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# Model CBAs and Community Benefits Ordinances as Tools for Negotiating Equitable Development: Three Critical Cases

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## ABSTRACT

Community benefits agreements (CBAs) allow coalitions of labor and grassroots organizations to negotiate for concessions in the development process. One goal of a CBA is to more broadly distribute the benefits of new development to distressed communities and historically disenfranchised groups. Since their emergence in the 1990s, CBAs have not been well institutionalized. To date, there have been roughly 30 CBAs adopted across the United States. A relatively new development in the CBA movement has been the push to adopt *model CBAs* and *community benefits ordinances*, that outline all of the linkages that local government expects a developer to include in a project and require developers to negotiate linked development agreements as part of the project approval process. Although the emergence of model CBAs and CBA ordinances is promising for local groups interested in promoting equitable development, little research has been done on them. This article examines three critical cases in the United States (Portland, OR; Cleveland, OH; Detroit, MI) and evaluates the degree to which they serve as tools to institutionalize equitable development in the urban planning process. This analysis is based on content analysis and semi-structured interviews with key stakeholders.

## KEYWORDS

Community benefits agreements; urban planning; equity; community development; local government; economic development

## Institutionalizing the CBA model

### *The emergence of CBAs*

Community benefits agreements (CBAs) emerged in the late 1990s. They are a tool used by coalitions of labor and grassroots organizations to negotiate for concessions in the local economic development process (Wolf-Powers, 2010). They differ from linked development agreements negotiated between municipalities, because CBAs are negotiated directly between community-based groups and developers. These negotiations occur before a proposed project is approved by local government, and local government often serves as a mediator in the negotiations process.

A core goal of a CBA is to more widely distribute the benefits of new development projects to distressed communities and historically disenfranchised groups, by allowing grassroots interests to directly negotiate for concessions at the onset of the development process (Parks & Warren, 2009; Patterson, Ranahan, Silverman, & Yin, 2016, 2017; Patterson & Silverman, 2014). Some of the concessions that grassroots interests negotiate for include: local hiring agreements, living wages, and procurement set-asides for minority and women enterprises (MWEs). These concessions are often linked to a project's development and its ongoing operations. CBAs also create pipelines for education and workforce development in distressed communities by allocating resources to local education and training organizations for apprenticeship programs, job placement, and the development of human capital. In addition to concessions focused on employment, procurement, and the inclusion of MWEs, grassroots coalitions often negotiate for a broader set of linkages designed to improve the quality of life in neighborhoods surrounding the sites of local economic development projects. These concessions include amenities like affordable housing, improvements to schools and community facilities, public parks, and other design elements.

CBAs are a relatively new tool used to negotiate linkages in the local economic development process. There have been approximately 30 CBAs adopted across the United States since the late 1990s. Wolf-Powers (2010) conducted one of the more comprehensive studies of past CBAs. She identified 27 negotiated agreements that were in existence in 2009 and an additional nine being negotiated. Her analysis revealed that CBAs cluster in large cities on the west and east coasts, such as Los Angeles, San Francisco, and New York City. However, experimentation with the CBA model is not confined to these places. CBA activity is also found in places like New Haven, CT, and Pittsburgh, PA. Wolf-Powers' (2010) work has been supplemented by a number of case studies of CBAs in cities such as Chicago, Cleveland, Los Angeles, Milwaukee, New York City, Pittsburgh, San Diego, and San Jose (Baxamusa, 2008; Dobbie, 2009; Gregory, 2013; Lowe & Morton, 2008; Patterson et al., 2016, 2017; Saito & Truong, 2014; Salkin & Lavine, 2007/2008).

A common theme cutting across all of the studies is the project-by-project nature of CBA negotiations. Typically, CBAs are negotiated *de novo*. This means that community coalitions are pulled together around a specific project. Those coalitions then lobby local government to assist in their efforts to negotiate a CBA. After a coalition gains the support of local government, efforts are made to outline the parameters of a CBA through negotiations with a developer. Following this *ad hoc*, project-by-project approach, community coalitions often face a steep learning curve and there is a great deal of inconsistency across CBAs in terms of the scope of concessions adopted, levels of community oversight, and the degree to which they are enforceable. Under the best circumstances, strong CBAs emerge from these *ad hoc* negotiations with enforcement mechanisms that

guarantee long-term benefits to residents of inner-city neighborhoods (Dobbie, 2009; Gross, 2005; Lowe & Morton, 2008; Marcello, 2007). However, the typical CBA includes a relatively narrow scope of concessions and weak enforcement mechanisms (Patterson et al., 2016, 2017).

### ***From an ad hoc approach to institutionalization***

In response to inconsistency across CBAs, advocates for equitable development have lobbied local governments to adopt *model CBAs* and *community benefits ordinances*. These tools are designed to address the shortcomings of starting each CBA negotiations process de nova. Model CBAs and community benefits ordinances provide community coalitions and developers with a template to use in their negotiations. In the case of a model CBA, the template for negotiating linkages between a developer and groups at the community level is approved by local government and integrated into the local planning and development process. Community benefit ordinances have all the characteristics of model CBAs with the added strength of being formally adopted as part of a municipality's charter. Because ordinances are part of a municipality's charter, there is more continuity in the local planning and development process when changes occur in elected leadership.

Model CBAs and community benefits ordinances identify all of the linkages that local government expects a developer to include in a project and outline the steps required in the negotiations process. It is argued that model CBAs and community benefits ordinances have the benefit of shortening the learning curve for community coalitions and local government as they organize and prepare to negotiate for project linkages (Patterson et al., 2016, 2017). In addition, model CBAs and community benefits ordinances provide developers with a more predictable environment by identifying local expectations for project linkages and the steps required to complete a negotiation process.

Although the emergence of model CBAs and community benefits ordinances is promising for local groups interested in promoting equitable development, little research has been done on them. This article examines three critical cases of model CBAs and community benefits ordinances in the United States.<sup>1</sup> First, we examine the model CBA that was adopted in Cleveland, OH. This model CBA, adopted in 2013, was one of the first to emerge. After examining the Cleveland case, we turn to an analysis of the debate surrounding the community benefits ordinance that was adopted in Detroit, MI. This ordinance, approved by voters in a 2016 ballot measure, was the first community benefits ordinance adopted in the United States. Finally, we examine the model CBA that was piloted in Portland, OR. We discuss the pilot project initiated by the City in 2012 and ongoing efforts to expand the use of CBAs citywide.

**Table 1.** Factors influencing the stage of institutionalization of model CBAs/community benefits ordinances.

	Ad Hoc Process	Transitional Process	Institutionalized Process
<i>Government support:</i>			
Local	Weak	Strong	Strong
State	Weak	Neutral	Strong
<i>Integration of grassroots coalitions:</i>			
Negotiations process	Weak	Strong	Strong
Monitoring of agreements	Weak	Moderate	Strong
<i>Agreement characteristics:</i>			
Trigger for negotiations	Weak	Strong	Strong
Binding nature of agreement	Weak	Moderate	Strong
Enforcement mechanisms	Weak	Moderate	Strong

Our analysis focuses on the prospects for model CBAs and community benefits ordinances to serve as tools to institutionalize equitable development in the urban planning process. Table 1 summarizes factors influencing the institutionalization of model CBAs and community benefits ordinances. We expect CBA institutionalization to be associated with: high levels of government support, the integration of grassroots coalitions in negotiations and monitoring processes, the presence of agreement characteristics that provide clarity about the criteria that trigger negotiations, the presence of mandates for binding agreements, and strong enforcement mechanisms.

The matrix presented in Table 1 can be used to assess the degree to which model CBAs and community benefits ordinances have been institutionalized. It can also be referenced by grassroots coalitions and local governments when developing strategies to design model CBAs and community development ordinances. After model CBAs and community benefits ordinances in Cleveland, Detroit and Portland are discussed, we use the matrix presented in Table 1 to summarize our findings.

## Methods

This article uses a mixed-methods approach to examine factors influencing the institutionalization of model CBAs and community benefits ordinances in local community development processes. The comparative case study analysis is based on the triangulation of primary and secondary data sources. We adopted a mixed-methods approach that combines content analysis of public documents and print media with semistructured interviews with key stakeholders. The three cities examined in our case studies were identified through a review of the literature on CBAs and after conducting online searches for local efforts to implement model CBAs and community benefits ordinances.

Secondary data were collected for each of the cities dating back to the planning of their model CBAs and community benefits ordinances. Data collection for this part of the analysis ended in January of 2017. Data used in the content analysis included public documents, text of proposed model CBAs and community benefits ordinances, reports and evaluations of model CBA implementation, and print media accounts of local initiatives. These data were analyzed using ATLAS.ti software and followed the content analysis methodology outlined by Silverman and Patterson (2015).

In addition to the secondary data used in the content analysis, three semistructured interviews were conducted with key stakeholders in the cities. In two of the cities, Cleveland and Portland, Model CBAs has already been adopted and incorporated into the local planning and development process. In these two cases, local public administrators directly involved in the implementation of these policies were interviewed about the degree to which they had become institutionalized. In the third city, Detroit, a community benefits ordinance had recently been approved by voters. In this case, a key stakeholder from a local advocacy organization that was engaged in the public debate to create a community benefits ordinance was interviewed. Each interview was approximately 45 min in length and administered over the telephone. The interviews took place in January of 2017 and the questions used in the interview guide were informed by the previous data collected in the content analysis phase of the study. The interviews were transcribed and the data collected in them were analyzed using ATLAS.ti software. The results from this part of the analysis were used to identify themes related to the institutionalization of model CBAs and community benefits ordinances.<sup>2</sup>

## **The case studies**

### ***Cleveland's model CBA***

#### ***The genesis of Cleveland's model CBA***

In general, one could argue that the City of Cleveland's model CBA was the outgrowth of the city's legacy of progressive politics focused on promoting equity and inclusions (Krumholz & Forester, 1990). The more immediate origins of the model CBA can be traced to a 2007 project labor agreement (PLA) between the Cleveland University Hospitals (UH) and the Cleveland Building and Construction Trades Council (CBCTC). The PLA provided for a 20% local hiring target for construction projects, workforce development programs, and women and minority procurement set-asides linked to a \$1 billion hospital expansion project (Figueroa, Grabelsky, & Lamare, 2011; Lujan, Balistreri, & Soggs, 2013; Patterson et al., 2017).

The successful collaboration between the UH and CBCTC provided anchor institutions and organized labor with a framework for the model CBA that was adopted 5 years later. The model CBA included provisions for future construction projects to include local hiring provisions, set-asides for minority procurement, and workforce development programs run through public schools and community colleges (City of Cleveland, 2013). In 2013, a memorandum of understanding (MOU) was signed by the CBCTC and other trade organizations, UH and other hospitals, Case Western Reserve University, advocacy groups, the Cleveland Foundation, the Cleveland Metropolitan School District, the Cuyahoga Community College, other public authorities, and the City. The signatories agreed to adopt linked development agreements based on the model CBA for future construction projects.

The MOU was designed to promote the goal of “reframing the public discourse on economic development in Cleveland to encourage collaboration to fuel economic growth, harness that growth to create a more equitable and inclusive local economy and create shared prosperity” (City of Cleveland, 2013). The MOU was organized into nine sections that elaborated on how CBAs should be constructed, followed, and enforced.

### *The importance of political will*

The successful negotiation of the 2007 PLA and the 2013 MOU were dependent on support from elected officials in Cleveland. One key change agent was Frank Jackson, the Mayor of Cleveland. He had been a strong advocate of community-based economic development during his time as a member of the City Council, and continued to promote it after taking office as Mayor in 2006. While a councilman, Jackson was instrumental in passing local laws and ordinances that promoted local hiring, set-asides for MWEs, and other linkages between economic and community development goals. He continued to support these types of policies after taking office as Mayor.

The UH expansion project provided the City with an opportunity to build on past policy, and the Mayor found likeminded leaders in the private and nonprofit sectors. This was discussed in detail during one of our stakeholder interviews. A local public administrator who was interviewed made this point about the role of leadership in the genesis of Cleveland’s model CBA:

It was *carpe diem*; we maximized the moment. [We had] a new Mayor and a new CEO of University Hospitals who had only been there for about 2 years at the time. [We asked], “How do you affect change when you have two, all three or four of our major health systems sitting literally in the heart of poverty stricken neighborhoods?” Once you leave those campuses, literally across the street of those hospitals you are sitting in a very distressed community and the question becomes, “How does an anchor institution contribute to the local economy, and is it in their best interest?” That’s the conversation. We had tools in place and we had a disparity study to validate continued use of the tools and compliance through the Office of Equal



Opportunity. Having a major player saying “I’m gonna be your pilot” on a \$2.6 billion mega-project was phenomenal. So we capitalized on the opportunity.

The collaboration between City Hall and UH was essential. It helped to facilitate negotiation leading up to the 2007 PLA agreement, and that attracted other institutional stakeholders from the public, private, and nonprofit sector to the table when the MOU was drafted. Increased cross-sector collaboration on community-economic development and the creation of a model CBA was described by this stakeholder as the foundation of a *new normal* in Cleveland. The local public administrator who was interviewed pointed out that under the new normal, “we got to the point that 3 years later the Mayor’s representative [is regularly] in a room full of businessmen and developers about upcoming projects with the City of Cleveland.”

### ***Weaknesses in Cleveland’s model CBA***

Despite the benefits of having a process for negotiating linked development agreements across projects, we identified three vulnerabilities in the design and implementation of Cleveland’s model CBA. First, the City’s model CBA was based on an MOU which was, in principal, only agreed to by its cosigners. Other developers were not required to negotiate CBAs. Moreover, those who endorsed the MOU were not required to reach a binding agreement as an outcome of their negotiations. Cleveland’s model CBA was an agreement in principal, but following through with CBA negotiations remained voluntary.

Second, because the MOU was negotiated and signed by large anchor institutions, public agencies, organized labor, and larger philanthropic organizations, there was a sentiment at the community level that grassroots interests were crowded out of the process. During a stakeholder interview, this point was made by the local public administrator about grassroots integration:

One of our criticisms, or one of our vulnerabilities is that we have almost an oxymoron. We have political will at the highest level, but some people in the community feel like they don’t have a voice because we are pushing for the items outlined in our Memorandum of Understanding. For people in the community, their criticism is that they have no voice. It’s like an oxymoron because in other cities it’s hard to get political will to buy into these things. We have it, and now some people at the community level don’t have a voice.

The lack of grassroots integration in Cleveland’s CBA process raises questions about the degree to which linkages negotiated between the City and institutional stakeholders matched grassroots priorities. The model CBA created a template for negotiating linkages. The benefit of having such a template was that it identified specific linkages that would be required in any development agreement. However, this predetermined set of linkages also crowded out opportunities for grassroots interests to seek additional



concessions. In essence, the model CBA was criticized by community groups for shifting the emphasis in the negotiations process toward linkages identified by the signatories of the MOU, making it more difficult for other concerns emanating from grassroots interests to be introduced. The relative subordination of community interests in CBA negotiations and monitoring also raises questions about the degree to which the MOU primarily served as a mechanism to expedite the process for approving development projects as opposed to maximizing community benefits. This became apparent when the third vulnerability to Cleveland's CBA process is considered.

The third vulnerability to Cleveland's model CBA involved the divergence in how it was perceived by the City versus developers. From the City's standpoint, the linkages identified in the model CBA were viewed as a starting point for negotiations. However, developers viewed the menu of linkages as a ceiling, rather than a floor for negotiations. This issue was clearly articulated in a stakeholder interview when the local public administrator interviewed pointed out that "the MOU was not intended to be a ceiling." Nonetheless, when negotiations took place, developers saw the model CBA's provisions as establishing a ceiling on the types of linkages required for a CBA rather than a floor for more expansive bargaining with a community coalition.

### ***Detroit's CBA ordinance***

#### ***Passing a community benefits ordinance in the motor city***

As was the case in Cleveland prior to the creation of an MOU outlining the city's model CBA, grassroots coalitions in Detroit were hamstrung by repeated ad hoc attempts to negotiate CBAs on a project-by-project basis. In many cases, grassroots coalitions become involved in CBA negotiations after critical decisions were made, they lack access to public officials and other key decision-makers, and they were at the mercy of developers who delayed negotiations until conditions were to their advantage. The end result of ad hoc attempts at negotiating CBAs were weak agreements or no agreements at all. Vidal (2014) chronicled the negotiations between a community coalition in Detroit and the Henry Ford Health System (HFHS), which epitomized this dilemma. In that example, a community coalition attempted to negotiate for linkages to a planned expansion of the HFHS. Negotiations began in 2004 and ended in 2014 when a letter of understanding was signed. The agreement between the hospital and the community was not binding, but it served as a statement of principles to guide future negotiations for linkages. Despite making some headway, the community coalition had to overcome a steep learning curve during the negotiations process, with limited ability to institutionalize and transfer the lessons it learned to other CBAs.

In an effort to remedy this problem and move toward a formal process for negotiating CBAs, a community coalition called "Rise Together Detroit"

lobbied the Detroit City Council to adopt a community benefits ordinance in 2014. The proposed ordinance required all large-scale projects in the city involving sizable public subsidies, tax relief, or land dedications to include CBAs. The agreements would require developers to include: provisions for local employment and set-asides for MWEs, address negative externalities caused by development, and improve housing and community amenities. The agreements created under the proposed ordinance would also be subject to monitoring and enforcement by members of the community and city officials.

There was an immediate backlash to the proposed ordinance from the business community and sympathetic members of the state legislature (Ferretti, 2014). In addition to opposition from the local business community, Republican members of the Michigan state legislature proposed an anti-CBA bill to block the Detroit City Council from adopting the proposed ordinance. The presence of corporate and legislative opposition put a chill on the City Council's deliberations. During a stakeholder interview, the effects of political opposition and the community's response were described in this manner by an individual from a local advocacy organization:

For about a year and a half or 2 years the City Council kept coming up with excuses. Every time it came up on the agenda, they kept coming up with questions. They would send it to the law departments, you know; it was very obvious they were stalling. So we did some research to figure out can we get this done without going through Council and after reading the City's charter we figured we could collect [signatures from] about 3% of the people that came out to vote for last mayoral election and put it on the ballot.

In response to a lack of progress with the City Council, Rise Together Detroit circulated petitions to put a proposal on the ballot for the November 2016 election. Rise Together Detroit's ballot proposal became known as *Proposal A*.

Under Proposal A, CBA negotiations would be triggered for any projects with a total development cost above \$15 million or received \$300,000 or more in public subsidies. This was roughly the average size of a development project or public subsidy in the city. The proposal provided for CBA negotiations to be a community-driven process where developers would directly negotiate with a coalition composed of community members. The outcome of those negotiations would be a legally binding agreement that the community would have legal standing to enforce.

After Proposal A was put on the ballot, the City Council voted 6–3 to put an alternative proposal for a community benefits ordinance on the ballot that was more sympathetic to the concerns of developers (Pinho, 2016). This proposal became known as *Proposal B*. According to the individual who was interviewed from the local advocacy organization, some supporters of Proposal A colloquially dubbed Proposal B as “bullshit B.” The Council's

proposal raised the triggers for CBA negotiations to \$75 million or \$1 million in public subsidies, a level of investment rarely seen in the city. Under proposal B, CBA negotiations would be driven by the City's Planning Director with limited input from a community advisory board appointed by the City Council. The outcome of the process would be a development agreement with the City. Any further agreements between a developer and the community would be voluntary.

Under Proposal B, only the City would have legal standing to enforce its development agreement with a developer. In essence, Proposal B represented a continuation of the status quo. As the individual from the local advocacy organization said, Proposal B was put on the ballot "to basically dilute, confuse, and mislead Detroit voters." This stakeholder went on to say that during the buildup to the election, "ads came out talking about A is bad and B is the best; B was never intended to pass." The volume of information to voters comparing the two proposals was lopsided. Proponents of Proposal A spent \$12,000 during the campaign, while the individual from the local advocacy organization who was interviewed for this analysis believed that "millions of dollars" were spent on ads for Proposal B. The Michigan Campaign Finance Network corroborated the lopsided nature of funding between Proposal A and Proposal B leading up to the election. In the month leading up to the election, the Committee for Community Benefits, the nonprofit 501(c)4 formed to raise money to advocate for Proposal A had raised under \$9,000; in contrast, Detroit Jobs First, the nonprofit 501(c)4 formed to raise money to advocate for Proposal B had raised over \$123,000 (Mauger, 2016). On election day, Proposal B passed with 53% of the vote. Proposal A received 46% of the vote and was defeated.<sup>3</sup>

### *The absence of political will*

A lack of political support for CBAs was instrumental in the defeat of repeated attempts to adopt a community benefits ordinance mandating binding CBAs negotiated by grassroots coalitions in Detroit. First, these efforts were derailed by opposition from the business community and elected officials at the state level. After regrouping and placing a proposal on the ballot for voter approval, these efforts were again thwarted by local developers and elected officials who proposed a weaker community benefits ordinance to voters. Nevertheless, at the end of the day some progress was made. It was pointed out in a stakeholder interview that the passage of Proposal B added a requirement for CBAs to the City's charter for the first time. It was also pointed out that after the charter revision was in place for a year, proposals could be made to amend it. The individual from the local advocacy organization who was interviewed described the anticipated charter revision process in this manner:

The heart and soul of what we are trying to do is get that accountability, which is the legally binding contract part, so we want that. If we can get that part, that is the most critical part, then we want to try and get to the threshold that we had there, and then talk about processes.

Despite political resistance, the community benefits ordinance that was approved by voters institutionalized CBAs to some degree in Detroit. This was a critical step, because it made them a legitimate part of local development discourse and the inclusion of the ordinance in the City's charter served as a building block for future grassroots advocacy.

### ***Weaknesses in detroit's community benefits ordinance***

The incorporation of a relatively weak community benefits ordinance in the City of Detroit's charter represented incremental progress. However, like in Cleveland, we identified three areas where Detroit's community benefits ordinance could be strengthened. First, the ordinance created a framework that the City would use when negotiating project linkages with developers. However, as the individual interviews from the local advocacy organization pointed out, the process was simply a continuation of the status quo, where the City negotiated with developers and any add-on agreements with grassroots coalitions would be voluntary and at the discretion of the developer to pursue.

Second, the process put in place by the ordinance was driven by the City, and it gave the City's Planning Director a great deal of discretion in deciding what parts of the ordinance to enforce. Moreover, the ordinance provided for limited community input in the negotiation process. The community's role was confined to a requirement for a single public meeting and the creation of an advisory board that was appointed by the City Council. This structure represented a continuation of the status quo in Detroit. Historically, the City has a system of planning advisory boards called "citizen district councils" that served a similar role in local development between 1969 and the early 2000s (Silverman, 2003, p. 3). However, Detroit's citizen district councils were dependent on the ebbs and flows of political and financial support emanating from the City, and over time they proved to be an ineffective tool for empowering residents in decision-making related to local development. In the years after Detroit's citizens' district councils were disbanded, there continued to be dissatisfaction with advisory boards as a tool to empower residents in the development process. During the interview with an individual from a local advocacy organization, this point was made about an advisory board set up to bring citizens' voices into the negotiations for the Little Caesars Arena, which was being built as the new home for the Detroit Red Wings and the Detroit Pistons:

With the new hockey stadium, the neighborhood advisory council is appointed by the Council, and has appointments from the Mayor's office. This group doesn't

have no leverage. They just get updates, information, no kind of real negotiations about what they want to see in their community.

Detroit's past experiences with advisory boards is a good indicator of how they will function under the community benefits ordinance. Without an expanded role of autonomous citizens' coalitions and greater levels of grassroots integration in the development process, Detroit's CBAs will continue to primarily serve the interests of developers and City officials who drive the process.

Similar to our observations in the case of Cleveland's CBA process, the third weakness in Detroit's community benefits ordinance is that it primarily serves as a mechanism to expedite the process for approving development projects as opposed to maximizing community benefits. In an interview, the individual from a local advocacy organization described how developers perceived the ordinance as "a check list" and that developers believed they were simply required to "check what was needed on that list to come up with an actual contract." From that perspective, negotiating with the City and passing information on to an advisory board was just another *pro forma* step in the development process, similar to requirements to get a building permit and set a development time-table. To developers, the necessary steps outlined in the community benefits ordinance were circumscribed in nature and not connected to broader community development goals.

## ***Portland's model CBA***

### ***Piloting a model CBA in portland***

In 2012, the City of Portland introduced a pilot model CBA to address community concerns about discrimination in contracting practices for publicly funded development projects. The model CBA was piloted in the City's Water Bureau and its Bureau of Environmental Services. The plan was to experiment with the model CBA in these two bureaus for 3 years, review the City's experience implementing the policy, and consider the feasibility of expanding the use of model CBAs citywide.

Portland's model CBA was adopted in August 2012 with unanimous support from the City Council. According to the document the purpose of the model CBA was to ensure that the public:

receives the fullest benefit [from] public works construction project undertaken by [developers], to ensure that the [developers did] not indirectly perpetuate the under-inclusion of racial and ethnic minorities and women in the construction industry and trades, and to ensure that [a developer] receives the benefit of a highly skilled, well trained and diverse workforce and prime contractor and subcontractor pool without the disruptions caused by labor unrest, including strikes, lock-outs, pickets, and other disruptions in the progress of such projects (City of Portland, 2012).

Portland placed an emphasis on using the model CBA to address historic patterns of discrimination in hiring and subcontracting related to publicly funded projects. Reducing discrimination was seen as mutually beneficial to both the City and developers. Organized labor was seen as a potential partner in model CBAs, particularly in the areas of workforce development and recruitment. However, the relationships between the City, developers, and organized labor were tenuous.

Portland's model CBA required that, "all new construction, rehabilitation, alterations, conversions, painting, repair, improvements or other construction work performed at [a] project site" be covered by a CBA (City of Portland, 2012). The need to negotiate a CBA was triggered when any project budget exceeded \$15 million. It required developers to recognize organized labor as the sole bargaining representative of all employees hired to work on a project. In exchange for this *sole source* provision, organized labor agree to a *no strike* clause. The model CBA made the City, developers, and organized labor signatories to agreements, which gave each legal standing to enforce them. To monitor developers' performance on CBAs, the Labor-Management-Community Oversight Committee (LMCOC) was put in place. The LMCOC had regular meetings to follow through with its charge, and its membership was balanced with equal number of members from organized labor, businesses, and the community to promote equitable results. In addition to these elements, the model CBA provided for the creation of an apprenticeship program to augment the pool of minority and women in the trades, and it created a mechanism for the creation of MWE set-asides.

In October of 2012, the first CBA was created under the new framework. The agreement covered two Water Bureau projects: the \$75 million Kelly Butte Reservoir project and the \$50 million Interstate Maintenance Facility Renovation. This agreement became the basis for the evaluation of the pilot model CBA that was released 4 years later (City of Portland, 2016). The report concluded that the projects were successful in meeting CBA goals. However, it was critical of the LMCOC, because some of the Committee's members were suspected of having pre-existing relationships with organizations that were awarded MWE set-asides. This criticism was discussed in a stakeholder interview where a local public administrator made this observation:

[The report] had issues with the LMCOC, describing possibilities of a conflict of interest. Although there were actually none. The appearance of impropriety [asserted that] folks sitting around that table also received contractual work or workforce development training. Because the community is not big, there were going to be experts at the table, that's what is going to happen, and they all signed conflict of interest statements. Everything was above board.

Concerns about a conflict of interest in MWE set-asides grew out of the fact that Portland had a very small pool of stakeholders to draw from when populating the LMCOC. The very problem that the model CBA was designed

to address, low minority and women participation in the development process and a small pool of MWEs, hampered the capacity of the LMCOC and became a source of criticism.

In anticipation of the City's evaluation of the model CBA pilot program, a separate evaluation was prepared by a coalition of community organizations and organized labor. That report disagreed with the conflict of interest concerns cited in the City's evaluation. However, there was no disagreement over the effectiveness of the model CBA in meeting its core goals, promoting minority and women participation in publicly funded projects. A local public administrator made this point about the degree of agreement across both reports: "There was no question that the overall goals for minority- and female-owned businesses were essentially met in almost all categories." Despite continued strain between developers and organized labor in Portland, both parties were in agreement that the model CBA was a successful tool to address discrimination.

### ***Pushback from local and state bureaucrats***

Portland's model CBA benefited from the support of the local political establishment, but there were signs of pushback from public administrators charged with implementing the new policy (Andrews, 2016). At the local level, some administrators and public officials cited the City's evaluation of the pilot of the model CBA and questioned the City's capacity to expand the effort on a citywide basis. At the state level, there was also incongruence about legal requirements for bidding on public contracts that had the potential to jeopardize future CBAs. Oregon state law requires that public contracts be awarded to the lowest bidder, and the State stipulates the criteria for local jurisdictions to use an alternative bidding process. A local public administrator made this comment in relation to this regulatory constraint:

At any point people [from the State] can come in and say, "You haven't met the criteria, so we are going to take you to task, we are going to sue you because you aren't going to do a low bid on this project." It really is up to City Council to ensure that they have an appetite for doing more alternative bidding.

Despite strong support from local elected officials for piloting the model CBA, there was continuous debate about the political will to pursue its expansion. In part, this grew out of resistance from bureaus in local government charged with implementing the new policy. However, there were also hurdles to overcome at the state level.

### ***Weaknesses in Portland's community benefits ordinance***

Portland's experiment with a relatively strong model CBA demonstrates how this tool can be used to augment minority and women participation in the local development process. However, like in Cleveland and Detroit, we identified three areas where Portland's community benefits ordinance could



be strengthened. First, the case of Portland highlights how inherent tensions in labor-management relations can threaten the sustainability of community coalitions and grassroots participation in CBAs. Under the model CBA piloted in Portland, the LMCOC served as a primary vehicle for incorporating grassroots interests. However, the main criticism of the pilot project revolved around potential conflicts of interests when representatives from the community and organized labor are engaged in decision-making. This criticism focused on reducing the role of organized labor in future CBA processes. For instance, proposals were made to remove representatives of organized labor as signatories of CBAs. This would effectively make the City and developers the only parties with standing to enforce an agreement.

Second, although the LMCOC was empowered to monitor the implementation of CBAs, it is doubtful that the Committee in its present form would have the capacity to accomplish this if the model CBA is scaled-up. Portland set the trigger for CBA negotiation at \$15 million during the pilot project, and the LMCOC oversaw one CBA that was applied to two public contracts. This workload strained the limited capacity of the Committee and there was little room to expand its membership or form subcommittees to more efficiently delegate tasks. Yet, in the City's evaluation of the pilot project, it was recommended that the trigger for CBA negotiations be lowered to \$10 million. As a local public administrator put it during an interview, "That begs the question, if we end up with 20 projects in the next couple of years, one LMCOC cannot be overseeing 20 different projects." If the model CBA is scaled-up and implemented citywide, there will be a need to provide additional funding and staff resources to the LMCOC. The scalability of model CBAs remains a challenge in Portland, as well as the other cities. Capacity building for implementation and monitoring of model CBAs and community benefits ordinances remains problematic. To be sustainable in the long-run, there is a need to include language in MOUs and ordinances that these tools are based on which provides adequate resources for staffing and administrative support functions.

Finally, the third weakness in Portland's model CBA was its relatively narrow focus, primarily serving as a mechanism to promote minority and women employment and MWE set-asides. These elements of a CBA are important for promoting equity, however they mainly focus on on-site dimensions of a development project that occur during its construction phase. The narrow focus of Portland's model CBA reduced the chances that more expansive agreements could be reached that takes on a broader spectrum of linkages and community interests. The model CBA process in Portland was more circumscribed, resembling a PLA as opposed to a full-blown CBA. During a stakeholder interview, the implications of the narrow construction of the model CBA was described by a local public administrator in this manner:

I would say that leadership in the city recognized the need to use this document. They all want to do it and the goal is to increase participation in the minority-women-owned contractors and workforce. I mean that's the goal. Sometimes we get stuck on what a title of a document is. I don't give a damn what you call a document and that's what people are getting stuck on, the title, because the new iteration doesn't call it a CBA.

As the City moved forward to consider citywide implementation, there were divergent views about the model CBAs scope. From one perspective, a more limited framework, like a PLA, was viewed to be sufficient. However, other voices advocated for a broader set of linkages that would extend beyond a project's development site and construction phase.

## Conclusions and recommendations

### *Applying the institutionalization matrix to the case studies*

Based on our analysis, we reached three key conclusions about factors contributing to the institutionalization of model CBAs and community benefits ordinances in the urban planning process. Table 2 applies the framework introduced at the beginning of this article to the three case studies. Overall, we found that all three of the cities examined were in a transitional stage of institutionalizing CBAs into their development processes. However, factors influencing the degree to which the cities had begun transitioning and the prospects for CBAs being fully institutionalized varied across cases. For instance, Cleveland had strong political support for its model CBA but relatively weak integration of grassroots coalitions in its process, which was built on a voluntary, nonbinding requirements to reach negotiated agreements. In Detroit, there was less political support for the City's community benefits ordinance, the CBA process lacked deep integration of grassroots coalitions, and it had relatively weak agreement characteristics. In contrast, Portland's model CBA benefited from strong political support, relatively

**Table 2.** Factors influencing the level of institutionalization of model CBAs/community benefits ordinances.

	Cleveland	Detroit	Portland
<i>Government support:</i>			
Local	Strong	Moderate	Strong
State	Neutral	Weak	Neutral
<i>Integration of grassroots coalitions:</i>			
Negotiations process	Weak	Weak	Moderate
Monitoring of agreements	Weak	Weak	Moderate
<i>Agreement characteristics:</i>			
Trigger for negotiations	Moderate	Moderate	Strong
Binding nature of agreement	Weak	Weak	Strong
Enforcement mechanisms	Weak	Weak	Strong
Stage of institutionalization	Transitional	Transitional	Transitional

more integration of grassroots interests, and relatively strong agreement characteristics. However, Portland's model CBA was still in a transitional stage, since it had only been applied on a pilot basis in two city bureaus.

At the onset of this analysis, we expected CBA institutionalization to be associated with high levels of government support; the integration of grassroots coalitions in negotiations and monitoring processes; and the presence of agreement characteristics that provide clarity about the criteria that trigger negotiations, the presence of mandates for binding agreements, and strong enforcement mechanisms. In each case study, there were varying degrees of governmental support. Cleveland exhibited the strongest level of local government support, followed by Portland and Detroit. A common thread that contributed to local government support for CBAs was the presence of a sustained progressive local political culture focused on equitable development. This type of a local political ethos serves as a building block for specific policy initiative like CBAs. In cities without the presence of a strong, equity-based focus as a precursor to CBA negotiations, we recommend the expansion of public discourse and the cultivation of more inclusive approaches to urban planning.

Even in places where a progressive local political culture was present, CBA processes were not always effective at integrating grassroots coalitions into negotiations and the monitoring of agreements. In places like Cleveland and Detroit, CBA processes tended to be elite-driven, with community participation being advisory in nature. This governance structure had a tendency to insulate developers and put a ceiling on the scope of linkages covered by CBAs. In contrast, Portland's LMCOC provided community groups and organized labor with greater access to the negotiating and monitoring processes. Yet, despite broad acknowledgement that Portland's pilot CBA achieved its goals of augmenting minority and women employment and MWE participation, the integration of grassroots coalition members in the process was a point of contention. This suggests that community groups and organized labor achieved greater leverage in Portland, causing some in local government and private developers to recoil. In light of these observations, we recommend that community-based coalitions remain diligent and safeguard their role in decision-making related to CBA negotiations and monitoring.

Finally, we found that Portland had the strongest agreement characteristics. CBA negotiations were triggered by relatively small public projects. Agreements were binding and enforceable, and they had signatories from the City, private developers, and organized labor. Moreover, the LMCOC was put in place to create a formal body to oversee CBA enforcement. In contrast, triggers for CBA negotiations in Detroit were set at a level that only applied to mega-projects, agreements were nonbinding, and enforcement was left to the discretion of the City's Planning Director. Likewise, Cleveland's model CBA only applied to

developers who signed the MOU, negotiating was voluntary for other developers, and enforcement was under the purview of the City.

### ***Applying the lessons learned***

Looking toward the future, we believe the lessons learned from this analysis can be applied in other contexts where model CBAs and community benefits ordinances are under consideration for adoption. By referencing the factors identified in this article that influence CBA institutionalization, grassroots coalitions and local governments can avoid many of the pitfalls found in poorly structured model CBAs and community benefits ordinances. We believe this article also offers scholars and practitioners a starting point for more thorough analysis of this nascent area of local development policy. Drawing from it, additional research can be pursued to expand the scope of inquiry and promote innovation in community development practice.

### **Notes**

1. At the time that this research was conducted, the three cases examined in this study represented all of the model CBAs and community development ordinances that had been adopted in the United States. The three cities that the case studies are drawn from include both physically and economically distressed places, Cleveland and Detroit, and Portland, a city experiencing relative stability. The implications of these contextual factors on the prospects for successful CBA negotiations has been examined by Patterson et al. (2016, 2017)).
2. Data from the three interviews were used to supplement the data analyzed in the content analysis. The interview data were collected to enhance the focus on the implementation of model CBAs and community benefits ordinances. A more expansive analysis comparing a broader group of stakeholder's perceptions of model CBAs and community benefits ordinances is beyond the scope of this analysis. We encourage future researchers to build on our analysis and examine the dynamics of interactions between community groups, public administrators, organized labor, private and non-profit developers, and other stakeholders as they relate to the results from our analysis. Such analysis might include more in-depth ethnographic analysis or meta-analysis of prior research.
3. As noted in the text, the individual from the advocacy organization's perception was that Proposal B was put on the ballot to confuse voters and ensure that both Proposal A and Proposal B would be rejected. Although passage of Proposal B represents an incremental step toward institutionalizing linked development agreements in the local planning process, it was perceived as an unintentional outcome of the election. As the individual from the local advocacy organization put it, "Proposal B got passed, [but] I know from sources I have in the City's administration that it's a thorn in their ass; they didn't expect it to pass."

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