

Memorandum

To: MLK/Alberta Project Working Group – Community Benefits Agreement Subgroup
 From: Jessie Conover and Dena Marshall
 Date: December 8, 2014
 Subject: Meeting Summary

On Monday, December 8, 2014 the MLK/Alberta Project Working Group (PWG) Community Benefits Agreement (CBA) subgroup met. The meeting was focused on identifying *Monitoring and Enforcement* objectives and ideas.

The full participant list follows in **Attachment A**.

Upcoming Meetings	When & Where	Suggested Agenda Items
Community Benefits Agreement Subgroup Meeting	<i>January 2015 (date and location TBD)</i>	<ul style="list-style-type: none"> ▪ Finalize draft CBA

I. ACTION ITEMS

Action Items Memo	Who	Completed by
1. Draft and share meeting summary	Jessie Conover and Dena Marshall	By Dec 18
2. Incorporate draft <i>Monitoring and Enforcement</i> language and all other outstanding item into draft CBA	Andy Reed	In advance of next meeting
3. Schedule and hold January CBA subgroup meeting	PDC Staff	In advance of Jan 15
4. Email reporting form to CBA subgroup members	PDC Staff	In advance of next meeting

Opening

Jeremy Hays opened the meeting and set expectations that it was unlikely that the Community Benefits Agreement (CBA) subgroup would come to agreement on draft CBA language in this meeting. Rather, the goal was to focus on Monitoring and Enforcement, and find clarity on which components of the draft CBA would appear in PDC's Disposition and Development Agreement (DDA) with Majestic. In an opening round of introductions, Dena Marshall asked participants if they had reviewed the draft CBA language with

independent legal counsel; none replied that they had. Some noted their willingness to finish the CBA drafting process and others expressed frustration that the process continues.

Progress since last meeting

Kimberly Branam and Andy Reed (PDC) reviewed staff progress since the last meeting. Kimberly noted that PDC's negotiations with Majestic are taking longer than expected, which slows down the CBA drafting timeline and allows for an additional meeting in January.

Between meetings, Andrew Colas spoke to Robert Fakinos (Natural Grocers) about considering minority contractors for services. Robert accepted four suggestions of minority janitorial contractors, but declined to agree to strive to use minority contractors in the CBA. Some members noted that Natural Grocers' initial response to the question of using minority contractors was terse and requested that more information be provided in the future to avoid drawing conclusions from incomplete answers. Natural Grocers has not yet provided their tenant workforce recruiting plan, which will be needed for CBA implementation. Others noted a gap in the draft CBA: exploring diverse hiring appears in the objectives, but not in strategies and commitments. The suggested fix is to copy similar language from the workforce section into the appropriate section. Some wanted stronger language than "explore" in the draft CBA. An "intended signatories" section has been added to the end of the draft CBA and includes Natural Grocers.

Following a conversation between Cameron Harrington and PDC staff, new language has been added to the retail tenanting section. Changes including the addition of affordable and *stable* space and adding tenanting priorities and concepts. The draft language includes a first right of refusal to continue PDC's master lease beyond 10 years, but this has not been confirmed by Majestic.

PDC clarified that references to the community (as a responsible party) refer to the Implementation Monitoring and Accountability Committee (IMAC).

Monitoring, Evaluation, Enforcement

The focus of the meeting was monitoring, evaluation, and enforcement, specifically the goals, strategies, and commitments of the Implementation Monitoring and Accountability Committee (IMAC) as they appear in the draft CBA. Members learned that monitoring and accountability will occur through two different processes: 1) PDC's DDA with Majestic (a legal contract) and 2) the IMAC, which is a collaborative effort where members of the community keep the parties to the CBA accountable.

Andy Reed and Kimberly Branam (PDC) explained exactly which portions of the draft CBA will be included in the DDA with Majestic. Generally, construction equity (as it appears to be aspirational in PDC policy), green building requirements, prevailing wage, and the master lease will be in the DDA, either because they are state law or because they are in PDC policy. The following topics will not be included in the DDA: construction workforce strategy; prime contractor details; anchor tenant sections; tenanting advisory process; and monitoring, evaluation, and enforcement. Collaborative leasing and a tenanting plan may be included in the master lease addendum, though this has not yet been determined.

A group member noted that everything that appears in the DDA, except the master lease, would have been included in the DDA had this group not existed. Another remarked that they strongly dislike aspirational targets and hope that the monitoring and accountability process could be used as a model to figure out whether PDC policies could be amended in the future to include higher equity targets, in service of creating an economy where people can consistently find work.

Features of the IMAC

- **Charge/Objectives** – To include: meeting regularly, monitoring progress on strategies, developing and using a uniform definition of data, evaluating data, and being transparent about progress, including making meeting notes available.



- **Strategies** – The spirit of the reporting schedule and responsibilities strategy is about not waiting until the end of the process to discover shortcomings. Instead it is about holding the signatories publicly accountable outside of the court system.
- **Duration and Meeting Schedule** – Two phases: meeting quarterly through the construction phase and a year after, then semiannually as needed, including publicly accessible reporting out at the one and two year marks.
- **PDC’s role** – A member of the PDC legal department will serve on the IMAC and give regular reports on how PDC is enforcing their policies. (There was some encouraging testimony from members about Patricia’s effectiveness at keeping companies accountable on minority contracting.)
- **Membership** – Two groups: A time-limited Construction Monitoring group and an ongoing Tenancing Monitoring group, including support for tenant planning during construction phase. Members noted the importance of having *organizations*, not individuals, commit to membership.
 - Potential member organizations (open and flexible for now): small business technical assistance, workforce, neighborhood associations, community groups (like Urban League, NEEBA, NAACP), Natural Grocers local manager, tenants, other participants in PWG progress, MESO.
 - Interested individual members include Chris Guinn, Tony Jones, John Tyler, and Cameron Harrington. Colas Construction agreed to attend a meeting halfway through construction, and will report monthly to the City of Portland as required by construction contracting policies.
- **Resources to support the group** – Members discussed how and why to seek out funding to support the IMAC. Perspectives differed about whether funding is necessary and how it might be used. Ideas for what to spend money on included data to demonstrate success, facilitation support, and stipends for attendance. Members agreed to add the following language to the monitoring, evaluation and enforcement charge: Consider some resource development to support the group for future needs.

Andrew Colas reflected on Colas Construction’s experience of the Project Working Group process, and noted that being the prime contractor in this case puts them, as a minority-owned company, in a unique position to observe how decisions affect construction contracting and equity. He shared some key points from the Design Committee process that highlight the disconnection between designing the building and realizing community benefits like employing minority contractors. One example is that including a glazed storefront in the design prevents minority contracting because it is difficult or impossible to find available MBE (Minority Business Enterprise) glaziers. He also noted that minority contractors often haven’t had the advantage of long-term ownership and may have slightly higher rates as a result, meaning that increasing the overall cost of a project through design choices can preclude a prime contractor from being able to afford minority contractors.

Members expressed disappointment that there wasn’t more crossover between the design subgroup and the CBA subgroup, and that the design decisions will very likely limit the community benefits that will be realized. Others noted that the process has built capacity to do better CBA processes in the future; they encouraged the group to use political leverage (e.g. write a letter to the mayor) if the signatories to the CBA do not follow through on their commitments.

Next Steps

Jeremy reviewed the CBA subgroup’s next steps, which are for staff to make revisions and then bring the group back together to review the language, sign the CBA, and evaluate the CBA development process. He encouraged those in attendance to talk with other potential signatories to build support for the draft CBA. The drafters will add language to the signatory page clarifying what it means to sign the document. Roughly, it means that the signer agrees that the goals are good, that the strategies are good, and that they will support the CBA.

The CBA subgroup will convene one more time, before January 15 but after PDC has finalized their negotiations with Majestic.

Public Comment

The CBA subgroup heard from one member of the public. She noted that she works for the Portland Bureau of Planning and Sustainability, has observed a couple of meetings, and appreciates the commitment of the members. She commented that the IMAC should include long-time community members who have a stake in the outcome of this development representing African American culture, and not just neighborhood association members, and also recommended that money be invested in the cultural design elements of the building, and that the community be involved intentionally in the art process. In response, Kimberly Branam noted that PDC is responsible for art, and will work with the regional arts and culture council.

Attachment A: Attendance (CBA subgroup)

PWG-CBA members in attendance:

Nita Shah
Chris Guinn
Cameron Herrington
Tony Jones
John Tyler

Staff/Project Team in attendance:

Kimberley Branam (PDC)
Andy Reed (PDC)
Alex Colas (Colas Construction)
Andrew Colas (Colas Construction)
Jeremy Hays (Facilitator)
Dena Marshall (Facilitator)
Jessie Conover (Notetaker)

