

**COUNTY OF SAN DIEGO
BOARD OF SUPERVISORS - LAND USE
WEDNESDAY, SEPTEMBER 28, 2022**

MINUTE ORDER NO. 7

SUBJECT: RETURN BACK ON EXPLORATION OF COMMUNITY BENEFITS AGREEMENTS, AND SEEKING BOARD DIRECTION ON PROGRAM OPTIONS FOR FUTURE CONSIDERATION (DISTRICTS: ALL)

OVERVIEW

Community Benefits Agreements (CBAs) are a tool that can be used to offset social, environmental, and economic impacts on communities that are created by large-scale projects, such as renewable energy and industrial/warehouse/distribution facilities in the unincorporated area of San Diego County. CBAs are agreements that are negotiated between project applicants and the community or government agency to provide local benefits as part of the project. These can be legally binding or voluntary agreements between project applicants and community groups, or project applicants and local governments. Various benefits can be offered through CBAs, such as parks and recreation opportunities, community facilities, workforce development, local hiring, and apprenticeships. CBAs can be used for various land development projects, and in California, they are often used for large-scale renewable energy projects.

On February 10, 2021 (2), the Board of Supervisors (Board) directed staff to explore a zoning ordinance update for renewable energy projects and research other related items, including CBAs. In response to Board direction, staff began exploring CBAs, including reviewing other jurisdictions' approaches to CBAs. Staff found that each jurisdiction takes a slightly different approach to CBAs based on differing community needs and that there are a variety of program, policy, and guidelines options that could assist in incentivizing and streamlining community improvements and community input in land use decisions.

On December 8, 2021 (7), the Board directed staff to investigate the feasibility and resources needed to establish CBA programs, policies, and/or guidelines to include the following options:

1. Guidelines for the County to facilitate mandatory Community Benefits Agreements including a range of benefits to be included in the agreements, such as prevailing wage, local hire, job outreach to disadvantaged (underserved) communities, and other items as appropriate including a focus on the nexus between the negative impact on the community and the project being proposed;
2. Guidelines for the types of development projects that would be subject to CBAs, including renewable energy projects, warehouses, hospitals, business parks, large scale housing, and other type projects deemed to have a significant impact; and
3. Guidelines for the County to negotiate and enter into CBAs with applicants, including identification of potential incentives that the County could offer in return for community benefits.

This Board letter presents options based on literature review and best practices research; research into common uses of CBAs, research of and interviews with other jurisdictions about their approach (jurisdictional research), an analysis of County programs, plans, and existing efforts; and stakeholder input received through various public engagements, including large public meetings, “lunch-and-learns,” and small group meetings.

Today, staff is seeking further direction on proposed options to establish a CBA Program, including (1) Program Participation, whether the Program will be Mandatory and/or Voluntary (2) Program Administration, whether the County or a third-party will administer the program; and (3) Program Components, which includes options for consideration, such as benefits, community participation, and incentives. If directed by the Board, staff will begin program development and will return to the Board for program consideration at a future date.

RECOMMENDATION(S)
CHIEF ADMINISTRATIVE OFFICER

1. Find that the proposed actions are exempt from the California Environmental Quality Act (CEQA) per Section 15061(b)(3) of the CEQA Guidelines because the proposed actions do not commit the County to any definitive course of action and there is no possibility that the activity in question may have a significant effect on the environment. Subsequent actions would be reviewed pursuant to CEQA and presented to the Board for consideration prior to implementation.
2. Receive the options on Community Benefits Agreement guidelines and provide direction on the options presented, per Attachment A-Action Sheet.

EQUITY IMPACT STATEMENT

Community Benefits Agreements (CBA) programs, policies, and guidelines further incentivize and streamline community improvements and community input on land use decisions to assist in addressing significant impacts of projects on communities-especially communities that have historically been marginalized or underserved. CBAs provide local economic opportunities, empowering the public by providing opportunities for workforce development, supporting the community by increasing the communication and engagement between a project applicant and community groups; and promoting environmental justice by ensuring equal access to the decision-making process to create healthy environments.

SUSTAINABILITY IMPACT STATEMENT

Community Benefits Agreements (CBAs) allow community groups and project applicants to work together to address projects that have significant impacts on communities, beyond the traditional environmental review and mitigation pathway. CBAs could result in benefits to the local community, including additional parks, recreation spaces, open space, and habitat restoration/protection, which are all sustainable land use practices. By creating these sustainable land use practice benefits, CBAs address risks posed by climate change, particularly for our communities of concern. To have healthy and prosperous communities, we need clean air, ample potable water supply, sanitation and hygiene, safe use of chemicals, sound agricultural practices, and health-supportive governance. These issues can be addressed through Community Benefits Agreements.

FISCAL IMPACT

There is no fiscal impact associated with receiving the report back on Community Benefits Agreements (CBAs) and policy options presented today. If directed by the Board, the expanded options will result in total costs of \$805,000 for consulting services, reimbursable staff time, and other project expenses related to the development of a CBA Program such as a market analysis, peer review, and expanded outreach. Funds for the proposed CBAs program participation development are included in the Fiscal Year (FY) 2022-23 Operational Plan in Planning & Development Services (PDS). Funding source is existing one-time General Purpose Revenue. There will be no change in net General Fund costs and no additional staff years.

Program Participation 1.A: If the Board directs staff to develop and implement Voluntary CBA Guidelines, no additional funds or staffing resources would be required because a market analysis and associated peer review would not be required for Voluntary Guidelines and the remaining program development can be completed by using the previously established funds.

Program Participation 1.B: If the Board directs staff to develop and implement a Mandatory CBA Program, consulting services and other project expenses related to a market study, a peer review, and expanded outreach will cost \$265,000 and are included in FY 2022-23 Operational Plan. If the Board directs staff to lead the administration of the CBA Program, staff will return to the Board at the time of Program adoption with the required staffing resources needed in the spring or summer of 2024.

Program Participation 1.C: If the Board directs staff to develop and implement both a Mandatory CBA Program and Voluntary Guidelines, consulting services and other project expenses related to a market study, a peer review, and expanded outreach will cost \$265,000 and are included in FY 2022-23 Operational Plan. If the Board directs staff to lead the administration of the CBA Program, staff will return to the Board at the time of Program adoption with the required staffing resources needed in the spring or summer of 2024.

BUSINESS IMPACT STATEMENT

N/A

ACTION:

ON MOTION of Supervisor Lawson-Remer, seconded by Supervisor Fletcher, the Board of Supervisors took the following actions:

1. Found that the proposed actions are exempt from the California Environmental Quality Act (CEQA) per Section 15061(b)(3) of the CEQA Guidelines because the proposed actions do not commit the County to any definitive course of action and there is no possibility that the activity in question may have a significant effect on the environment. Subsequent actions would be reviewed pursuant to CEQA and presented to the Board for consideration prior to implementation.
2. Received the options on Community Benefits Agreement guidelines and provided direction to adopt the following:

1. Program Participation

- 1.C. Establish both Voluntary Guidelines (1.A) and a Mandatory CBA Program (1.B).

2. Program Administration

- 2.A. County Administered Mandatory and/or Voluntary CBA Programs; and
- 2.B. Third Party Administered Mandatory and/or Voluntary CBA Programs

3. Program Components

- 3.A. Benefit Options
 - 3.A.i. Develop Pre-Set List of Benefits
- 3.B. Establish Expanded Community Engagement to Initiate Early Conversations with Potentially Impacted Communities
 - 3.B.i. Identify Project Types for Expanded Community Engagement Requirements; and
 - 3.B.ii. Establish Expanded Community Engagement for Certain Project Types Determined by the Board.
- 3.C. Incentives County Can Offer in Return for CBA
 - 3.C.i. Develop Set List of Incentives

AYES: Vargas, Anderson, Lawson-Remer, Fletcher, Desmond

State of California)
County of San Diego) §

I hereby certify that the foregoing is a full, true and correct copy of the Original entered in the Minutes of the Board of Supervisors.

ANDREW POTTER
Clerk of the Board of Supervisors



Signed
by Andrew Potter