l) Use of Cleveland Public Power as preferred electricity provider for the Development Project, to the extent feasible;
- (m) A commitment to enter into a Project Labor Agreement (PLA) with one or more construction unions for the Development Project;
- (n) Providing work opportunities for formerly incarcerated persons and at-risk youth;
- (o) Meeting other community needs related to the Development Project;
- (p) Contribution to a community equity fund designated by the Director of Finance with all expenditures requiring legislative approval;
- (q) Any other negotiated community benefits, including but not limited to those enumerated in the regulations and procedures promulgated under Section 190A.06;
- (r) Implementation plan for items listed above; and
- (s) This section shall not apply to Development Projects under seventy-five million dollars (\$75,000,000) receiving only a residential multi-family tax abatement as City Financial Assistance; however, the community benefits agreement requirements of Section 190A.02 and Ordinance No. 482-2022, passed March 25, 2022, Section 3 shall apply to such Development Projects.

(Ord. No. 297-2023. Passed 6-5-23, eff. 9-6-23)

#### **§ 190A.04 Cleveland Citywide Development Corporation Advisory Review**

Cleveland Citywide Development Corporation (CCDC) shall consult with and advise the appropriate Departments of Economic Development, Community Development and/or the Office of Equal Opportunity for the following purposes: reviewing Community Benefits commitments for proposed Development Projects as presented by the Departments, based on community and developer input, prior to passage of legislation by City Council authorizing City Financial Assistance for such projects.

(Ord. No. 297-2023. Passed 6-5-23, eff. 9-6-23)

#### **§ 190A.05 Reporting and Public Dashboard**

(a) The Office of Equal Opportunity shall send quarterly reports of workforce and Community Benefits compliance data to Cleveland City Council's Finance, Diversity, Equity and Inclusion Committee for review.

(b) Upon its execution, the appropriate Department shall provide a copy of each Community Benefits Agreement to the Clerk of Council to include in the legislative file attached to legislation authorizing City Financial Assistance for such Development Project.

(c) The Office of Equal Opportunity shall develop and host a publicly available dashboard of workforce and Community Benefits data, which shall include at least revenue to certified MBE, FBE, and CSB firms, revenue to Cleveland residents, and tangible Community Benefits – disaggregated by race and gender, as appropriate.

(d) The Office of Equal Opportunity (OEO) shall develop and maintain lists of the following: (1) certified MBEs, FBEs, and CSBs and the types of services they provide; (2) mentorship and apprenticeship programs; and (3) training programs for laborers. These resources shall be posted on the websites of OEO, the Department of Economic Development, and the Department of Community Development, and shall be provided to any Developer seeking City Financial Assistance upon request, updated quarterly by OEO, and reviewed annually by the Cleveland Citywide Development Corporation (CCDC) and City Council.

(Ord. No. 297-2023. Passed 6-5-23, eff. 9-6-23)

#### **§ 190A.06 Regulations and Procedures**

The Directors of Economic Development, Community Development, and the Office of Equal Employment Opportunity as appropriate (collectively, the "Directors") may promulgate regulations and procedures to carry out the provisions of this chapter, including a scorecard evaluation process and CBA template with Section 190A.02 requirements for qualifying proposed Development Projects.

(Ord. No. 297-2023. Passed 6-5-23, eff. 9-6-23)

**§ 190A.07 Penalties for Noncompliance**

Failure by a Developer to comply with any provisions of a CBA as determined by the City in its sole discretion may result in any one or more of the following, as provided in the CBA, subject to applicable notice and cure provisions: denial or termination of City Financial Assistance; proportional recovery of previously provided financial assistance; and/or stipulated damages to be deposited into a community equity fund designated by the Director of Finance. All expenditures from this community equity fund shall require legislative authority from City Council.

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