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TO: The Detroit City Council

FROM: David Whitaker, Director 
Legislative Policy Division

DATE: April 6, 2022

RE: **CBO Administration Inter-departmental Memorandum of Understanding**

The Legislative Policy Division (LPD) is submitting this report as an update relative to the Community Benefits Ordinance.

The Community Benefits Ord. 35-16 was passed in 2016 and was codified in what is now, Chapter 12 of the 2019 Detroit City Code, Community Development, Article VIII – Community Benefits.

Ordinance 2021-4 was adopted after City Council held a Committee of the Whole meeting to consider amendments to the ordinance on November 18, 2021. Ultimately 11 amendments were adopted.

One of those amendments added a member of LPD and the chair of the project’s Neighborhood Advisory Council (NAC) to the composition of the ¹Enforcement Committee. These members were added to the Committee already comprised of the Department of Civil Rights, Inclusion and Opportunity, the Planning and Development Department and the Law Department.

During the deliberation for the amendments to the CBO, it was contemplated that items not appropriate for codification would be memorialized in a Memorandum of Understanding. LPD has recently received a draft MOU provided by the Administration’s departments and want to provide to City Council for your knowledge.

If there are any questions please feel free to reach out to LPD staff.

¹ Sec. 12-8-3 (g) (1).

Memorandum of Understanding

Between

The City of Detroit Civil Rights, Inclusion and Opportunity Department (CRIO)

and

The City of Detroit Department of Neighborhoods (DON)

and

The City of Detroit Law Department (LAW)

and

The City of Detroit Legislative Policy Division (LPD)

and

The City of Detroit Planning and Development Department (PDD)

This Memorandum of Understanding (MOU) sets forth the terms and understandings between the named parties to pursue their mutual interest of enforcing community benefit agreements through their collective membership and action on the Enforcement Committee (EC), as described in the Community Benefits Ordinance (CBO). The goal is to clarify the responsibilities of each party for satisfying the responsibilities of the whole EC as outlined in the ordinance.

Background

The CBO requires that the EC monitor Tier 1 projects and submit biannual reports to City Council and the Neighborhood Advisory Council (NAC). Monitoring is currently done through ad hoc procedures developed by committee members as specific needs arise.

Regarding public inquiries into approved CBO projects, the CBO provides a procedure to address formal complaints. These are submitted by the NAC, as a body, in an official memorandum addressed to Corporation Counsel and the Director of CRIO. However, guidance is not provided for addressing informal complaints concerning specific Community Benefits Provision (CBP) commitments or informal inquiries concerning a CBO project that are not related to CBP commitments. As these projects are large, complex undertakings that bring significant public attention and involve multiple City departments and agencies, providing a single point of contact for the public to address these “informal complaints” will prevent public confusion that may result from departments providing different responses to the same or similar questions.

Purpose

The primary purpose of this MOU is to ensure that the communication and coordination necessary to enforce community benefit agreements is agreed to by all responsible parties.

Roles and Responsibilities

This purpose will be accomplished through the processes described in Attachment A. The responsibilities of each department in implementing these processes may be found below:

CRIO's responsibilities:

- Direct residents submitting informal inquiries or informal complaints to do so using the Smartsheet form.

- **Establish Smartsheet form to receive complaints.**
- Provide each NAC with a memo template to be used to escalate complaints for review by the EC. This template will include space to identify the NAC member who will act as a representative to the EC when addressing this complaint.
- Participate in bimonthly Red Meeting Group to investigate and respond to informal complaints, which may include coordinating with other City departments and agencies to collect the information required to provide a complete response.
- Participate in bimonthly Red Meeting Group to review implementation of up to 2 projects per meeting, focusing on commitments that lack recent updates in the CBP tracker.
- Meet biannually with other members of the EC to review the compliance of all active projects.
- Meet with the EC when needed to review and investigate formal complaints received from NACs or members of NACs and contribute to responses drafted by the EC.

DON's responsibilities:

- Direct residents submitting informal inquiries or informal complaints to do so using the Smartsheet form.
- Participate in bimonthly Red Meeting Group to investigate and respond to informal inquiries and informal complaints, which may include coordinating with other City departments and agencies to collect the information required to provide a complete response.
- Participate in bimonthly Red Meeting Group to review implementation of up to 2 projects per meeting, focusing on commitments that lack recent updates in the CBP tracker.
- Meet biannually with other members of the EC to review compliance of all active projects.
- Meet with the EC when needed to review and investigate formal complaints received from NACs or members of NACs and contribute to responses drafted by the EC.

LAW's responsibilities:

- Direct residents submitting informal inquiries or informal complaints to do so using the Smartsheet form.
- Receive formal complaint official memos from NAC members and share with the EC.
- Meet biannually with other members of the EC to review compliance of all active projects.
- Meet with the EC when needed to review and investigate formal complaints received from NACs or members of NACs and contribute to responses drafted by the EC.

LPD's responsibilities:

- Meet with the EC when needed to review formal complaints received from NACs or members of NACs and contribute to responses drafted by the EC.

PDD's responsibilities:

- Direct residents submitting informal inquiries or informal complaints to do so using the Smartsheet form. Ensure all informal inquiries and informal complaints are tracked in the complaint Smartsheet for discussion by the Red Meeting Group.
- Provide documents outlining best practices for handling complaints and for identifying a representative to attend EC meetings when onboarding NACs.
- Lead bimonthly Red Meeting Group to investigate and respond to informal inquiries and informal complaints, which may include coordinating with other City departments and agencies to collect the information required to provide a complete response.
- Lead bimonthly Red Meeting Group to review implementation of up to 2 projects per meeting, focusing on commitments that lack recent updates in the CBP tracker.
- Provide meeting information to the NAC representatives of projects planned for discussion during EC meetings.
- Meet biannually with other members of the EC to review compliance of all active projects.
- Coordinates with appropriate departments to communicate the results of the investigations to the complainant. When deemed appropriate these results will be shared with other interested parties, such as the NAC.
- Meet with the EC when needed to review and investigate formal complaints received from NACs or members of NACs and contribute to responses drafted by the EC.

Duration

This MOU shall stay in effect for as long as the CBO requires enforcement through the EC and so long as this MOU does not conflict with the requirements of the CBO. This MOU shall become effective upon signature by the appropriate parties representing the City Department.

CRIO

Date:

DON

Date:

LAW

Date:

LPD

Date:

PDD

Date:

Attachment A: Complaint and Inquiry Procedures

Complaints Received by NAC

- 1) PDD will send a monthly record of informal CBO complaints to the appropriate NAC.
- 2) The NAC should review the submitted complaints and take a majority vote as to whether any complaint should be referred to the Enforcement Committee.
- 3) Any complaints determined to be referred to the Enforcement Committee should be delivered in an official memo to the Chair of the Enforcement Committee/the Senior Legal Counsel. An official memo template will be provided to the NAC by CRIO.
- 4) The Enforcement Committee will meet to review the complaint(s) and prepare an official response to the NAC within 21 days of receipt of the complaint(s).
- 5) The NAC shall decide whether to escalate a complaint to City Council.

Informal Inquiries and Informal Complaints Processed by Red Meeting Group

- 1) Using existing procedures for public engagement, PDD will accept informal inquiries and informal complaints on CBO projects via the CBO Complaint Smartsheet. Those received by the DON, CRIO, or any other City Departments will be forwarded to the appropriate PDD staff for review.
- 2) After review, PDD will determine if the submission is an informal inquiry or informal complaint.
- 3) If an informal inquiry, PDD and DON will investigate the inquiry as part of the bimonthly Red Meeting Group. Investigations may include a walkthrough of the project, a meeting with the developer, a meeting with community members, and/or meetings with other City Departments.
- 4) If an informal complaint, PDD, DON, and CRIO will investigate the complaint as part of the bimonthly Red Meeting Group. Investigations may include a walkthrough of the project, a meeting with the developer, a meeting with community members, and/or meetings with other City Departments.
- 5) PDD will respond to complainant detailing the results of the investigation. All responses will include an overview of the formal complaint process.
- 6) On a monthly basis, PDD will send a record of all informal CBO complaints to the appropriate NAC.
- 7) At the discretion of the Red Meeting Group, complaints may be forwarded directly to the Enforcement Committee after the initial investigation for further review.

Enforcement Committee Oversight

- 1) The Enforcement Committee will meet biannually to review the complaints received for all CBOs. These meetings are not part of the investigation procedure for specific formal complaints forwarded by an NAC.

- 2) During the meeting the Enforcement Committee will review the record of all informal CBO complaints; paying particular attention to common unresolved complaints, and the similarity and frequency of complaints received through both processes.
- 3) Based on the results of their review, the Enforcement Committee may provide guidance to the NAC or the DON about a specific issue, initiate its own investigation, and/or contact the developer.
- 4) If the Enforcement Committee elects to investigate a complaint, the results of the investigation will be reported to complainant(s), the NAC, and the DON.