Community Benefits in York Region Toolkit

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STRATEGY•POLICY•ENGAGEMENT

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Introduction

York Region is healthy, growing and prosperous. Yet, not everyone is being included in this prosperity. Concerns about the affordability of housing, availability of jobs for young graduates, and social and economic barriers to mobility prevent York Region from maximizing the skills and potential of its people.

In 2017, the Regional and local governments in York Region spent over $4.6 billion (capital and operating). In 2016, York Region ranked fifth in total construction values among Canadian municipalities in 2016, spending $4.76 billion. The ratio of jobs to residents has been increasing since 2010,[1] but those opportunities are not spread equally. How can this spending be used more intentionally to drive progressive employment opportunities, more equitable economic development, and greater community engagement, particularly among residents who are low and moderate income, or otherwise disadvantaged?

This toolkit focuses on community benefits as one answer. Community benefits are a proven, progressive way to maximize the benefits of dollars already being spent on goods, services, infrastructure and development to drive more equitable and inclusive economic growth.

The Human Services Planning Board of York Region is exploring how community benefits can help deliver its goal of stimulating local job creation and training opportunities, in particular among those who are underemployed, precariously employed, or who face barriers to employment. Through this initiative, a Community Benefits Framework was created, outlining a proposed approach that could be used by a variety of partners in York Region, from local governments to anchor institutions to large employers. A summary of the Framework is on page 3.

This toolkit is the next step. It is intended to provide practical help for organizations that are interested in using community benefits, but aren't sure where or how to start. It sets out a recommended approach, tools and templates, but leaves space for organizations to adapt these materials to fit their own practices and policies.

Providing these materials is intended to help foster a series of demonstration projects and the beginning of an ecosystem of support that will, over time, enable the development of a consistent overall approach across York Region.

Community benefits is a strategy to help ensure that everyone in York Region can succeed, opening doors to opportunities for those who need them most, and building the health, strength and resilience of people and communities.

[1] https://www.york.ca/wps/wcm/connect/yorkpublic/def64590-6ce9-438c-a20f-60cd1f76502c/17052_gdr2016AccessibleVersion.pdf?MOD=AJPERES

Community Benefits Framework

Objectives

Support a ***culture and commitment*** on the part of governments, anchor institutions and businesses in York region to diversity, inclusion, and maximizing the potential of our people.

Promote ***economic growth and vitality*** in York region by meeting local employer needs with a strong, well-trained workforce.

Drive ***equitable economic development*** across York region by building supply-chain opportunities for small and diverse businesses/social enterprises.

Create a ***support system*** for the promotion and provision of community benefits through collaborations, partnerships, community engagement and capacity-building.

Leverage spending on goods, services, infrastructure and development projects more intentionally, to achieve greater social, economic, environmental and community value.

Principles

Collaboration and partnerships among key organizations within York region

Transparent engagement and communication of community benefits requirements and results

Practical implementation approaches to ensure operational feasibility

Innovative new forms of collaboration and solutions within existing legal frameworks

Adaptable to the needs of different organizations in York region

Sustainable, positive, long-term to systems and cultures change fostered through community benefits

Areas of Focus

a) Workforce opportunities, targeted to young graduates, newcomers, internationally trained professionals & disadvantaged groups (including at-risk youth and working poor)

b) Supply chain opportunities targeted to small and diverse businesses and social enterprises, including those owned and managed by newcomers and members of disadvantaged groups

c) Opportunities for other locally determined benefits

Implementation

a) Procurement of goods, services and infrastructure or development projects.

b) Community Benefits Agreements negotiated between communities and/or local municipalities and developers

Thresholds and criteria for pilot projects guide when to use community benefits on infrastructure & development projects

Key Partnerships

Engagement with key stakeholders to refine framework, establish a community of practice, and build a support system

Supportive Infrastructure

a) Workforce pathway and hiring portal to address recruitment, assessment, training, supports and placement

b) Supplier initiatives to connect them to capacity-building and vendor opportunities

Community Engagement

Inclusive engagement is key to community benefits. Communities should be engaged before, during and after initiatives.

Monitoring & Evaluation

a) Monitoring progress towards targets embedded in each contract

b) Evaluating the community benefits initiative as a whole to assess overall outcomes

c) Evaluating the long-term impact of community benefits on the broader eco-system

Create mechanisms for enforcement to ensure compliance.

Resources

Internal support and training for staff (including Human Resources and Finance); support for the establishment and maintenance of workforce pathway and supplier development initiatives, community engagement, monitoring and compliance

Key Definitions

"Community benefits" - additional physical, social, economic and environmental benefits for local communities that are leveraged by dollars already being spent on goods, services, major infrastructure and land development projects.

Benefits often include training, jobs and apprenticeships for low-income or disadvantaged groups and supply-chain initiatives for small and medium-sized enterprises and/or social enterprises, but can include many other things, depending on the needs and aspirations of the local community.

"Community benefits in procurement" – clauses placed into procurement documents that require successful bidders to deliver specified community benefits as part of the contract. Also called "social procurement" or "social purchasing".

"Community Benefits Agreements" ("CBAs") - private, enforceable contracts, often negotiated between a coalition of community groups, a municipality, and a developer. The developer agrees to provide specific benefits for a project that have been defined by the community through an inclusive engagement process. In exchange, the community groups agree to support the project and to refrain from litigation.

"Community" - York region residents who come together to participate in the process to define, monitor, and/or evaluate benefits, such as those who might reasonably be affected by a proposed infrastructure or development project.

"Disadvantaged" - those who experience discrimination or barriers to equal opportunity, including Indigenous people, racialized groups, LBGTQ+ people, at-risk youth, the long-term unemployed, working poor, people with disabilities, women, and the under and unemployed.

"Young graduates" - those who have graduated from a Canadian college or university within the last two years, are living in York region, and are unemployed or underemployed (i.e. working full time or on contracts, but not at their full capability, based on their level of education, skills and experience).

"Underemployed" - working full time or on contracts, but not at an individual's full capability, based on their level of education, skills and experience.

"Newcomers" - individuals who have arrived in Canada within the last five years from another country.

"Internationally trained professionals" - individuals who obtained credentials to practice their profession outside of Canada.

"Small businesses" - businesses with fewer than 20 employees, including entrepreneurs.

How to use this toolkit

This toolkit is divided into four sections:

- Section One provides a general introduction and provides an overview of some key considerations: when and where to use community benefits, legal frameworks, policies, and engaging with communities.

- Section Two provides an overview of using community benefits in procurement, and includes tools, templates, and model clauses that can be adapted for use by procurement experts.

- Section Three discusses how to use Community Benefits Agreements (CBAs) in the development process.

- Section Four discusses monitoring, tracking, and evaluation of community benefits, and provides sample reporting templates.

Appendix A gives a list of resources, including links to existing community benefits and social procurement policies, agreements, and toolkits from elsewhere.

Appendix B is a sample menu of benefits.

It is recommended that users read through Section One for an understanding of the basics before moving to the tools and templates provided in the rest of the document.

Section One

Getting Started

Legal frameworks

Policies

Engaging with communities

1. Getting started: when and where to use community benefits

An organization can use community benefits as part of its ongoing operations through procurement, or on a project-specific basis. If you're interested in using community benefits but aren't sure where to start, think through the following questions.

1. What kinds of initiatives support and advance your mission?

Organizations can use community benefits in different ways to support their missions. The York Region approach focuses on:

- the creation of workforce opportunities, targeted to young graduates, newcomers, internationally trained professionals, and members of disadvantaged communities;
- supply chain opportunities for small businesses and social enterprises, including those owned and managed by newcomers and members of disadvantaged groups; and
- other benefits that may be locally determined by the community.

Within these areas, organizations can refine their focus. For example, anchor institutions interested in supporting local economic development could choose to adopt supply-chain initiatives that ensure small businesses or social enterprises in their catchment area have an opportunity to bid on contracts being tendered for goods and services. Employers who are looking to diversify their local workforce might decide to hire internationally trained workers or newcomers. Municipalities concerned about an aging workforce, barriers to employment or disadvantaged populations can tie requirements for targeted hiring to construction contracts or enter into community benefits agreements for large developments. Organizations with a mission to deliver positive environmental outcomes might look to locally desired carbon reduction or community greening initiatives. Appendix B is a sample "menu" of benefits and some examples. Talk to your community to determine what kinds of initiatives will advance your mission and vision.

2. Who is your community?

Fundamental to the creation of any community benefits approach is the involvement of the local community. Engaging community members and stakeholders in a community benefits project or program, as discussed in more detail in Section 4, lends legitimacy to the process, ensures transparency, and builds trust and social capital. Whether it is creating an organizational policy for community benefits, or consulting community members who may be impacted by a development project, community input will help you determine how to use your spending more intentionally to meet community needs.

Start by creating an inclusive definition of the community being served by the activity or the project, be proactive about bringing them to the table (especially historically disadvantaged and underrepresented voices), and ask them for their input, right from the beginning. And allow for innovation - they may have different and better ideas than those presented here.

3. Where are the logical opportunities within the organization?

Start by building on what you already do, or look for the natural opportunities. For example, if you purchase a wide variety of goods and services, and you are interested in diversifying your

supplier base, work with your procurement department to identify opportunities to seek bids from diverse suppliers. If working on infrastructure or development projects and you are interested in workforce development, consider whether the projects are of sufficient size and scope to offer substantive employment, training or apprenticeship opportunities.

4. What internal partnerships and collaborations will be needed?

Key to community benefits is a culture of collaboration, and this starts inside. Community benefits can and should draw on the myriad of skills within an organization. Consider an internal working group drawn from different departments to shepherd initiatives and build expertise – this will not only be more effective, but can help break down internal silos. Support communications and training for relevant staff. Implementing community benefits will require the involvement of procurement and legal departments, and may also include planning, human resources, transportation, environmental services, social policy and community engagement. Begin with a demonstration project to bring staff on board and lower the perceived risk of doing business differently.

5. What external partnerships and collaborations will be needed?

Consider what expertise you have in-house, and what partnerships you will need to create to help you fulfill your community benefits commitments. One of the benefits of adopting a Framework across York Region is that efforts are being made to bring together key partners for workforce and supply-chain initiatives to help everyone who is interested in this work across York Region. Try not to re-create the wheel – look to those who are already engaged in the work, and join forces where it makes sense to do so.

You don't have to do everything at once. Start by determining your goals, set out a strategy, and then phase in your use of community benefits, starting with demonstration projects. Once you've tried a few different projects, refine your approach, iterate, and then build on your learnings.

2. Legal Considerations

Before implementing a community benefits approach, it's important to understand the legal and regulatory context. In Ontario, there is provincial legislation that guides procurement and planning. Municipalities also have their own purchasing bylaws, Official Plans, and land use policies.

Any community benefits requirements – whether implemented through procurement or CBAs – must comply with the requirements of the appropriate legislation or policy. The advice and model clauses included here have been designed to be generally compliant with these frameworks. However, **this toolkit does not constitute a legal opinion or advice.** Care must be taken to ensure that your organization's approach is reviewed by your own legal counsel to ensure compliance.

a) Procurement

Including community benefits requirements in procurement offers a clear, consistent and transparent approach that can be valued, monitored and enforced within existing legal and regulatory frameworks.

Municipalities are required, under the *Municipal Act, 2001*,[2] to have a procurement policy that guides the purchase of goods and services.[3] Publicly funded organizations[4] are bound by the Ontario Broader Public Service Procurement Directive (the "BPS Directive").[5] While the BPS Directive requires that organizations not give local preferences to suppliers (principle of non-discrimination), the province's own Implementation Guidebook notes that such procurement practices can be allowed where they are in service of a "legitimate objective", specifically including "affirmative action for disadvantaged groups."[6]

Ontario's *Infrastructure and Jobs for Prosperity Act, 2015*[7] requires the provincial government and public sector entities to consider the promotion of community benefits as a principle when making decisions respecting infrastructure. The Act also requires the provision of apprenticeship plans for public infrastructure projects.[8] The province's Long-Term Infrastructure Plan, released

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[2] S.O. 2001, c. 25, s. 270(1)

[3] See, e.g. Regional Municipality of York Purchasing Bylaw No. 2017-30 which sets out objectives, processes, requirements, and exceptions. Every municipality in the Region has its own procurement policy.

[4] Specifically hospitals, school boards, colleges and universities, children's aid societies, community care access corporations and organizations that received public funds of $10M or more in the previous fiscal year

[5] The BPS Procurement Directive sets out 25 mandatory requirements that must be included in the policies and procedures of these organizations. It is online at: https://www.doingbusiness.mgs.gov.on.ca/mbs/psb/psb.nsf/Attachments/001-BPS_Procurement_Directive/$FILE/BPS_Procurement_Directive.pdf

[6] Ministry of Finance, Broader Public Sector Procurement Directive Implementation Guidebook, April 2011, at 26-27, available online at: https://www.doingbusiness.mgs.gov.on.ca/mbs/psb/psb.nsf/Attachments/BPSProcDir-Guidebook-pdf-eng/$FILE/bps_procurement_guidebook-pdf-eng.pdf

[7] S.O. 2015, c. 15

[8] S. 3(13) states: "Infrastructure planning and investment should promote community benefits, being the supplementary social and economic benefits arising from an infrastructure project that are intended to improve the well-being of a community affected by the project, such as local job creation and training opportunities (including for apprentices, within the meaning of s. 9), improvement of public space within the community, and any specific benefits identified by the community." Apprenticeship regulations are yet to be adopted under s. 9

in November 2017, commits to developing a community benefits framework in partnership with stakeholders and partners, applying it to all major public infrastructure projects by 2020.[9]

Municipalities and public institutions in Ontario are also bound by the Canadian Free Trade Agreement ("CFTA"), the Trade and Cooperation Agreement between Ontario and Quebec (which aligns with the CFTA) and the Canada-Europe Trade Agreement ("CETA"). These agreements prohibit discrimination based on the province or territory of origin for goods, services, workers and investments, above certain thresholds. For CFTA, the thresholds are $100,000 or greater for goods and services, and $250,000 for construction. Certain exceptions apply for procurements associated with poverty reduction and aboriginal people.[10] For CETA, the thresholds are $340,600 for goods and services, and $8.5M for construction services.

To ensure compliance with trade agreements, organizations can consider:

(1) giving preference to local vendors for contracts under the thresholds;

(2) relying on the "legitimate objectives" interpretation or exceptions, where applicable, and

(3) drafting requirements carefully to avoid giving local preference, in favour of other criteria that could be met by a business outside Ontario, and ensuring local businesses are made aware of the opportunities to bid.

b) Development

CBAs are private, enforceable contracts, negotiated between a coalition of community groups, a municipality, and a developer (or sometimes directly between municipalities and developers, after consultation with community groups). Requirements for community benefits can also be included in development agreements, though this is less common.

CBAs can be negotiated between local municipalities and developers where the development offers opportunities for significant community benefits that would not otherwise be afforded through the planning and development process. Consideration must therefore be given to how CBAs interact with planning legislation and policies.

[9] See https://news.ontario.ca/moi/en/2017/11/long-term-infrastructure-plan-focused-on-building-ontario-up.html

[10] In Ontario, exceptions are made in the CFTA for "procurement that targets poverty reduction for disadvantaged natural persons if the value of the procurement is below $200,000." (Schedule of Ontario). In the Trade and Cooperation Agreement between Ontario and Quebec, language respecting allowances for differential treatment based on "legitimate objectives" is the same as that in the BPS Procurement Directive noted above.

Section 37 of the Planning Act and Section 106 of the Municipal Act

The *Planning Act*[11] and other provincial policies and instruments set out how land use planning should occur across the province.[12] Municipalities regulate and control land uses through official plans, zoning bylaws and other planning requirements and instruments.[13]

The notion of "community benefits" is often confused, in Ontario, with contributions provided by developers under section 37 of the *Planning Act*. Section. 37 allows municipalities to, though a bylaw or policy, negotiate contributions for local benefits with developers who wish to build a project that is taller or denser than allowed under applicable zoning. It should be noted, however, that s. 106 of the *Municipal Act* prohibits municipalities from offering resources to manufacturing, industrial or commercial developers that give them an economic advantage.[14]

Most s. 37 policies require that contributions made by developers are in the form of capital assets, such as parks and public art, in or near the neighbourhood where the development is being built. Socio-economic benefits, such as the kinds of workforce or local procurement opportunities discussed in this toolkit, are not generally included.[15] These kinds of benefits may therefore require negotiation through a separate instrument – a CBA. In addition, where section 37 does not apply (because, for example, a developer is not asking for additional height or density), CBAs could allow for the inclusion of capital benefits like affordable housing.

In sum, a CBA is a particular tool to achieve benefits that are supplemental to, or which cannot be captured by, the planning process as it stands today. This does not mean that CBAs should operate entirely outside the planning process, however. Including discussions of community benefits into the existing planning process for a project allows communities to be engaged and meet with municipal staff and potentially developers at an early stage. These meetings are critical to understand and identify community needs.

3. Policies

Policies are important because they provide the organizational context for community benefits, provide direction to internal departments tasked with implementing programs, and signal expectations to external stakeholders and the marketplace. They also provide the basis for other tools that internal staff will need, from for tender documents to program evaluation.

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[11] R.S.O. 1990, c. P.13

[12] These policies and instruments include the Provincial Policy Statement; Places to Grow - Growth Plan for the Greater Golden Horseshoe; the Greenbelt Act and Plan; the Oak Ridges Moraine Conservation Plan; and the Lake Simcoe Protection Plan.

[13] Recent proposed amendments to the provincial *Promoting Affordable Housing Act, 2016* will also give municipalities the option of requiring affordable housing units as part of residential developments ("inclusionary zoning").Amendments are not yet in force as of February 2018.

[14] Municipal Act, 2001, S.O. 2001, c. 25 at s. 106

[15] Of note, the language of s. 37 of the Planning Act does not limit contributions to capital: it allows for the provision of "services or matters" as well. In theory, a municipality could therefore choose to amend its s. 37 guidelines to allow for the provision of noncapital benefits, as well as to require more significant consultation with affected communities, should it wish to allow for supplementary community benefits of the sort that are discussed in this study.

Try before you fly! Begin with demonstration projects to help your organization test and refine its approach, educate internal staff, and engage both internal and external stakeholders. A policymaking process that takes place after the completion of demonstration projects allows for learnings to be incorporated, and is more likely to pave the way for a successful program.

It is possible that you already have existing policies and practices under which strategies and action items for community benefits could be added. These might include corporate strategic plans, sustainability strategies, or poverty reduction programs. Each organization will need to consider this within its own context. But if you are creating a community benefits policy, then consider the following elements, which have been identified as best practices:[16]

1. Leadership. If a community benefits policy is driven from the top, staff are much more likely to take it seriously. In government, political will and buy-in is critical. Within an institution, the active endorsement of the President or CEO will likely aid adoption of the policy. In either case, an internal champion should be appointed – someone who is tasked with driving the policy, at a level senior enough to drive change inside the organization.

2. Clear policy basis and alignment with other policy goals and practices. The policy objectives of community benefits should align with other institutional or public policy goals to make change internally, for example to procurement practices, and drive change in the market.

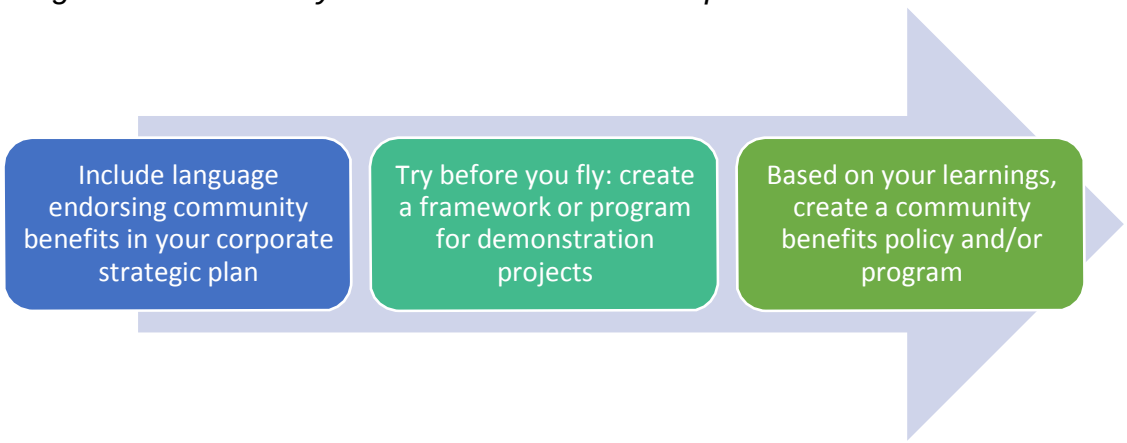
3. Implementation strategies and guidelines. An internal implementation strategy should include staff training and communications as well as development of detailed policy guidelines and processes to guide tendering and procurement, implementation, monitoring and evaluation efforts. Guidelines will also be required for the contracting community so they will understand how to respond to new criteria and expectations for implementation, monitoring and tracking performance. Resources – human and financial – will be required in the early stages of this work to ensure these can be done effectively.

4. Clear definitions, measurable targets, and a monitoring framework. A policy should clearly define core concepts and beneficiaries. Set measurable but reasonable targets for training, hiring and apprenticeships - the contractor's commitment and compliance are key to achieving outcomes. Monitoring and evaluation, as well as a commitment to enforcement, should be built into the policy to ensure performance can be measured against the policy goals.

Community benefits policies should move from the general to the specific, beginning at the level of a corporate strategic plan, and moving to more detailed policies and programs, as shown in Figure 1. Some examples are provided below. Links to the documents referenced in the text boxes can be found in Appendix A, Resources.

16 Graser, D. Community Benefits in Practice and in Policy: Lessons from the United States and the United Kingdom. Atkinson Foundation, 2016

Figure 1 - Community Benefits Policies Roadmap



1. Include policy language in your corporate strategic plan

Add broad language that specifically endorses community benefits as a mechanism that could promote other higher level strategic goals, to pave the way for more detailed policies and implementation guidelines. For example, the social benefits of procurement is often understated, and CBAs provide an opportunity to maximize these benefits. If you are a government, such high-level language also provides permission space to your agencies, boards and commissions to move forward with community benefits initiatives themselves.

BOX 1: YORK REGION'S STRATEGIC PLAN

York Region's Vision 2051 already contains a commitment to fostering entrepreneurship and supporting small business development and growth, as well as encouraging progressive employment opportunities to maximize productivity and inclusivity in the economy. Its Strategic Plan 2015-2019 contains, as a strategic objective, "supporting the development and retention of Region-wide workforce." One activity that is listed to support this objective is to "enhance workforce development strategies assisting underemployed and unemployed residents."

In the next iteration of the Strategic Plan, it would be straightforward to add language endorsing community benefits as follows:

"Enhance workforce development strategies assisting underemployed and unemployed residents, *including through community benefits policies and strategies*."

This high-level language could also be added to activities associated with economic development, infrastructure, transportation, affordable housing, etc.

2. Create an initial framework or policy that provides for demonstration projects

Drawing on strategic objectives of an organization or municipality, create a framework or program to demonstrate the use of community benefits, with a view to creating a policy based on the learnings from the demonstration phase. Pilot projects have been a successful strategy in Vancouver, at the Regional Municipality of Wood Buffalo in Alberta, and in Toronto.

BOX 2: REGIONAL MUNICIPALITY OF WOOD BUFFALO: SOCIAL PROCUREMENT FRAMEWORK (PILOT PROJECT PHASE)

In January, 2016, the Regional Municipality of Wood Buffalo adopted a Social Procurement Framework with the goal to "better leverage tax dollars to achieve positive social outcomes in keeping with community values and strategic objectives".

The Framework focused on ethical and social procurement, with goals that include stimulating economic development, improving supply chain access to local government contracts for micro, small businesses and social enterprises, increasing good quality jobs, training and apprenticeship opportunities, and addressing poverty and stimulating social innovation.

It is currently piloting initiatives in three areas: CBAs in infrastructure contracts; building social capacity in the private sector marketplace (i.e. encouraging private sector bidders to deliver social value); and improving supply chain access for micro, SMEs and social enterprises.

Between September 2016-June 2017, ten pilot projects took place, and a community benefits policy is now being developed.

3. Create a community benefits policy

Once learnings have been incorporated from a pilot phase, a general policy can be created. For example, in 2013, Toronto City Council adopted an initial Social Procurement Framework to guide the development of a policy over a two-year period. Based on the learnings from pilot projects over that period, the City adopted a Social Procurement Program and Policy in 2016.

As an alternative to a general community benefits policy, language can be created for a policy specific to procurement or development. Sample language for a procurement policy can be found at the end of Section Two, Community Benefits in Procurement. In addition, the creation of guidelines and procedures, or changes to processes, can supplement or in some circumstances even replace the need for a policy.

BOX 3: CITY OF TORONTO SOCIAL PROCUREMENT POLICY (EXTRACT)

Purpose and Policy Statement

To embed supply chain diversity and workforce development initiatives within the City's Procurement Processes to drive inclusive economic growth.

General Principles

This policy will conform to the following principles

- Addresses economic disadvantage, discrimination, and barriers to equal opportunity, particularly among equity-seeking communities, that disproportionately experience unemployment and underemployment, discrimination, or barriers to equal opportunity;
- Adheres to the highest standards of ethical conduct and maintains consistency with other City of Toronto policies and procedures;
- Works to build a culture of social procurement;
- Establishes an effective balance between accountability, transparency and efficiency;
- Complies with all applicable laws (including trade agreement implementing legislation), regulations, by-laws, policies, including the Ontario Human Rights Code, the Ontario College of Trades and Apprenticeship Act, and any collective agreements which imposes obligations on the City or its suppliers;
- Achieves best value for the City of Toronto through the consideration of the full range of procurement formats and the adoption of commercially reasonable business practices.

The policy details key components of the supplier diversity and workforce commitments, including application of the supplier diversity provisions at different levels; application of the workforce development initiatives to construction projects over $5M; and procedures to assess compliance.

4. Engaging with communities, and partnering with stakeholders

Community benefits is a powerful tool for engaging communities, building community capacity and creating partnerships across York Region. Bringing residents together to discuss how initiatives benefit their communities can drive social inclusion, mitigate risks for large projects, and help build social capital for governments and anchor organizations.

Engaging with communities

It is remarkably easy, and likely tempting, to create a community benefits or social procurement policy without actually talking to people. After all, who could be opposed to a policy or agreement that provides opportunities to disadvantaged communities or small businesses? But to do so is to miss the very raison d'être of this work: the strengthening of the local community voice, for the greater benefit of York region.

Good public engagement brings creative input and valuable local knowledge to the table, strengthening and legitimizing decisions. It provides a forum for factual information to be communicated, and a way to address misunderstandings or disagreements. It builds trust and understanding, can help reduce NIMBYism, and in the case of public infrastructure, fosters pride of ownership. And, by bringing underrepresented voices to the table, engagement helps build social inclusion – particularly important in York region, with its high proportion of newcomers.

Whether you are setting out to create a community benefits policy, or embarking on an infrastructure or development project, *talk to communities first, during, and after the initiative*. Create an engagement plan and provide sufficient lead time, staff, and other resources. Set the parameters for the discussion and think about how and when communities can inform and contribute to decision-making. Consider in particular what will be needed to ensure a diverse range of participants, including those from low-income communities or those for whom English is not a first language. For example:

- Can you provide child care for an evening, help with transportation costs, and supply translators or sign-language interpreters, if necessary?
- Is the venue accessible, will there be snacks or food available, and can you have sessions at different times (daytime, evenings, weekends) and places to allow those with variable schedules to participate?
- Are there community organizations with whom you can partner to host sessions, who may be able to bring their own members and constituents to the table?

If you are about to enter into a planning process for a major infrastructure or development process, put community benefits on the table at an early stage, make sure you are bringing an inclusive range of voices to the conversation, and be clear about what you are prepared to negotiate. Defining what is on the table and what is off the table is important in setting expectations. Community benefits can be integrated into wider discussions about community needs and aspirations during the planning process, helping ensure they are integrated into the project.

Consider as well mechanisms for ongoing engagement. For example, you might set up a community advisory committee to help inform the development and implementation of a policy or demonstration projects. If there is a monitoring committee involved as part of a development

project, consider ensuring community members are included to help troubleshoot the delivery of community benefits. Post-project, use surveys, focus groups, or other methods to help evaluate success.

There is a lot of good material on public engagement available, and many experts in the field who can help put together a solid process. Organizations like the International Association for Public Participation (IAP2) provide useful tools and techniques that can help inform approaches. In addition, many municipalities already have their own resources and approaches to engagement.

While every process is different, one sample approach is attached as a tool. Links to resources for creating community engagement plans are included in Appendix A.

Stakeholder Partnerships

The York Region Framework has, as one of its core objectives, the creation of a support system for community benefits through collaborations, partnerships, engagement and capacity-building. In addition to the community, there are many key stakeholders with whom partnerships will be necessary and productive. Creating a strong network of partnerships in York Region also allows for information and resource sharing between partners

Stakeholders can play an important role in helping design or provide feedback into community benefits policies and agreements through consultations, round tables, design labs, or working committees.

The Human Services Planning Board of York Region represents an important cross-section of partners who can collaboratively drive the adoption of community benefits across York region. Other recommended initiatives include:

- An “AnchorYork” community of practice to bring anchor organizations across York Region together to work on a consistent approach, share learnings and develop best practices.

- Collaborative development of infrastructure to support targeted workforce initiatives, including a single workforce portal that can resource contractors, with government, workforce agencies, unions, employers, contractors, colleges and universities, and other key partners.

- The creation of similar supportive infrastructure to facilitate supply chain initiatives, connecting small businesses and entrepreneurs with capacity-building programs and supply chain opportunities offered by governments, institutions and developers. York Region’s annual live business survey should be a key resource for this initiative. Key partners include governments, Small Business Enterprise Centres, local chambers of commerce and boards of trade, incubators/accelerators, organizations supporting entrepreneurs and social enterprise intermediaries.

- Developers, contractors, industry associations and businesses should be at the table from an early stage: their buy-in and cooperation will be critical to your success.

Tools for Community Engagement

Sample Process

While community engagement is highly context-specific, the basics of a good process are not a mystery. Here are some key steps to get you started. For more detailed tools, check some of the resources in Appendix A.

1. Define your strategic objectives

What, *broadly*, are you trying to achieve? For example, are you bringing people together to provide input on the creation of a community benefits strategy for your organization, or are you looking to define benefits specific to a particular project? Do you have objectives besides those that are specific to community benefits – for example, to build the capacity of communities to participate, or educate communities about your mandate?

2. Define the goals of the consultation

What *specifically* are you seeking to achieve by engaging people? In the context of community benefits, you will want one goal to be defining (or validating) a set of specific and achievable benefits for the project or initiative under discussion. But you may also want to educate communities about a project or initiative, understand their needs and aspirations, solicit their input, build trust, meet regulatory requirements, etc. Be clear about your goals.

3. Do your research and define your community

Do your research to understand, map and define who is affected by, or interested in, this project or initiative. Think about ratepayer, residents' and tenants' associations; neighbourhood groups; faith groups; interest groups; social services agencies and their clients; governments (elected officials and staff); community and anchor institutions; businesses and industry associations. Build a database. Consider working with partners like community agencies to help you reach beyond the "usual suspects" to ensure a diverse range of participants who do not often have a voice at the table, including youth, seniors, low-income residents, and those for whom English is not a first language. This may require additional resources or funding.

4. Define your scope

What's on the table, and what's off in this discussion? Set clear parameters for the conversation, and be transparent about where communities can influence decisions, and where they cannot. For example, if a decision has been made to locate a piece of infrastructure in a particular place, a discussion of community benefits can't include an option to "move the project elsewhere" – but it could involve a discussion of what benefits could be part of its construction or operations.

Also, ensure you tell people what other factors, in addition to their input, will be considered when making decisions about community benefits. For example, there may be constraints about time or budget, technical/physical considerations, or opportunities to align or enhance community benefits with other areas of work. Where engagement is taking place within an existing planning or environmental assessment process, factors relevant to those processes will also be important to explain and set out at the beginning.

5. Create good information and a communications strategy

A critical step in any engagement plan is communications. Have clear, accessible and readable information about the project or initiative. This could include fact sheets, a website, or interactive tools. Use visuals and if possible translate materials if you are in an area with a high proportion of non-English speakers. Consider creating workbooks/worksheets, discussion papers, online tools and other activities to solicit input and encourage information exchange. Create a transparent strategy for ongoing communications for the project, and consider how it relates to your other communications activities (for example, internal reporting/communications, media relations, external distribution channels for company information, etc.) Keep up regular communications throughout the project.

6. Create an implementation plan

Depending on your strategic objectives, goals and the size of your community, you can now create a plan that may involve a range of engagement mechanisms: workshops/design labs, meetings, roundtables, advisory committees, kiosks, etc. The plan should include consideration of logistics (invitations, venues, translation, transportation or childcare if required, food and drink, etc.). Ensure you have one or more skilled facilitators to guide the conversation, as well as note-takers. If you are creating an advisory committee with an ongoing role, create clear Terms of Reference and make sure there is an opportunity to discuss them early on.

7. Document the process

After the meeting, notes should be drawn up and circulated among the meeting participants to ensure the discussions have been accurately captured. A report that summarizes the conclusions and/or recommendations should then be issued.

8. Report back

Once benefits have been determined, it is vital to report back to those involved to show people how their input was considered, how concerns and aspirations were addressed, and the basis on which final decisions were made. If a monitoring or advisory committee is set up, report-backs may be periodic in nature as the project is implemented.

Section Two

Procurement

5. Community benefits in procurement

General considerations

Strategic procurement can be a powerful tool to foster equitable economic development. Maximizing targeted workforce opportunities can be done directly by the organization, or indirectly, by including requirements for targeted hiring in contracts for the provision of construction or services.

Supply-chain initiatives can be designed to ensure that designated suppliers have an opportunity to bid on contracts, ***or*** can require that they supply the work. These are two quite different approaches, and an organization may choose to use one or both.[17]

If you're interested in adopting either workforce or supply-chain initiatives, think through the following steps. Tools follow this section with more detailed considerations and templates.

1. Define who you want to target, and which suppliers you want to encourage.

The York Region Framework proposes to target workforce and training opportunities to young graduates, newcomers, internationally trained professionals ("ITPs") and members of disadvantaged groups. For young graduates and members of disadvantaged groups, emphasis will be placed on "career start" opportunities and associated needs for training, mentoring, and wraparound supports. Opportunities for newcomers and ITPs address the need for Canadian experience.[18] In consultations, some local governments in York Region noted building a local workforce while also addressing the skills mismatch between skillsets and available jobs would move towards their priority of job creation and economic development..

Similarly, the Framework recommends that supply-chain initiatives target small businesses, social enterprises and entrepreneurs, including those owned and run by newcomers or members of disadvantaged groups.

Start by defining who you are trying to reach. You may wish to target all of these groups, some of them, or prioritize those in a specific geographic area or municipality (within the limits allowed by trade agreements) depending on the mission of your organization.

2. Determine the scope of your program

Beyond the range of opportunities your organization can offer directly, workforce opportunities can be built into different kinds of contracts. These include service contracts, which may require

[17] An example of the first approach is the City of Toronto's Supplier Diversity Program. All purchasers within the government are required to seek at least one quote from a diverse supplier when tendering bids of a certain size, but this doesn't guarantee that the diverse supplier will get the contract. City of Toronto Social Procurement Program, online at http://www.toronto.ca/legdocs/mmis/2016/ex/bgrd/backgroundfile-91818.pdf. The second approach places a hard requirement, typically on a developer or contractor to subcontract a certain percentage of its spending to targeted suppliers. This method is more common in the context of CBAs: for example, it was used on the Vancouver Olympic Village project where the developer was required to spend $15M in procurement on goods, services and equipment from inner-city businesses ($24M was eventually procured). Peachey, K. (2009). Building on Success: An Evaluation of the Community Benefits Agreement for the Vancouver Olympic Village Site. Vancouver: Building Opportunities for Business Inner City Society. See also See PARQ's Report Back on Legal Agreements for 39 Smithe Street, Nov. 30, 2016, online at http://council.vancouver.ca/20161130/documents/pspc3-Presentation.pdf

[18] In the case of ITPs, such experience will allow them to continue in their professions or gain necessary Canadian credentials, as required.

fewer skills, like landscaping, or more skills, like engineering. Professional services contracts in particular offer more opportunities for ITPs.

For infrastructure and construction projects, consider whether the project has the potential to offer employment, training or apprenticeship opportunities during the design, engineering, construction and/or operations phases,[19] and choose appropriate thresholds. Not every project will be of sufficient size and scope to afford meaningful benefits, so it is important to consider when it is feasible and cost-effective to include them. For example, where the budget of an infrastructure or development project is largely materials rather than labour, workforce opportunities may be limited.

For supply-chain initiatives, decide if your program will apply to all purchases for goods and services made by your organization, or only part. Identify contracts of a suitable scale to be delivered, and consider phasing in or piloting the approach. For example, you could:

- phase a program in over time, starting with certain departments or categories of purchases;
- apply it to all purchases made by your organization under a certain financial threshold (municipalities may wish to start with the $100,000 threshold under CFTA, for example); or
- apply it indirectly to large construction projects, by requiring contractors to spend a certain proportion of their procurement on the targeted category of suppliers.

3. Revisit your standard criteria and terms and conditions, if necessary

Consider removing potential barriers to the engagement of targeted businesses by requiring only those qualification criteria that are essential. For example, insurance or bonding requirements may be costly for small businesses, but not all contracts carry the same degree of risk. Careful analysis can ensure requirements are scoped appropriately. A "prompt payment" clause can encourage small businesses to bid where they might have cash flow issues otherwise. While the trend has been toward aggregating contracts, strategic disaggregation or unbundling can also encourage small businesses to bid.[20]

4. Adopt guidelines for the procurement of goods and services.

Work with your procurement department to establish clear guidelines and specifications that are consistent with your organization's policies and practices about when and how you will target

[19] Criteria that might inform this consideration include:

- quality and duration (the degree to which opportunities can offer candidates meaningful experience, learning and skill development, fulfillment of apprenticeship requirements, achievement of professional credentials, and/or long-term, sustainable employment)
- cost and person-hours of labour (the percentage of costs of a project that is labour vs. materials and the number of opportunities that could be made available)
- feasibility (the likelihood that workforce outputs can be achieved within the proposed timeframe of the contract)
- labour supply (whether there are sufficient qualified candidates who are trained and/or ready to fill the jobs)

[20] Care must be taken however to avoid the perception of "bid splitting", i.e. breaking down contracts for the purposes of avoiding requirements in procurement laws.

procurement opportunities to the designated category of suppliers, and share them with purchasers across your organization.

For capital projects, consider whether they have the potential to offer supply chain opportunities during the planning, construction and/or operations phases.[21]

5. Set a goal and track against it.

Where you are asking contractors to deliver workforce opportunities, ensure there are clear targets and mandatory requirements in procurement documents and contracts. Require that contractors pass these requirements through to their subcontractors as well, since often the bulk of jobs and training opportunities are found at the trades or subcontractor level. Contractors are in the business of delivering what is asked of them, so be specific– don't settle for "best efforts", because that may mean "no effort". At the same time, set a target that is reasonable. The goodwill and compliance of the contractor is key, so you need to ensure your target can be achieved, and sets up your program or project for success.

The same is true for supplier initiatives: goals and targets for the program should be set along with monitoring and reporting systems, so that the success of the program can be regularly assessed against goals and adjusted if necessary. For more information on monitoring and tracking, see Section Four.

6. Workforce recruitment and placement

How do you find candidates who are appropriately trained? The York Region Framework proposes taking a coordinated approach by creating a workforce pathway and public-facing hiring portal to facilitate the process. Such a portal would enable workforce development agencies to put their candidates into a central list that identifies the occupations they are suited for, their training and qualifications, and availability. Employers across York region could supply opportunities to the portal, access the list and interview prospective candidates.

Until this supportive infrastructure is created, however, you can reach out to workforce agencies yourself to partner with you on recruiting and placing appropriate candidates. Many employers already have relationships with service providers across York region.

7. Supply-chain partnerships

Small businesses and social enterprises may lack the capacity to bid on or service larger government contracts. Many capacity-building activities - from workshops to teach small suppliers how to bid, to providing financial or expert resources, to mentorship programs and technical assistance programs – are already offered by a variety of providers across York region. The York Region Framework proposes taking a coordinated approach, potentially by building a robust database that providers and industry associations could access to help connect businesses with the appropriate capacity-building assistance, and/or to provide consistent

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[21] In making this assessment, factors to be considered include:

- identification of the categories of purchases that will be required, and an assessment of whether there are targeted suppliers who provide these goods or services;
- breakdown of the potential number, scope and value of the opportunities
- availability of resources for contractors, such as lists or a portal for suppliers, or supplier intermediaries
- capacity of suppliers to fulfill the needs

information about supply chain opportunities offered by governments, institutions and developers.

Encouraging or requiring partnerships between larger businesses and small businesses or social enterprises is another route: the larger business does the bidding but employs or partners with the targeted business to provide the goods or services, relieving the smaller partner of addressing onerous insurance or cash flow requirements.

If your emphasis is on diverse suppliers, consider working with certification organizations such as the Canadian Aboriginal and Minority Supplier Council, which can provide a level of quality assurance.

8. Educate suppliers and contractors

It is key to build awareness of community benefits requirements, explain the value proposition, and communicate the resources that are available to support contractors to the industry. Contractors may balk at the beginning, and tell you they aren't in the business of targeted procurement. Provide guidelines and information to help them understand your goals. Help them understand how their ability to deliver gives them a competitive advantage in the marketplace. Connect them with the relevant workforce agencies and other supporting organizations who can help them fulfill their hiring and training requirements. A "one-stop shop" such as the hiring portal envisioned in the Framework makes this process much easier – but if they don't know about it, they can't use it. Communication is critical.

Your program will only be successful if the suppliers you are targeting know about the opportunity, and if contractors understand what you need and how to deliver. You will need a communications plan to ensure that suppliers know about your needs and any associated capacity-building programs. This can be assisted by working with local industry associations, chambers of commerce, boards of trades etc. who can help get out the word. You can also set up a portal for suppliers and create a mailing list, so they are automatically notified when opportunities are posted.

Procurement Tools and Templates

A Developing tender documents and agreements; introduction to the templates.

1. The principles

This document has been developed in accordance with four key principles:

1.1 It is the procuring organization's responsibility to decide what they wish to buy and the contractors' responsibility to develop the methodology to deliver and price it. This should establish a level playing field, as all bidders are responding to the same clear specification.

1.2 The community benefit requirements must fit within the legal and policy frameworks that determine how the organization contracts for the provision of construction, services and goods, including – in the case of publicly funded bodies – national and international trade agreements.

1.3 The community benefit requirements should fit within established good procurement practices within the organization, rather than introducing a second methodology just for community benefits that sits outside of the established practice (and therefore introduces additional risks).

1.4 There is no 'one size fits all' set of clauses for introducing community benefits into a procurement process, but the closer this text keeps to an agreed 'model' the better, because this will:

(i) allow organizational confidence to grow from project to project,

(ii) enable contractors to build up knowledge about what is required and establish sound methodologies for delivering these requirements,

(iii) enable support organizations (like employment agencies) to set up mechanisms to meet the contractors' needs, and

(iv) enable different projects to utilize a standard monitoring and reporting framework based on a single database.

2. Model texts

To inform a possible approach to incorporating community benefits, a set of model texts are included here. These are based on international examples but have been designed to address input from procurement officials from a range of organizations working in and around York region. It is recommended that further work take place through a series of demonstration projects to refine this approach.

The following documents cover three areas:

Template B: model text for adding 'community benefits' into a Procurement Bylaw (or similar) or otherwise adopting a policy to (i) pilot the use of community benefits in

procurement, and /or (ii) provide for the inclusion of community benefits in future procurements.

Template C: questions and a scoring framework for use in a pre-qualification and selection process that allows weighting for companies that can demonstrate prior experience and technical/managerial capacity relating to the proposed community benefit requirements.

Template D: model text for including community benefits in a specification (or similar) and includes a model Delivery Plan and Net Cost Schedule to be completed by bidders.

As noted in the preceding section, these tools focus on workforce and supply chain benefits. However, there is considerable literature around sustainable procurement, and examples of contractual language for criteria specific to, for example, water, energy, and green technology initiatives. For resources on how to incorporate environmental benefits into procurement, see Appendix A. These are complemented by a pro-forma Monitoring Report to be completed by contractors, set out in Section Four of this toolkit.

This material does not constitute legal advice. Users should seek their own legal advice when they consider this appropriate.

3. Customizing the model texts

As the texts are models it follows that officers in organizations that agree to pilot or adopt a community benefits approach should customize the Appendices as appropriate. In addition, a series of decisions will need to be made, first when deciding on any pre-procurement selection process, and then in developing the community benefits requirements for the specification (or similar).

To determine the requirements, the project team should, in collaboration with subject matter experts (internal or external), procurement, and legal counsel, determine the following at an early stage:

3.1 Decide which categories of 'disadvantaged groups' should be included in the definitions, ideally reflecting the needs in and around the area of delivery of the contract.

3.2 Decide how to define the numerical targets for 'career development opportunities' (e.g. a number or person-hours worked, or a number of recruits obtaining a minimum number of person-hours of work).

3.3 Name the organizations that the procuring organization would like the contractor to work with to identify suitable 'career development recruits' and targeted businesses.

3.4 Determine how the contractor’s costs are to be identified.

3.5 Agree whether provisions should be included to allow for rectification of community benefit requirements.

3.6 Agree whether there should be penalties for the non-delivery of the community benefit requirements.

3.7 Agree when and how the Community Benefits Delivery Plan should be scored.

4. Setting Targets

A key concern may be how to set the targets for 'career development opportunities' in 3.2 above. Including these opportunities is a labour market initiative, i.e. the aim is to address a failure of the labour market to generate training and work experience opportunities for certain categories of people who are defined as 'disadvantaged'. In setting the target it is right to consider the relationship between the target set for the numbers of career development opportunities and the total workforce required to deliver the contract. The client organization will want to ensure that the contractor has sufficient skilled and experienced workers to deliver the contract requirements in the time and to the standard required, as well as providing career development opportunities.

In setting workforce-related targets it is necessary to consider both the number of beneficiaries and the duration for which they are engaged and/or needing support. In many UK examples the targets are set as a number of person-weeks (or person-hours). However, there are also limits to the duration for which each targeted recruit can be counted towards the target: the aim is for each individual to be employed for long enough to obtain the minimum level of qualifications and productivity to be able to compete in the labour market going forwards. This also 'shares' the opportunities across a larger number of beneficiaries.

In the UK and in Canada, projects have tended to use target opportunities of about 10% of the labour time required to deliver a contract, and there is evidence of this target being exceeded in a number of construction contracts. This figure is used as a guide for construction and more labour-intensive services here.

This approach raises the question “what is the total number of person-hours required to deliver the proposed contract”? In the construction sector there are professionals (like surveyors and cost consultants) who will have the knowledge to provide an estimate of total person-hours required, since this is one factor in estimating the likely cost of a project when it is being prepared. In large construction projects, providing this estimate should be included in the scope of services when the team is procured. Reliance on this professional advice provides a sound basis for setting the workforce target. Once an estimate has been created, a target can be set as a number of person-hours, which is relatively easy to monitor.

Where this professional advice is not available then the process set out in the table below could be used.

1	Estimated cost of the proposed contract*	$
2.	Labour cost as a % of total cost	%
3.	Estimated labour cost (Line 1 x %)	$
4.	Estimated average labour cost per hour	$
5.	Total person-hours to deliver the contract (line 3 divided by line 4)	Hours
6.	Career development opportunity target @ [10%] of line 5	Hours

* This should include normal equipment, materials, labour and overheads but exclude exceptional items e.g. if the contract includes the provision of a significant cost for items (e.g. equipment) that will not involve much construction/service delivery.

In the above table research may be required to ascertain information for lines 1 and 2. However, this information may be known to specialist personnel within the project team, or could be ascertained through pre-market research with existing providers or other providers that might bid for future work.

In some areas the above processes have been used to establish standard targets for a sector since the labour component of a contract does not vary much between contracts. This simplifies the target-setting process. So for example, in the UK, a target equivalent to 1250 hours per $1m in contract is used for building construction projects which have a high labour content.

On the basis of either professional advice or the completion of the above table the target person-hours will not turn out to be, e.g., 10% of the actual time used, in the same way that a pre-tender cost estimate will not turn out to be the actual cost. However it is a reasoned approach that can be used to set a standard and measurable target for all bidders.

An alternative is to set the target as a percentage of the total hours utilized in the delivery of the contract. For the Eglinton Crosstown light rail project in Toronto, for example, apprentices or journeypersons from historically disadvantaged and equity seeking groups are to perform 10% of all trade and craft working hours required on the project. Tracking by hours is also common in the case of U.S. CBAs. However, this relies on a robust monitoring and tracking system in order to capture an accurate and verifiable figure for the actual hours used.

5. Project Agreements / Contract Conditions

The community benefit requirements should form a part of the Project Agreement or Contract, whether or not the Delivery Plan and Net Cost information is scored as a part of the award process. Community benefits should be a condition relating to the delivery of the agreement/contract.

The same text used for the specification in procurement documents should be used by the legal team in the preparation of the formal Agreement/Contract with the contractor, recognizing however that these documents may vary between types of procurement models.

6. Obtaining advice and support

A procurement exercise typically involves a team of people with different sets of knowledge e.g. the internal client function, the procurement team, the legal team and a project management function. Where community benefits are to be included, additional knowledge-sets need to be included. In some organizations these may be in-house, for example as part of an economic development function or in a team that undertakes or supports employment or training. In other cases this may require inputs from a partner organization (e.g. a vocational training provider or a business development organization), or support could be provided through a contract with a specialist consultant. These inputs will be critical to customizing the model texts.

Because the use of community benefits in procurement is very new in Canada, teams will need to develop their knowledge and experience. There may be two aspects to this:

6.1. ensuring that they are objective and even-handed when selecting the beneficiaries and the named provider agencies for a particular project; and

6.2 ensuring that they comply with confidentiality and the essentials of good procurement practice so that they don't inadvertently put the procurement process at risk.

7. Other requirements: a community benefits 'system'

An organization that adopts a community benefit policy and/or seeks to develop a pilot program will need to develop the elements of a community benefits system, and will need to invest some resources in this. The system should include the following.

7.1 Officers with knowledge and responsibility relevant to the types of community benefit that are being prioritized (e.g. targeted recruitment and training, small business development, etc.) need to act as promoters of and advisers on the approach, and share 'ownership' with their procurement colleagues.

7.2 A critical element of success will be to make delivery easy for the contractor by enabling them to access potential job candidates (relevant to the disadvantaged groups named in the specification/agreement) or businesses that they can engage in the supply chain. This requires the potential employment or supplier intermediaries and their resources and activities to be mapped and either (i) used to select the named intermediary (ies), or (ii) provided as a list that any bidder or contractor can access.

7.3 A data-base should be established to record the data on the beneficiaries and collect, aggregate and produce reports for the contracting organization on the community benefit outputs as a way of ensuring delivery and providing accurate data on which to base 'rectification actions' or the imposition of penalties.

8. Managing innovation

Introducing community benefits into contracts and agreements is not rocket science. It is far less complex than many activities that are required for the delivery of contracts. On the other hand - as the detail in Template D perhaps shows - it is not as easy as many inexperienced practitioners think! Successful implementation should therefore be treated as a significant piece of organizational innovation that needs to be thought through and supported. Experience from other areas suggests that the following will be helpful.

8.1 Clear leadership from senior staff - a commitment to making this happen - backed up by a person or team that has the responsibility to follow-through.

8.2 Development through demonstration projects where it is necessary to solve problems and take decisions within the set procurement timetable, followed by the evaluation of the projects and learning from the process.

8.3 A 'learning process' for the officers whose support and knowledge is essential to the implementation process because this is likely to be new territory for them.

8.4 The development of standard approaches and systems so that each new project merely requires adjustment to these rather than wholesale re-writing.

8.5 A process for sharing knowledge and materials within the organization so that peer to peer learning and discussion can take place: this should involve project managers as well as procurement staff.

8.6 The reporting of progress and outcomes to senior management in the organization on a regular basis to ensure that monitoring and reporting information is read, and that the project manager takes action on the community benefit requirements as they would on more traditional elements of the contract.

8.7 Staff at all levels should receive adequate information and training, as needed, to ensure that organizational change is smooth.

8.8 Provide a modest weighting for community benefits in asset management planning or other tools that are used to decide how e.g. projects are prioritized or capital budgets are allocated.

9. Start early

Many of the points set out in the above sections will be easier to achieve if community benefits are included in the very early conceptualization of a project or procurement exercise. Including community benefits as an after-thought may be necessary to get early demonstration projects in place, but community benefit aspirations/requirements early will make them much easier to achieve. Also they can be reflected in budgets and in funding proposals, including for example applications to federal funds that require a commitment to community benefits.

B. Sample Text: Adding Community Benefits into a Procurement Policy or Bylaw

The following text should be considered for:

> *(i) obtaining formal approval for a Demonstration Community Benefits in Procurement program that will last for up to [3] years and include a minimum of [12] projects covering building, infrastructure and services; and*
>
> *(ii) inclusion in an organization's Procurement Bylaw or Policy in line with governing legislation*

The aim is to establish a set of principles for the delivery of community benefits as a contract condition and as a part of the Value for Money assessment. Community Benefits are therefore established or piloted as a core requirement of the contract.

Purpose

1. [.....] *(enter the name of the organization)* recognizes that through the procurement of construction, goods and services it can achieve additional community benefits, including registered apprenticeships (as defined in the Ontario College of Trades and Apprenticeship Act, 2009), targeted workforce opportunities for disadvantaged groups, supply chain opportunities for small businesses and entrepreneurs, and other benefits as defined by local communities. It has therefore agreed that [it will incorporate community benefits in projects in line with the thresholds in 3 below] [as part of a pilot to develop understanding and identify costs and other issues]. (*select one)*

Using community benefits in procurement supports (*insert name of organization*)'s strategic goals to (*insert high-level goals: e.g. reduce poverty, foster local economic development, enhance diversity*) as set out in (*reference corporate strategies, mission, or other policies).*

Applicability

2. In considering when community benefits will be deliver the best outcomes, purchasers should have regard to the scale and duration of the project taking into account the following:

- in construction contracts (and some services contracts where there is not an existing workforce) the larger the value of the contract the greater the potential opportunity to obtain significant employment and training opportunities for disadvantaged groups, and to provide supply-chain opportunities for small and diverse businesses;
- smaller value and shorter duration contracts will generate fewer employment and training opportunities but may still provide good supply-chain opportunities for businesses and/or be valuable as demonstration projects;
- eventual regulations requiring apprenticeship plans that will be issued under the Ontario *Infrastructure and Jobs for Prosperity Act*, *2015*.

3. Community benefits requirements will be included in larger value contracts unless there are specific reasons why this is deemed inappropriate, where 'larger value' is interpreted as follows:

- [$5M] for infrastructure contracts;
- [$.....] for IT and Professional Services contracts.
- [$.....] per annum for other services contracts;

These values will be reviewed by Procurement from time to time to reflect inflation and the experience of procurement practitioners that have implemented projects [and/or will be evaluated after the three-year demonstration project has been completed.]

4. Notwithstanding the above, community benefits may be considered in below-threshold contracts where deemed appropriate.

Definitions

An organization can pick and choose which categories it wishes to focus on in its policy, depending on its priorities; it may refine these definitions or choose a particular defined group, e.g. small businesses owned or led by newcomers.

“Disadvantaged” means those who experience discrimination or barriers to equal opportunity, including Indigenous people, racialized groups, LBGTQ+ people, at-risk youth, the long-term unemployed, working poor, people with disabilities and women.

“Young graduates” means those who have graduated from a Canadian college or university within the last two years, are living in York Region, and are unemployed or underemployed.

“Newcomers” are those who have arrived in Canada within the last five years from another country.

“Internationally Trained Professionals” are individuals who obtained credentials to practice their profession outside of Canada.

“Small Businesses” are businesses with fewer than 20 employees, including entrepreneurs.

“Underemployed” means working full time or on contracts, but not at an individual’s full capability, based on their level of education, skills and experience.

Procurement Process

5. Community benefit requirements should be considered at the earliest stage of developing a project, in the budgeting process and associated funding bids, and incorporated in each stage of the procurement and contracting processes.

6. A weighting of up to [*5%*] may be given to specific commitments to include community benefit requirements in a project (as a part of the contract conditions).

7. Community benefit requirements will be treated as a part of the subject of the contract and the value for money assessment, and considered at each stage of procurement and contract delivery in line with good procurement and contract management practice. Responsibility for including community benefits in a procurement and contracting exercise remains with the internal client, its procurement team and legal advisers.

8. [.....] *(enter the name of the organization)* will work with the York Region Human Services Planning Board and other partner organizations to develop materials and services that will assist in the successful delivery of the required community benefit outputs from its contracting activity.

For information, training and advice relating to this policy, contact ..... *(enter the appropriate name/role, department and contact details.)*

C. Sample Text: Pre-qualification and Selection Process

Where community benefits are to be included in the contract conditions and there is a pre-qualification process, the organization should seek to identify firms that can demonstrate that they have the technical knowledge and management capability to deliver the community benefit requirements alongside other requirements. This is especially important where a bidder's Community Benefits Delivery Plan will not be evaluated and used in the award of the contract.

Including questions about recruitment and training in the pre-qualification process has the added advantage of making all potential bidders aware at an early stage that contract will include community benefit requirements.

It is proposed that the % of overall marks given for the community benefit questions can be modest: 5% is suggested below.

The community benefits being considered for procurement are matters that all good contractors have experience of: recruitment, vocational training and supply-chain development.

Where the questions below are included then the procurement team should seek to obtain support from colleagues that have experience of training and recruitment and economic development processes when scoring the answers.

Questions for a Pre-qualification exercise

Please answer the following questions. A maximum of 500 words is permitted for each question.

1. What experience does the organization have of recruiting young people (aged 18-24), internationally trained professionals, and/or other people who are facing barriers to entering the Canadian labour market? Does the organization have experience providing training and mentoring to enable them to develop appropriate skills, productivity and working practices? Please provide a short case study of where this has been done successfully.

2. How is recruitment and training managed in the organisation, and what experience do the staff responsible for these functions have of recruiting and supporting youth or people who are facing barriers to entering the Canadian labour market? Please provide a short case study of where this has been successful.

3. What experience does the organisation have of targeted or local procurement, or of developing supplier relationships in a new sector of operations? Please provide a short case study of where this has been done successfully.

Evaluation Criteria

Demonstrated experience hiring youth, internationally trained professionals, or others who are historically disadvantaged and/or face barriers to the labour market.

Demonstrated experience recruiting, training and/or mentoring such persons.

Demonstrated experience in targeted or local procurement, or developing new supplier relationships.

Scoring the pre-qualification questions

Your organization may already have a scoring system. If not, a sample is provided below.

Each question should be marked from 0 to 5 as shown below. The total score for each potential supplier should then be adjusted to account for [5%] of the total Pre-qualification score.

Assessment of the answer (first 500 words only)	**Score**
Failed to address the question	0
Poor overall response to the question	1
Modest overall response to the question	2
Acceptable overall response to the question	3
Good overall response with a relevant case study	4
Exceptional overall response with a relevant case study	5

D: Sample Text: Community Benefits in a Specification (Tender or Request for Proposals)

This text has been produced as a template that could be used for a wide range of contracts covering construction projects and services contracts. It is recommended that users of this text undertake a number of demonstration projects to develop experience and confidence before adopting the approach on a longer-term basis.

The community benefits included below address employment/'career development opportunities' and supply-chain opportunities for small businesses. These sample provisions do not prevent other benefits from being negotiated which would require separate provisions to be included.

The arrangements include obtaining a Community Benefits Delivery Plan with a tender/proposals which means that contractors have to consider this when developing their methodology and costing for a project. Where contracts are awarded on the basis of price alone it is anticipated that the delivery plan will only be evaluated and used in the award of the contract where two bidders have obtained the same score on the basis of price or price and quality.

The approach treats community benefits as a part of what is being purchased, and as a contract condition. In line with this it is recommended that bidders be required to complete a Net Cost Schedule (see Annex 1 hereto) and include the Net Cost in the Bid Cost Summary (or similar) - as they do for all other costs associated with the delivery of the contract.

Since there will be many contracts where the delivery plan is not scored in the award of the contract it may be important to include additional processes to ensure that these contract conditions are implemented. In the first instance this will be through regular oversight by the Client's project manager and discussion at project reviews and/or specially convened meetings. However, the text below includes two elements that provide additional 'enforcement arrangements':

- *a 'rectification notice' procedure, and*
- *the risk of financial consequences and disqualification from future procurement exercises to maintain the pressure on the contractor to deliver the outcomes.*

The text below has been developed from models that have been used in the UK but are new to Canada. Procuring organizations (called "Clients" below) and their advisers should amend these as necessary: the clauses are not provided as legal advice.

Definitions

(Select from the following list of definitions and include those selected in the tender/RFP documents and then in the contract conditions)

"Apprentice" means an individual who, under the Ontario College of Trades and Apprenticeship Act, 2009, has entered into a registered training agreement under which the individual is receiving or is to receive training in a trade required as part of an apprenticeship program established by the Ontario College of Trades;

"Career Development Opportunities" (CDO) means apprenticeships and/or employment opportunities for people who are from a disadvantaged group, young graduates, newcomers and internationally trained professionals, as defined below.

“CDO Recruits” includes Apprentices, members of Disadvantaged Groups, Internationally Trained Professionals and Newcomers as herein defined.

"Community Benefits" in this document means the provision of apprenticeships, employment opportunities and supply-chain opportunities.

“Disadvantaged Group” means those who experience discrimination or barriers to equal opportunity, including Indigenous people, racialized groups, LBGTQ+ people, at-risk youth, the working poor, people with disabilities, the long-term unemployed and women.

“Internationally Trained Professionals” are individuals who obtained credentials to practice their profession outside of Canada and who are unemployed or underemployed.

“Long-term Unemployed” means someone who has been out of full-time work for 27 weeks or more.

“Newcomers” are those who have arrived in Canada within the last five years from another country.

“Small Businesses” are businesses with fewer than 20 employees, including entrepreneurs.

“Underemployed” means working full time or on contracts, but not at an individual’s full capability, based on their level of education, skills and experience.

“Unemployed” means someone who is not currently working or in full-time training or education.

“Young Graduates” means those who have graduated from a Canadian college or university within the last two years, are living in York Region, and are unemployed or underemployed.

Community Benefits

In accordance with the organization’s policy on community benefits in procurement, the contractor shall provide an Apprenticeship and Community Benefits Delivery Plan (the Plan) with its tender setting out the intended use of CDO Recruits in the event of a successful bid that includes the following information:

i) the number of Apprentices whom the bidder intends to employ in each trade, identifying those from a Disadvantaged Group that will be engaged in the delivery of the contract;

ii) the methods by which the bidder intends to support the completion by those Apprentices of their training under the registered training agreements into which they have entered,

iii) the number of other CDO Recruits whom the bidder intends to employ for the delivery of the contract in each occupation;

(iv) the methods by which the bidder intends to support the training and accreditation of such other persons in the occupations for which they have been recruited, where relevant;

(vi) actions that will be taken to provide supply-chain opportunities as set out in s. 2 below

1 'Career Development opportunities' (CDOs)

A minimum of [...% *(enter the figure e.g. 10%)* of the person-hours required to deliver the contract] [..... person-hours *(enter the figure)*] must be provided by CDO Recruits that are recruited through an organization named or otherwise agreed by the Client for this purpose, where:

Alternative text: *in this approach the Client sets an absolute target after obtaining advice on what 10% of the total person-hours required to deliver the contract would be. This advice could be from the surveyor/cost consultant advising the project team or (especially in services) through pre-market research with potential providers. The big advantage of this approach is that the Client doesn't have to obtain and verify the total person-hours used on the contract, but just monitor the CDO-recruit hours*

A minimum of ..... person-hours required to deliver the contract is provided by employed-status CDO recruits that are recruited through an organization named or otherwise

1.1 each CDO recruit can be counted towards the above target for a maximum of 2080 person-hours, unless specifically agreed by the Client or their agent on the basis that a longer period is required for the trainee to achieve the necessary accreditation and work experience to compete in the labour market;

Alternative 2: here the target is set out as a number of recruits and a minimum duration of employment (which protects against meeting the target through rapid turnover of CDO recruits). This is simpler for Client teams and contractors to understand but can disadvantage a contractor if the recruit chooses to leave the employment (e.g.) just before the minimum period of engagement is reached. The contractor would then lose the 'credit' for the weeks already delivered.

A minimum of ..... CDO Recruits are recruited through an organization named or otherwise agreed by the Client for this purpose, where:

1.1 each CDO Recruit must be employed for a minimum of [520] hours and a maximum of [2080 hours], where a 'week' means a minimum of [40] hours spent on the contract or in off-site training or paid leave;

Registration Form provided, and unless they are covered by 1.4 below may only be counted towards the person-hours target from the date of registration plus up to a maximum of 4 weeks if they were employed before this date;

1.3 up to 20% of the CDO person-hours may be delivered by CDO Recruits that were employed prior to the contract where it can be demonstrated that (i) they would have qualified as a CDO Recruit at some point in the previous 18 months and (ii) that the placement on the contract is important for the recruit to complete the 2080 hours set out in 1.2 above;

1.4 within 8 weeks of Registration the employer for each CDO Recruit who is an Apprentice shall provide the Client or their Agent with confirmation that an Apprentice is registered with the College of Trades.

1.5 within 8 weeks of Registration the employer for each CDO Recruit shall provide a Training and Mentoring Plan for that recruit that the Client or the Agent considers satisfactory and that is signed by (i) the employer, and (ii) the Recruit, and (iii) a Training organization that is named or otherwise agreed by the Client for this purpose, and the employer must ensure that this Plan is implemented.

2 Supply-chain Opportunities

The contractor will use best efforts to ensure that a minimum of [5%] (by value) of subcontracts and supply contracts are awarded to small businesses, including specifically those known to the organizations listed in Annex 3... by:

Alternative: this provides an absolute $ target. A contractor should not be held responsible if they seek small firms but no suitable firms are identified, as long as they can show they have used best efforts.

The contractor shall use best efforts to ensure that a minimum of [$ .....] of subcontracts and supply contracts are awarded to small firms, including specifically those known to the organizations listed in Annex ... by:

2.1 using the information held by the listed organizations to invite expressions of interest from potential suppliers, including those based in and around the area of delivery of the contract; and

2.2 for projects over [$...], working with local business organizations to host and advertise a 'meet the buyer' event within 4 weeks of the date of award of the contract to communicate the supplier opportunities that may be available for the project, and collect information from organizations attending; and

2.3 identifying or creating packages of work that are suitable for small businesses, entrepreneurs and other businesses as a way of enabling them to enter the supply-chain for the contract and demonstrate/build their capacity; and

2.4 to repeat the above steps annually where the contract will last for more than 24 months.

3 Treatment of Costs

3.1 The contractor shall provide with their [Tender] [Proposal] a Community Benefits Net Cost Schedule using the pro-forma included as Addendum .... *(include the schedule as a numbered addendum to the Tender / RFP).* The Net cost should be included as an explicit line within the cost summary submitted with the [Tender] [Proposal].

3.2 The contractor shall be entitled to use the cost per CDO person-hour shown in the Net Cost Schedule as a basis for including a sum in each invoice to the Client calculated as:

- the number of person-hours worked on the contract by registered CDOs in the relevant period (in line with the Monitoring Report), multiplied by
- the 'net cost per person-hour' set out in the Net Cost Schedule, provided always that
- the total sum invoiced in all periods does not exceed the total cost included in the Tender/Proposal sum unless this is specifically agreed by the Client.

3.3 For the avoidance of doubt the cost per person-hour cannot be charged to the Client except where the CDO Recruit was working on (or attending offsite training from) the contract for the Client.

3.4 Any sum included in the Net Cost Schedule relating to 2 (Supply-chain opportunities) above will only be payable as a part of the final invoice relating to the contract.

In most cases, there should not be substantial additional costs for CDOs especially if there are workforce or training organizations involved who will be subsidizing or providing training. However, there may be additional training, supervision, or accreditation costs for some categories of recruits and if so that should be identified here.

Alternative: this would be included if the Client wants the community benefits to be cost-neutral. A disadvantage of this - especially in the pilot stage - is that the actual costs of the requirements in a competitive bidding process are never revealed. This allows opponents to the approach to argue that it is costly, simply on the basis that every requirement is assumed to have a cost.

... 3.1 The contractor shall deliver the requirements set out in ...1 and ...2 above, together with the monitoring and reporting requirements set out in ...4 below, without cost to the Client by working with designated employment and training organizations.

[If this alternative is selected then ...3.2 to ...3.4 together with the Net Cost Schedule would be removed]

4 Monitoring and Reporting

Within 4 weeks of the end of each quarter after the commencement of delivery of the contract the contractor shall:

4.1 submit a quarterly report CDO Monitoring Report and the Small Business Suppliers Monitoring Report [using the pro-forma provided in Annex ...] or [which shall include the following data for both the main contractor and sub-contractors:

- number of CDO Recruits employed on the project, by category, during the period
- percentage of the total number of workers employed
- number of hours worked by CDO Recruits, by category, during the period
- percentage of the total hours worked by CDO Recruits]

4.3 when requested by the Client's project manager, attend a meeting with the Client and its agents or other interested parties (e.g. employment agencies, training organizations, business development organizations, suppliers and community groups) to consider the achievement or otherwise of the CDO and small business requirements and agree on any remedial steps to be taken by the contractor to address any underachievement.

5 Rectification

Failure to comply with community benefits requirements will be considered as a breach of contract or as grounds for default and should trigger standard rectification clauses in the contract.

Alternatively, if the Client considers that the contract conditions relating to Community Benefit are not being delivered or not being delivered appropriately then the following arrangements may be implemented:

5.1 the Client will require the contractor's Director responsible for the contract to attend a meeting to discuss with a Director of the client organization the contractor's performance in delivering the community benefit requirements and agree to (i) steps that will be taken to rectify issues that have been raised, and (ii) a timetable for when the outputs will be delivered in line with the stage of progress of the contract as a whole: such steps to be documented in a Rectification Notice issued by the Client;

5.2 both the Client and the Contractor shall ensure that persons with information relevant to the delivery of the community benefits are present at the meeting;

5.3 at the end of the period set out in the Rectification Notice the Client must issue one of the following:

5.3.1 a Withdrawal of Rectification Notice;

5.3.2 a Notice of Breach of Contract relating to the Community Benefits.

5.4 At any time after the issue of the Notice under 5.3.2 the contractor can apply in writing to the Client for a withdrawal of the Notice on the basis that the community requirements have been delivered. The Client should assess this on the basis of:

5.4.1 evidence provided about the actions taken to satisfy 2 above;

5.4.2 the Monitoring information provided in relation to 1 above using the processes described in 4 above.

5.5 If the Notice of Breach of Contract relating to Community Benefits is not withdrawn at the completion of the contract then the Client may:

5.5.1 apply liquidated damages on a per-default basis; and

5.5.2 use this breach of contract to disqualify the contractor from participation in future Tender or Request for Proposal exercises.

6 Sub-contractors and suppliers

For the avoidance of doubt it is the contractor's responsibility to obtain cooperation from sub-contractors and suppliers where they deem this necessary to deliver the Community Benefit requirements, including the registration of CDO Recruits and the timely delivery of Monitoring information. Clauses 1-5 above and the relevant definitions must be passed through in sub-contracts and supply contracts.

7 Liability

Whereas the Client may provide contact information for organizations that could assist the contractors in delivering the CDOs and supply-chain opportunities set out in the contract conditions, any agreement by the contractor, subcontractors or suppliers to work with the listed organizations is the sole responsibility of the contractor, subcontractors or suppliers. The Client is not responsible for the actions or inactions of the listed organizations or for the work or failure to deliver work of the persons or suppliers engaged in the contract on the basis of the engagement with the listed organizations.

Annex [1] Community Benefits Delivery Plan

This Plan should be completed in full and submitted with the Tender/Proposal.

Name of Company
……

Address of the
Company……

Contact Name……..

Position ……..

Telephone numbers……

E-mail address ……...

I confirm that this Delivery Plan sets out the actions that will be undertaken to ensure the achievement of the Community Benefit requirements of the contract. It is recognized that it [will be used in the award of the contract] [will not be used in the award of the contract] [may be used in the award of the contract if there are two bids with equal scores] *(select one)* and will be reviewed prior to commencement of the contract and used in any subsequent reviews. Delivery of the community benefit requirements is a condition of the contract**.**

Signed…….

(Print Name) …….

Date……

1. How many person-hours will be required to deliver the whole contract?

..... hours

2. Please complete Table 1 by entering the numbers of Career Development Opportunity (CDO) Recruits and person-hours to be delivered, number of registered apprentices, and any related training and accreditation to be provided. It is expected that the range of opportunities offered will reflect the range of work to be undertaken to deliver the contract.

Table 1 Career Development Opportunities

Trade / occupation	No. of CDO Recruits	CDO person-hours	% of hours provided by registered apprentices	Training, support or accreditation to be provided
Total				

Notes:

All CDO recruitment must be through an organization named or otherwise agreed by the procuring organization for this purpose.

3. Please provide an estimate of the numbers of person-hours that will be delivered by each of the types of CDO in the delivery of the above

Table 2 - CDO person-weeks by type of recruit.

Category of CDO	Estimated Hours
Apprentices	
Young graduates -those who have graduated from a Canadian college or university within the last two years, are living in York Region, and are unemployed or underemployed (i.e. working full time or on contracts, but not at their full capability, based on their level of education, skills and experience).	
Newcomers - those who have arrived in Canada within the last five years from another country	
Internationally trained professionals - individuals who obtained credentials to practice their profession outside of Canada.	
Other members of disadvantaged groups - those who experience discrimination or barriers to equal opportunity, including Indigenous people, racialized groups, LBGTQ+ people, at-risk youth, the working poor, people with disabilities and women.	

Note: a CDO Recruit can only be counted towards one of the above categories.

4. Which organizations will you work with to recruit CDO employees?

5. Who will be responsible for the recruitment, training and mentoring process within your organization?

6. What mentoring and support will be given to CDO recruits and by whom? .

7. Which organizations will you work with to maximize supply-chain opportunities for small businesses?

8. How will you obtain the cooperation of sub-contractors where this is necessary to deliver the Community Benefit requirements?

9. What systems or arrangements will be used to record, collate and report the outcomes in accordance with the monitoring requirements of the contract?

(Note: If the Delivery Plan is to be scored and used in the award of the contract e.g. where there is a tie between bidders before community benefits are included, then colleagues with a training, employment or economic development background should develop a scoring framework that is consistent with the organization's existing procurement practice, and then score each Delivery Plan).

Annex [2] Price Information relating to Community Benefits

This document must be submitted as a part of any valid Tender or Proposal document.

Please enter the total hours of employment you will provide for Career Development Opportunity (CDO) Recruits (as defined in the Tender/ RFP) in the delivery of the contract : ..... Person-hours

Table 1 Provision of CDOs - Net Cost Summary

Cost Item	$can	Basis of calculation
Management and administration		
Additional Training costs		
Additional operating costs		
Mentoring and support activities		
Total costs		
Resources to offset the costs:	xx	
Training grants and services		
Existing company staff / overheads		
Services from other external agencies		
Other		
Total additional resources		
Net Cost		Total cost less total additional resources
Net cost per CDO person-hour		Based on the total CDO Recruit hours entered above. This can be used to invoice for delivery of this community benefit

Table 2 - Supply Chain Opportunities

Cost Item	$can	Basis of calculation
Communications and Outreach		Include here any sum required
Trade shows		
Other (detail)		
Total Costs		
Resources available		(e.g. grants, in-kind partnerships)
Net Cost of Supply Chain Initiatives		**(total costs less resources available)**

Table 3 - Total Community Benefit Costs

Cost Item	$can	Basis of calculation
Net cost from Table 2 (supply chain opportunities)		Include here any sum required
Net cost from Table 1 (CDO Recruits)		
Total Cost of delivering the Community Benefit Requirements		**This figure should be included in the Price Summary for the Tender or Request for Proposals.**

Note: delivery of the community benefits requirements as set out in the tender or Request for Proposals will be a condition of contract.

Annex [3] Contractor Resources

The following is provided for information only. The Client is not responsible for the actions or inactions of the listed organizations or for the work or failure to deliver work of the persons or suppliers engaged by the contractor on the basis of the engagement with the listed organizations.

1. Organizations that are potential providers of CDO Recruits.

Client to enter names and contact details

2. Organizations that can assist with identifying or certifying small businesses

Client to enter names and contact details

Section Three

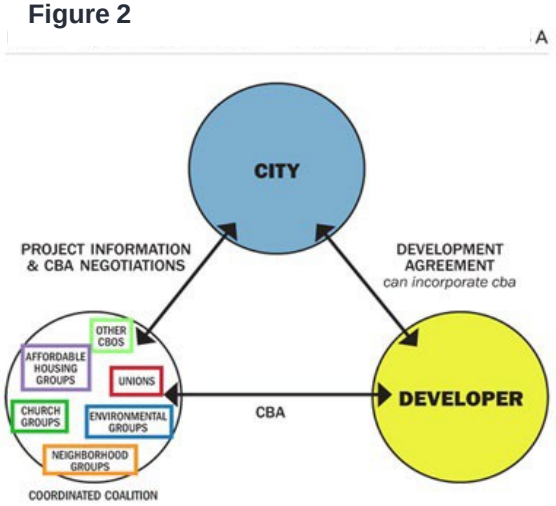
Development

6. Community benefits in development

Community Benefits Agreements (CBAs) are private, enforceable contracts, often negotiated between a coalition of community groups, a municipality, and a developer. The developer agrees to provide specific benefits for a project that have been defined by the community through an inclusive engagement process. In exchange, the community groups agree to support the project and to refrain from litigation, often by signing a cooperation or settlement agreement. Figure 2 shows a typical structure for a CBA

CBAs arose, and are still most commonly used, in the U.S., but are beginning to take root in Canada. For example, the City of Vancouver has piloted CBAs on several projects as a precursor to creating a community benefits policy (now in development).

Figure 2



Negotiating community benefits through a contract ensures clear and distinct roles for each party, fosters enforceability, and promotes accountability and transparency. Municipalities may require that a CBA be incorporated into, or attached to, a development agreement. A municipality and a developer may sign an agreement without a community signatory, but in such cases, the municipality should consult with the local community first to ensure the agreement reflects local needs and aspirations where possible. This also ensures legitimacy, transparency, and accountability.

A template CBA follows this section. Links to sample CBAs from the US and Canada are provided in Appendix A, Resources.

If you are interested in CBAs, consider the questions below.

1. When is it appropriate to use a CBA?

A CBA may be appropriate in circumstances including, but not limited to, the following:

- When a developer is receiving municipal subsidies or incentives
- When there is community concern about a large project because, for example, there are fears about displacement, gentrification, or other kinds of adverse impacts
- When a project is being built in or near a high-needs neighbourhood and there is a desire to ensure that the local community can obtain maximum benefit
- When the project is of a scale that it offers significant workforce, supply-chain, affordable housing, or other potential benefits
- When other ways of deriving desired benefits, such as s. 37 of the Planning Act, are not available, desirable or sufficient.

As with community benefits in procurement, it may make sense to set certain thresholds over which a CBA makes sense, particularly for workforce opportunities. Consultation with local

stakeholders, including the development community and local governments, should take place before determining a minimum size and scale of projects.

2. What kinds of benefits should be included?

The kinds of benefits negotiated in CBAs range widely: from workforce and local procurement opportunities to community facilities, educational scholarships, affordable housing and environmental initiatives. Stakeholders have noted that CBAs present an opportunity to build partnerships with local school boards, educational institutions, and other organizations. Begin with the recommended areas of focus for York Region, but be open to other needs expressed by local communities. In the U.S., community coalitions usually drive the creation of CBAs, so engaging communities is critical. Engagement should be started as early in the process as possible – ideally during the planning of a project. (See Section 1(4) for more on this topic).

Although construction jobs are typically included in CBAs, consider training for, or employment of, targeted groups in higher-skilled professional, administrative and technical (PAT) jobs on the project. For example, in York Region, there are many internationally trained professionals (ITPs) who have skills but need Canadian experience. Employing ITPs has been very successful, for example, on the Crosstown LRT project in Toronto.[22]

Another area to consider is the longer-term jobs that may be offered through the operations of businesses and services, potentially by tenants, on the site once it is completed. For example, community benefits provisions in the Regent Park redevelopment were included in the lease agreements with the retail tenants on site, providing sustainable employment opportunities to low-income tenants after construction was complete.

3. What's in it for the developer?

Private developers enter into a CBA for a number of reasons. First, negotiating a CBA with local community groups can ensure that any concerns with the project are addressed up front, preventing delay and litigation down the road. As such, a CBA is a form of risk management. Second, signing a CBA can, depending on the jurisdiction, help expedite regulatory approvals needed for the project. Third, a CBA can help build political buy-in and allies for a project, since elected officials are ultimately accountable to their communities. And finally, a CBA can help a developer reinforce its brand as a good corporate citizen.

A CBA should be negotiated as early in the process as possible, ideally prior to any development approvals being granted by the municipality, and can be appended to a development agreement. A monitoring committee that includes members of the community, city council, representatives from the developer and general contractor should be set up and meet periodically in order to troubleshoot any issues. Ensuring there is some flexibility to solve problems is a better solution than simply going straight to a penalty provision in a contract, particularly in early days when all parties are still learning how to implement community benefits.

[22] As of the end of December 2017, 110 ITPs had been hired by Crosslinx, the consortium building the Crosstown LRT project, into professional, administrative and technical positions.

4. What kinds of costs are involved, and who pays for them?

The costs of community benefits depends very much on what has been negotiated, and what supporting structures are already in place to assist contractors with delivery. The general contractor will need to assign a staff member to ensure requirements are fulfilled, monitored and tracked; time may also be needed on the part of subcontractors, HR departments, and project managers to track and implement requirements. Where additional safety or training orientation is required, this may also incur staff time. The first time any company does this will be the most time-consuming, but once systems are set into place it should not entail much additional cost.

Local and regional service providers and training organizations should be able to assist with targeted recruitment and hiring (either separately, or though the collective "hub" model suggested in Tool 9). Similarly, municipal or regional economic development staff or industry associations should be able to provide lists of targeted suppliers, if relevant to the benefits negotiated.

Municipalities should also consider how community benefits requirements can be appropriately balanced with other municipal charges or incentives (development charges, land, low-interest financing, etc.) to ensure that obligations do not act as a disincentive to development.

Development Tools and Templates

Sample clauses: CBAs

Notes to users:

1. CBAs differ widely depending on the benefits sought and agreed upon. The sample clauses provided below encompass workforce and supply chain initiatives for the construction period of a project, and are similar to those used in the procurement section. Examples of other kinds of commitments that have been made elsewhere are also provided for interest.

2. Appendix A – Resources *provides links to the texts of U.S. CBAs. They serve as useful precedents in that they encompass a wide range of potential benefits, but should be used with some caution because the legislative regime and political context in which they operate is different.*

In the U.S., for example, developers commonly invest in the establishment of "first source hiring" centres to train and refer candidates; this is not usually necessary in Ontario, where there is a robust network of training organizations and employment service providers. However, as in the procurement context, relationships will be needed between developers/ contractors, employment providers and training institutions to successfully implement workforce provisions. The eventual creation of a workforce portal in York Region would be a valuable resource in this respect.

3. The following clauses can be adapted for use in different instruments. For example, they could be inserted as a section in a development agreement, as a rider to a development agreement, or as conditions of permitting or zoning/rezoning applications. As with all of the examples in this toolkit, legal advice is recommended.

4. This document addresses construction. However, where a developer is building a project that has the potential to provide ongoing benefits, such as employment or procurement, requirements can be added to cover leasing agreements by tenants – for example, requiring the developer to "pass-through" these provisions to require tenants to ensure a certain percentage of hiring or procurement comes from targeted groups or businesses. Such provisions have been used with considerable success elsewhere and drive longer-term results.

Community Benefits Agreement Between

[*name*] (“Developer”)

And

[*name*] (“Municipality”) [and]/or [*name*] (“Community Coalition”)

(collectively, “the Parties”)

Introduction

WHEREAS

[*preliminary recitals should include a legal description of the project, approvals required, any relevant conditions placed by the municipality on the developer, a general description of the community’s role, process to date and broad categories of benefits. The following is a selection of the kinds of clauses that could be chosen/populated for this section*]:

e.g.

Developer wishes to build [project description] (the “Project”) at [site description]; and

Various approvals will be needed from Municipality, including [master plan / site plan / development agreement / etc.]; and/or

Developer has made an application to rezone the lands hereby described as [X] for the purpose of [y], [which included conditions respecting the conclusion of certain community benefits commitments as described hereunder]; and/or

[Community Coalition consists of a broad coalition of organizations, businesses and residents, a list of which is set out in Appendix A set out hereto]; and/or

[Community Coalition has agreed to the terms of this contract, and to refrain from opposing the Project] [*Note: as an alternative, see section 10 below for sample language that is stronger and more detailed about refraining from litigation/releasing claims*]; and/or

[Through a process of planning and community consultation, it was determined that opportunities exist to advance local equity, access and economic development objectives as described hereunder] / [the parties agree that the [project] holds opportunity for community benefits in the form of [community revitalization / affordable housing / training and employment / local economic development /greenhouse gas reductions/ etc.]];

NOW THEREFORE, for consideration of one dollar ($1.00) and other good and valuable consideration (the receipt and sufficiency of which is hereby acknowledged and agreed to by the Parties), the Parties, their successors and assigns, hereby agree as follows:

1. Definitions

[Select from the following list of definitions and include those selected in the contract. Note this for the most part does not include other general defined terms that may be relevant to the

contract, e.g. "building", "building permit" "force majeur" etc. as it is presumed those will be defined in the overall development agreement or whatever the larger legal instrument for the Project may be]

"Apprentice" means an individual who, under the Ontario College of Trades and Apprenticeship Act, 2009, has entered into a registered training agreement under which the individual is receiving or is to receive training in a trade required as part of an apprenticeship program established by the Ontario College of Trades;

"Career Development Opportunities" (CDO) means (i) apprenticeships and/or (ii) employment opportunities for people who are from a disadvantaged group, young graduates, newcomers and internationally trained professionals, as defined below.

"CDO Recruits" includes Apprentices, members of Disadvantaged Groups, Internationally Trained Professionals and Newcomers as herein defined.

"Community Benefits Commitments" means the provision of [apprenticeships, employment opportunities], [supply-chain opportunities], [affordable housing], [other benefits as negotiated] as more fully described in Section 2.

"Construction Period" means the period during which the Project or any part hereof will be constructed, commencing on the date of issuance of a Building Permit and ending on the date on which the Occupancy Permit is issued.

"Contractor" means a prime contractor, a subcontractor, or any other business entering into a contract with the Developer for the Project.

"Disadvantaged Group" means those who experience discrimination or barriers to equal opportunity, including Indigenous people, racialized groups, LBGTQ+ people, at-risk youth, the working poor, people with disabilities, the long-term unemployed and women.

"Internationally Trained Professionals" or "ITPs" are individuals who obtained credentials to practice their profession outside of Canada and who are unemployed or underemployed.

"Local Businesses" are businesses located within [municipality]/[designated neighbourhood]

"Long-term Unemployed" means someone who has been out of full-time work for 27 weeks or more.

"Monitoring Committee" shall mean a [X-member] committee established by the Parties to support the implementation of the community benefits provisions of this agreement. Its members shall be appointed as follows: [*suggest a cross-section including relevant member(s) of council, representatives from the developer, the general contractor, and the community coalition*]

"Newcomers" are those who have arrived in Canada within the last five years from another country, who are living in York Region, and who are unemployed or underemployed.

"Project Approvals" means, collectively [*could be one or more of:* Master Plan, the Development Agreement and any subsequent approvals, permits and entitlements, including building permits, occupancy permits and amendments or modifications to any of the foregoing approvals].

"Small Businesses" are businesses with fewer than 20 employees, including entrepreneurs.

"Underemployed" means working full time or on contracts, but not at an individual's full capability, based on their level of education, skills and experience.

"Unemployed" means someone who is not currently working or in full-time training or education.

"Young Graduates" means those who have graduated from a Canadian college or university within the last two years, are living in York Region, and are unemployed or underemployed.

2. Community Benefits Commitments

Developer hereby covenants and agrees that:

2.1 It will hire or designate a member of its existing staff as the [Community Benefits Director] for the duration of the Construction Period to ensure that: the commitments in ss. 3-6 below are implemented; to act as a central point of contract between contractors, subcontractors, employment agencies, and suppliers; and to maintain relationships with designated members of City Staff and other orders of government as may be required.

[*Note: the PARQ project in Vancouver required hiring a neutral third party, at Developer's expense, to conduct outreach and act as a liaison between community groups, workforce agencies, and suppliers and the Developer, and also to undertake other functions: e.g. to facilitate ongoing advisory groups, conduct ongoing monitoring and evaluation, and provide statistics and reports to the Municipality. In the US, agreements sometimes require hiring an independent compliance monitor to fulfill a similar function, minus the outreach. A Schedule outlining the roles and responsibilities of such a person can be attached if desired*].

2.2 It will designate [x] representatives to sit on the Monitoring Committee, of which one shall be the [Community Benefits Director].

2.3 It will implement, directly or through its Contractors, the commitments set out below for [Employment] [Procurement] [Affordable Housing] [etc.].

3. Employment Program

3.1 Contractors who are employing services or construction labour working on the Project shall provide Career Development Opportunities ("CDOs"). A minimum of [...% *(enter the figure e.g. 10%)*] of the person-hours required to deliver the contract] must be provided by CDO Recruits that are recruited through an organization named in Schedule [A] or otherwise agreed by the Parties for this purpose, where:

i. a CDO Recruit is an Apprentice from a Disadvantaged Group; and/or

ii. a CDO Recruit is a Young Graduate, Newcomer, Internationally Trained Professional, or member of a Disadvantaged Group employed in a category other than as an Apprentice.

3.2 Each CDO Recruit shall be registered by the Contractor and hours shall be monitored, tracked and reported pursuant to section 6 below.

3.3 Up to 20% of the CDO person-hours may be delivered by CDO Recruits, other than Apprentices, who were employed prior to the contract where it can be demonstrated that he/she would have qualified as a CDO Recruit at some point in the previous 18 months.

3.4 Contractors may use an Apprentice from a Disadvantaged Group who was employed prior to the contract where it can be demonstrated that placement on the contract for this Project will assist the Apprentice to complete his/her apprenticeship.

3.5 Within 4 weeks of registration the Contractor for each CDO Recruit who is an Apprentice shall provide confirmation that an Apprentice is registered with the Ontario College of Trades.

3.6 All CDO Recruits are to have the same pay rate and terms commensurate with other employees of similar skill levels and similar experience.

3.7 Where a CDO Recruit is directly employed by the Contractor, such Recruit shall be hired for no less than the equivalent of [520] hours or [14] weeks of full-time employment.

3.8 Where a CDO Recruit is an Internationally Trained Professional in need of Canadian accreditation, Contractor agrees to make commercially reasonably efforts to support the recruit in achieving his/her requirements for such accreditation.

4. Supply-chain Opportunities

4.1 The Developer will use best efforts to ensure that a minimum of [5%] [*fill in desired percentage*] of the total Project budget, including subcontracts and supply contracts, are awarded to small businesses, including specifically those known to the organizations listed in Annex X... by:

Alternative: this provides an absolute $ target. A contractor should not be held responsible if they seek small firms but no suitable firms are identified, as long as they can show they have used best efforts.

The contractor shall use best efforts to ensure that a minimum of [$ .....] of subcontracts and supply contracts are awarded to small firms, including specifically those known to the organizations listed in Annex ... by:

a) using the information held by the listed organizations to invite expressions of interest from potential suppliers, including those based in and around the area of delivery of the contract; and

b) for projects over [$...], working with local business organizations to host and advertise a 'meet the buyer' event within 4 weeks of the date of award of the contract to communicate the supplier opportunities that may be available for the project, and collect information from organizations attending, and where the Project will last more than 24 months, to repeat such an event on an annual basis; and

c) identifying or creating packages of work that are suitable for small businesses, entrepreneurs and other businesses to maximize the potential engagement of such firms in the delivery of the project; and

d) Removing potential barriers to the engagement of Small Businesses by reviewing the experience and standards that will be required from such businesses to ensure that these only include requirements that are essential for the management of risk by the Contractor.

5. Treatment of Costs

5.1 Developer shall provide an annual report that sets out the costs of compliance with these provisions, including costs of staff, training beyond that which would normally be provided to new employees, and supplier outreach.

[*Note: one could argue that either this discussion happens in advance and a set amount is committed by the Developer under the contract, or that these costs are the Developer's to worry about and do not need to be reported. However, for the purposes of building a system and understanding what resources are required on the part of developers and contractors, it is suggested that an annual report will help with CBAs going forward]*

6. Monitoring and Reporting

[These clauses should be adjusted to accord with the focus groups chosen; e.g. rather than tracking Apprentices, Apprentices from Disadvantaged Groups and other CDO Recruits as set out below, it could be Apprentices, Young Graduates and Newcomers, or any other combination. The point is that there are three measures: the number and/or hours performed by CDO Recruits; the percentage they represent of overall employment on the Project; and, for benchmarking, the percentage of the Project that has been completed. Additional information, e.g. median wage, could also be added. See Section 4 of this Toolkit - Monitoring and Tracking Tools, for more information]

6.1 Within 4 weeks of the end of each quarter after the commencement of the Project the Developer shall submit a quarterly Workforce Monitoring Report [using the pro-forma provided in Annex ...] or [which shall include the following data for the preceding quarter]:

a) total forecast Project labour hours, and hours completed to date (number and as percentage of total)
b) number of Apprentices employed on the Project
c) number of Apprentices who are from Disadvantaged Groups
d) number of other CDO Recruits employed on the Project, by category of employment
e) percentage that each category of CDO Recruits comprise of the total number of workers employed
f) number of hours worked by Apprentices, Apprentices from Disadvantaged Groups, and other CDO Recruits, by category of employment, during the period
g) percentage of the total Project hours worked by each category of CDO Recruits

6.2 Within 4 weeks of the end of each quarter after the commencement of the Project the Developer shall supply a Procurement Monitoring Report [as set out in Appendix X] or [which shall include the following data for the preceding quarter]:

a) total forecast procurement spending for the Project and amount spent to date, in dollars and as a percentage of the total;

b) total value of procurements for the period;

c) the name and postal code of each [small businesses] [local businesses] [small businesses owned by members of Disadvantaged Groups] (*select focus group*) that was invited to bid on an opportunity to supply goods or services, by category

d) an indication of which firms in (c) were awarded a contract, if any

e) the total number and value of contracts for goods and services obtained from suppliers who are [small businesses] [local businesses] [small businesses owned by members of Disadvantaged Groups] (*select focus group*)

f) the percentage that this represents of the total value of contracts awarded.

6.3 Within 2 weeks of submission of the Workforce and Procurement Monitoring Reports, the Developer shall attend a meeting of the Monitoring Committee to consider the achievement of the workforce and procurement requirements, address any issues collectively, and agree on any steps to be taken by the Contractor to address any underachievement.

6.4 At [date], anticipated to be the halfway point of the Project, Developer agrees to provide a written report, along with supporting documents, that:

a) outlines the efforts made to reach the workforce and local procurement targets [and other benefits, if contracted], along with supporting documentation;

b) if applicable, sets out the adjusted Project Cost;

c) if applicable, provides an explanation as to why targets have not yet been met and how Developer intends to meet said requirements prior to completion of the Project; and

d) sets out challenges and opportunities resulting from this Agreement during the construction of the Project and provides suggestions, if any, as to how to address these in future CBAs.

[Note: local municipalities may wish to tie dates for reporting to the fulfillment of particular conditions or the approval of permits]

7 Rectification and Remedies

[Compliance with community benefits requirements should be considered as with any material term of the contract and therefore noncompliance should trigger standard clauses for breach of contract. However, there are several alternatives, including:

1) making the occupancy permit or other final approvals or discharges required contingent on performance and/or receipt of a final report that provides the results of the workforce, procurement and any other benefits: see, e.g. the PARQ Casino CBA (Vancouver)

2) liquidated damages for failure to perform where a percentage requirement has not been fulfilled; usually calculated as an amount for each hour or day short of the requirement, e.g. $500 for each 8-hour day short: see, for example the Oakland Army Base Construction Careers Policy.

3) specific performance, though this can only be addressed while the contract is still underway; or

4) injunctive relief

The purpose of the Monitoring Committee is to ensure efforts are being made throughout the period of the contract and troubleshoot as necessary. A measure of flexibility may be required. However, if the Municipality considers that the community benefits requirements are not being

delivered or not being delivered appropriately then the following arrangements may be implemented]

If, on consideration of the quarterly Monitoring Reports, Municipality considers that the community benefits requirements are not being delivered or not being delivered appropriately, then:

7.1 Municipality will require the [Community Benefits Director] to attend a meeting to discuss the Contractor's performance in delivering the community benefit requirements and agree to (i) steps that will be taken to rectify issues that have been raised, and (ii) a timetable for when the outputs will be delivered in line with the stage of progress of the contract as a whole: such steps to be documented in a Rectification Notice issued by the Municipality;

7.2 Both the Municipality and the Developer shall ensure that persons with information relevant to the delivery of the community benefits are present at the meeting.

7.3 If the parties cannot agree to the terms of a Rectification Notice as set out in 7.1 at the meeting, or if the Developer fails to rectify within the performance issues identified within the Rectification Notice within the agreed time, then notwithstanding any other right or remedy available at law, the Municipality may:

a) withhold permits or approvals until compliance is achieved; or

c) proceed to obtain relief from a court of competent jurisdiction to obtain a legal order for specific performance or injunctive relief, and the Developer expressly waives any defence that an alternative remedy in damages would be adequate.

8. Sub-contractors and suppliers

For the avoidance of doubt it is the Developer's responsibility to obtain cooperation from the Contractors (including sub-contractors) and suppliers where they deem this necessary to deliver these community benefit requirements, including the registration of CDO Recruits and the timely delivery of Monitoring information, and to pass through the relevant provisions of this contract as appropriate.

9. Liability Disclaimer

Whereas the Municipality may provide contact information for organizations that could assist the contractors in delivering the CDOs and supply-chain opportunities set out in the contract conditions, any agreement by the Contractor, subcontractors or suppliers to work with the listed organizations is the sole responsibility of the Contractor, subcontractors or suppliers. The Municipality does not warrant the fitness, qualifications or performance of the organizations listed herein. Moreover, the Municipality is not responsible for the actions or inactions of the listed organizations or for the work or failure to deliver work of the persons or suppliers engaged in the contract on the basis of the engagement with the listed organizations.

10. Refrain from Opposition of Project

[Note: this language is drawn from US Agreements and addresses the Community Coalition's role. It would require further defined terms, e.g. Project Approvals and Subsequent Approvals.]

10.1 Community Coalition and its members, jointly and severally, shall refrain from

a) opposing the Project or any required Project approvals;
b) advocating for the imposition of additional community benefits or conditions of approval on the Project, the Project approvals, or subsequent approvals,
c) taking any action that would delay, change the process for issuance of, or otherwise interfere with the issuance or validity of, any Project approvals or subsequent approvals;
d) citing the Project, the Project approvals, or the subsequent approvals (including without limitation the level of community benefits provided thereby) as a basis for advocating for changes in laws, regulations, policies, or practices, or the imposition of conditions related to other projects or project approvals; and
e) advocating for any administrative or legislative change directed particularly at the Project, the Project approvals, the subsequent approvals, or the Project Site that would increase the costs of processing, development, or construction, or adversely affect the timing of the development and build-out, of the Project or the Project Site.

10.2 Community Coalition shall not itself submit formal or informal, prepared or unprepared, oral or written comments, or testify in front of, or aid, encourage, assist or collaborate with (monetarily or otherwise) any other party in submitting oral or written comments to or testifying in front of, (i) any reviewing authority or agency, or (ii) any media entity or representative thereof, or (iii) any community meetings, proceeding, or other public event, in violation of this Section.

10.3 No Further Action.

Community Coalition agrees and covenants that it shall not itself, or counsel others to, directly or indirectly, initiate, aid, request, encourage, file, fund or participate in any activity jeopardizing or challenging the Project Approvals or the Subsequent Approvals, including without limitation:

a) any administrative or judicial hearing or appeal opposing the approval, issuance, or validity of the Project approvals or the subsequent approvals, including, without limitation, an appeal of any of Project approvals or the subsequent approvals;
b) any litigation challenging in any way the approval, issuance, or validity of the Project approvals or the subsequent approvals; or
c) any legislation, initiative, referendum or moratorium which would in any way prevent or impede the approval, issuance, or validity of the Project approvals or the subsequent approvals

10.4. Release.

Except for the obligations provided herein, Community Coalition hereby unconditionally releases, remises, acquits and forever discharges Developer from any and all claims, demands, injuries, actions, causes of action, either at law or in equity or of any kind, nature or description, whether presently known or unknown and whether presently are existent or nonexistent, which Community Coalition has had or now has or may in the future have against Developer challenging the Project Approvals or the Subsequent Approvals.

Section Four

Monitoring and Tracking

7. Monitoring and tracking

Setting up an effective monitoring and evaluation system is essential for ensuring that community benefits objectives are being realized. If you are adopting a community benefits approach for your organization, remember that this will take time and attention on the part of the project manager or procurement staffer responsible for ensuring compliance.

An effective monitoring and evaluation system should have three components:

1) Target monitoring - Approach to monitoring progress towards targets embedded in each contract

2) Initiative evaluation - Approach to evaluating the community benefits initiative as a whole

3) Long-term impact - Approach to evaluating the long-term impact of community benefits on the broader eco-system

1) Target monitoring

To hold contractors accountable for achieving community benefits targets, contracting institutions need a target monitoring framework that includes clearly defined measures and data collection strategies.

To track progress towards *workforce opportunity targets*, contracting institutions will need information on individuals hired by contractors who "count" towards community benefits targets, including:

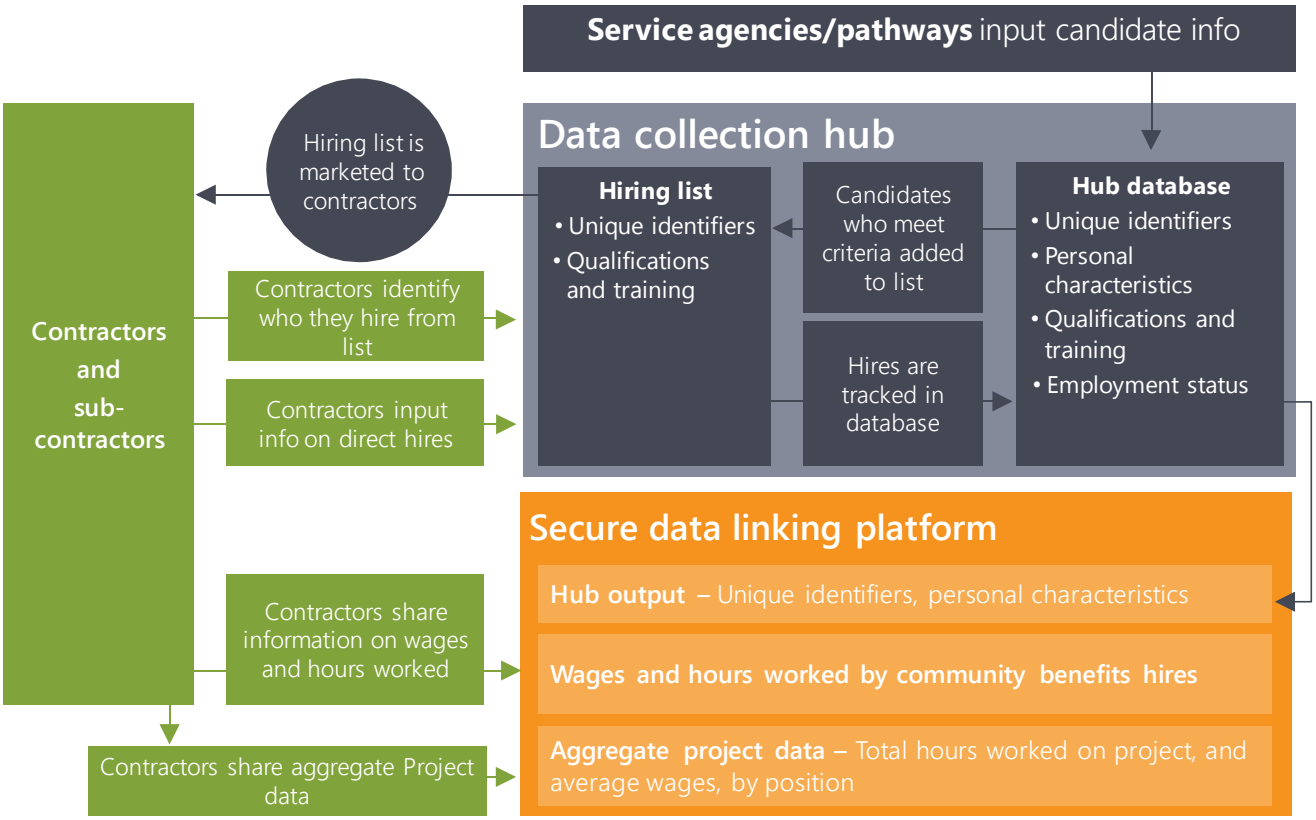
- Identifying information, to link the individual's information to data from other sources
- Personal characteristics, to determine if they meet criteria for a community benefits hire
- Employment status and hours worked

To enable effective target monitoring for workforce opportunities, York Region partners should develop a data collection "hub" and hiring list. This may relieve some administrative burden on individual partners. Figure 3 outlines how this hub would work. This hub could be used as a central platform for institutions and contractors that are engaged in community benefits projects.

- Employment service providers and other agencies could submit information on potential candidates to the data collection hub (including their characteristics, qualifications and training)
- Basic information about the skills and qualifications of potential candidates would be shared with contractors through a "hiring list"
- Contractors would share information on the employment outcomes of candidates hired from the "hiring list", and also share information on other direct hires who meet community benefits criteria (but do not come from the hiring list)

For initial demonstration projects, this data collection "hub" could be operated as a simple Excel spreadsheet. When community benefits are operating at a larger scale, institutions across York region could consider investing in a secure database and online platform for the data collection hub and hiring list. For larger projects, specialized software designed to track hiring and hours worked using payroll records could also be considered. See Box 4 for more information.

Figure 3: Data collection hub



BOX 4: ABOUT PAYROLL SOFTWARE

Specialized payroll software, such as LCP Tracker, can be used to monitor compliance with project agreements or regulations. Contractors enter information on employee characteristics and payroll records and the software generates key metrics and produces reports. The software supports either seamless upload from a company's electronic payroll software, or manual entry of records.

Example: Tracking targeted hires for the Los Angeles Metro Crenshaw/LAX Transit Project

Los Angeles Metro requires the project contractor and each sub-contractor to submit payroll records and Metro issues monthly reports sharing results.

Metro

TARGETED WORKER SUMMARY REPORT
C0988 - Crenshaw/LAX Transit Corridor Design/Build Project
C0988

Total Forecasted Project Hours	4,330,225.00	
Total Project Hours to Date	3,256,615.82	Reporting Period: CUSTOM
Total Project Hours Percentage	75.21 %	From: 4/10/2017 To: 5/7/2017

	Craft Hours Mar 12 - Apr 09	Percentage (%) Craft Hours Mar 12 - Apr 09	Craft Hours Apr 10 - May 07	Percentage (%) Craft Hours Apr 10 - May 07	Cumulative Craft Hours To Date	Percentage (%) of Cumulative Hours
Targeted Worker Hours						
Fed Extremely Economically Disadvantaged	66,109.70	40.99%	53,952.85	42.04%	1,308,549.89	40.18%
FED Economically Disadvantaged	33,162.70	20.56%	26,078.50	20.32%	621,481.41	19.08%
Economically Disadvantaged Area Hours SubTotal	99,272.40	61.55%	80,031.35	62.35%	1,930,031.30	59.26%

Contractors and other partners may raise concerns about sharing employee information through the data collection hub. In all cases, informed consent should be obtained from candidates and employees before their information is shared with other parties. See Box 5 for more information on sharing employee information.

To track progress towards *supply chain opportunity targets*, contracting institutions will need information on contractors' procurement spending. Contractors should be asked to share information on which businesses they engage with for procurement and the amount of spending. This data can be collected and monitored by contracting institutions through a simple database or spreadsheet.

BOX 5: SHARING EMPLOYEE INFORMATION

Collecting and monitoring employee diversity data is increasingly standard practice. The Ontario Human Rights Commission favours the collection of employee data for purposes consistent with the Ontario *Human Rights Code*, such as evaluating special programs aimed at countering discrimination in employment. The OHRC considers collecting data for these purposes is in line with Canada's human rights legislative framework

The Government of Canada requires that contractors collect workforce data under Federal Contractors' Program. In addition, large-scale Government of Ontario initiatives, such as the Basic Income Pilot, ask individuals to consent to linking their personal data to existing administrative data

All data collected about employees should adhere to the *Personal Information Protection and Electronic Documents Act* which requires:

- Identifying how and why personal information is collected
- Obtaining valid, informed consent that specifies what information is collected and how it will be used
- Use of appropriate security measures, and limiting use of personal information to specific purposes

2) Initiative-level evaluation

In addition to monitoring targets for individual contracts, York Region could evaluate the outcomes of the overall community benefits initiative.

Initiative evaluation should include:

- Aggregation of outcomes across each contract to understand overall achievements
- Process evaluation to address 'how' questions and identify lessons learned for strengthening community benefits work in future

Aggregating outcomes will allow York Region to understand the broader impacts of the community benefits initiative, compare and analyze outcomes achieved across contracts to identify successes and areas for improvement, and inform the target-setting process.

The process evaluation could include a “deep dive” into the process of implementing community benefits in York Region to identify key lessons that will inform future community benefits work. The process evaluation could include consultations with key stakeholders to explore:

- Factors that contribute to the success of community benefits
- Stakeholder perceptions of relevance and value-add of community benefits initiative
- Key challenges and opportunities to strengthen the approach to community benefits
- Unintended outcomes and results

3) Long-term impact evaluation

In the long term, York Region could also tracking broader changes in the York Region eco-system as a result of community benefits through regular check-ins with key stakeholder groups. Potential long-term impacts could include increased commitment to diversity hiring from employers, perceptions of equitable access to economic opportunities in York Region, and new collaborations between community, government, business and other partners.

York Region could also invest in targeted research projects that track community benefits individual beneficiaries over time to understand how they are impacted in the long-term.

Monitoring and Tracking Tools

The monitoring and tracking system for a community benefits project needs to be built in from the very beginning.

If you are adopting a community benefits approach for your organization, remember that this will take time and attention on the part of the project manager or procurement staffer responsible for ensuring compliance.

The York Community Benefits Framework focuses primarily on workforce and supply chain opportunities, so this tool provides guidance on monitoring and tracking results in these areas.

The monitoring and tracking system will need to include:

1) Clear contract language with definitions and reporting requirements
2) Measures to assess progress towards targets
3) Tools and processes for collecting data
4) A system for collecting and aggregating data and producing reports

1) Clear contract language and definitions

Contracts should include language with specific requirements about what needs to be monitored and tracked, how often (e.g. monthly? quarterly?) and in what form the information needs to be supplied to the owner or client.

Example #1: Eglinton Crosstown LRT Project Agreement, Apprenticeship Plan

Project Co shall provide an annual report to HMQ Entities on the implementation of the Apprenticeship Plan which report shall include:

- *statistics on the number of apprentices involved in the Project relative to the number of journeypersons, for each month of the Project; and,*
- *detailed information setting out ProjectCo's progress toward achieving the objectives set out in the Apprenticeship Plan, including an identification of any barriers that prevented ProjectCo from achieving its objectives*

Example #2: Lorenzo Palmer Community Benefits Project

Quarterly Local Hire Reports shall detail each Construction Employer working on the Project Site, and shall include, at a minimum:

- *Residency, Wage rates, hours of construction work performed, of each Local Resident and At-Risk Resident hire;*
- *Total hours of construction work performed by all construction workers on the project site*

Clear contractual definitions of community benefits targets and measures are critical for monitoring progress. Contracting institutions should ensure clear definitions of who "counts" as a community benefits hire, or in the case of supply chain opportunities, a small business, social enterprise, etc.

For example, if the community benefits project is targeting workforce opportunities for at-risk youth, it will be important to clearly define who "counts" as an at-risk youth (e.g. age restrictions, income cut-offs, etc.)

In considering who "counts" it is also important to consider questions like:

- Is it possible to continue "counting" a community benefits hire who moves to a different project?
- What if the other project is operated by the same contractor? What if the other project also has community benefits requirements?
- Can definitions or guidelines used by service providers or other intermediary associations be used to help decide who "counts"? (for example, do other organizations in the community do work to identify and support social enterprises in the community, and could these organizations help define who counts as a social enterprise?)

Example: Metro LA Construction Careers Policy

Local Targeted Worker means a Local Resident, Community Area Resident or a Disadvantaged Worker whose primary place of residence is within Los Angeles County

Disadvantaged Worker means an individual who, prior to commencing work on the project, meets the income requirements of a Targeted Worker and faces at least two of the following barriers to employment: (1) being homeless; (2) being a custodial single parent; (3) receiving public assistance; (4) lacking a GED or high school diploma; (5) having a criminal record or other involvement with the criminal justice system; (6) suffering from chronic unemployment; (7) emancipated from the foster care system; (8) being a veteran of the Iraq/Afghanistan war; or (9) being an apprentice with less than 15% of the required graduating apprenticeship hours in a program

2) Measures to assess progress towards targets

Workforce opportunities

Table 1 outlines an example measurement framework for measuring progress towards workforce opportunity targets. The monitoring frameworks outline a set of measures that are aligned with potential workforce opportunity targets (e.g. the % of total hours on a project worked) for different sets of potential target groups (e.g. at-risk youth). The framework should be customized for individual projects, based on the targets that are set for the project.

Table 1: Workforce opportunity monitoring example

	Measured for:			
	At-risk youth	Newcomers	Internationally trained professionals	OTHER TARGET GROUP
EMPLOYMENT				
1. EMPLOYED # employed on the Project	X	X	X	X
2. PERCENT OF WORKFORCE % of total number employed on the Project	X	X	X	X
HOURS WORKED				
3. HOURS WORKED # hours worked on the Project	X	X	X	X
4. PERCENT OF TOTAL HOURS % of total hours worked on Project	X	X	X	X
WAGES				
5. HOURLY WAGE Median hourly wage of those employed on the Project before taxes and deduction (relative to median hourly wage of non-community benefits hires)	X	X	X	X

Supply chain opportunities

Table 2 outlines an example measurement framework for supply chain initiatives. As with Table 1, each framework can be customized for individual projects, based on the targets that are set for the project.

Table 2: Supply chain initiative monitoring

	Measured for:		
	Social enterprises	Small businesses	Businesses owned and managed by under-represented groups
SOCIAL PROCUREMENT			
5. SPEND $ value of sub-contracts and supply contracts	✓	✓	✓
6. PERCENT OF TOTAL SPEND % of total value of all sub-contracts and supply contracts	✓	✓	✓

3) Tools for collecting data

To collect the data needed to monitor progress towards targets, it is critical to establish user-friendly tools and a data collection system that can be used by contractors and other partners to share needed information.

Workforce opportunities

To track data towards workforce opportunity targets, a data collection system is needed that can be used by contractors, and employment service providers, to both facilitate community benefits hiring and track the outcomes of community benefits hires.

Employment service providers and other agencies could input information on potential candidates for community benefits hires into the data collection system, including their sociodemographic characteristics, education/training, and experience.

Basic information about the candidates' qualifications and training could then be extracted and shared through a *hiring list*. This list would be shared with contractors to help them identify potential candidates to meet community benefits requirements. (see below)

Figure 4: Example of hiring list

Identification #	On-list date	Training	Experience
00001	01-Jun-18	• High school diploma • Pre-apprenticeship program including WHMIS, Working at Heights, Propane Handling	• Fencing (3 yrs) • Forklift (1 yr)
00002	03-Jun-18	• High school diploma	• Pizza delivery (1 yr) • Retail (2 yrs)

Contractors will then be required to report on the specific employment outcomes of community benefits hires (i.e. date of hire, hours worked). In cases where contractors directly hire candidates who meet community benefits criteria, but do not come through the hiring list, they can also report information on these hires directly. See Figure 5 for an example of a reporting template that contractors could use to submit this information.

Figure 5: Example of contractor reporting template

Project information

Contract value	Total # of employees	Total hours worked
X	X	X

Community benefits hires from hiring list

Employment status				
Identification #	**Date of hire**	**Position**	**Wage**	**Hours worked since hiring**
00001	13-Jul-18	Concrete Delivery	$22/hr	350
00002	01-Aug-18	General labourer	$18/hr	240

Direct community benefits hires

Employee information					Employment status				
Identification #	**Age**	**Postal code**	**Income at hiring**	**Education**	**Identifies as: Indigenous, racialized, LGBTQ+, PWD, newcomer**	**Date of hire**	**Position**	**Wage**	**Hours worked since hiring**
00003	37	B2B 2B2	$30,000	Some post-secondary	Newcomer	01-Oct-18	Engineering technician	$23/hr	240

A data collection "hub" should be established to securely store and link data provided by employment service providers and contractors, and to feed data on potential candidates into the hiring list.

Supply chain opportunities

To collect data needed to track progress towards supply chain opportunity targets, contractors will need to report on their procurement spending, including spending on businesses targeted through community benefits (e.g. small businesses). A simple reporting template could be provided to contractors to share this information (see below).

Total Procurement Spending to Date
$X

Supply Chain Opportunity Spending	
Business A (small business)	$X
Business B (social enterprise)	$X

Data collection system and reporting

Information from the data collection hub could be regularly summarized, analyzed, and reported out to contractors and other key partners to monitor progress towards targets. *(see below)*

Figure 6: Example reporting template

WORKFORCE OPPORTUNITIES

	# currently employed	% of total current employees	# employed since Project start	% all employed since Project start	# hours worked	% of total Project hours
All employees	**X**	**100%**	**X**	**100%**	**X**	**100%**
Community benefits hires						
At-risk youth	X	X	X	X	X	X
Indigenous	X	X	X	X	X	X
Racialized	X	X	X	X	X	X
LGBTQ+	X	X	X	X	X	X
Person with Disabilities	X	X	X	X	X	X
Newcomer	X	X	X	X	X	X
Internationally Trained Professional	X	X	X	X	X	X
Low-income	X	X	X	X	X	X
TOTAL COMMUNITY BENEFITS HIRES	**X**	**X**	**X**	**X**	**X**	**X**

SUPPLY CHAIN INITIATIVES

	$ amount	% of total procurement
Total procurement spending for Project	**X**	**100%**
Spending on social enterprises	X	X
Spending on small businesses	X	X
Spending on businesses owned and managed by under-represented groups	X	X

Appendix A: Sample Resources

Community Benefits Policies, Frameworks and Programs

Regional Municipality of Wood Buffalo Social Procurement Framework and Pilot Program Overview

City of Toronto Social Procurement Policy and Program

City of Vancouver CBA Policy

Metrolinx Community Benefits Framework and Apprenticeship Declaration

Wales - Community Benefits Policy

Community Benefits Agreements

Vancouver - PARQ Casino Inner City Local Employment and Procurement Agreement (starts on p 8)

California – Facebook Campus Expansion

Texts of a number of US agreements are available on the website of the Partnership for Working Families

Toolkits

Northern Ireland – Buy Social Toolkit

U.S. Department of Energy, Office of Economic Impact and Diversity – Community Benefits Toolkit

Community Engagement

Nicole Swerhun and Vanessa AvRuskin - Discuss, Decide, Do

International Association for Public Participation (IAP2) – www.iap2.org

HCLink – Community Engagement

Sustainable Infrastructure Frameworks, Tools and Valuation Models

International Institute for Sustainable Development:

- Contracts for Sustainable Infrastructure: Ensuring the economic, social and environmental co-benefits of infrastructure investment projects
- Low-Carbon Innovation for Sustainable Infrastructure: The role of public procurement
- The Sustainable Asset Valuation (SAVi) tool

Appendix B: Sample Menu of Benefits

Benefits will vary enormously depending on the needs and wishes of local communities, but the following "long list" includes benefits which have been negotiated in previous agreements elsewhere, or have been suggested by communities or stakeholders. This list is intended to be representative but not comprehensive.

Economic Benefits

Employment for members of designated groups on infrastructure contracts, or in organizations (full time, part time or in some cases, contract; may also include work placements and internships; living wages)
Training and apprenticeships (may also include pre-apprenticeship programs)
Business/enterprise (opportunities and/or support for small and medium sized enterprises and/or social enterprises)
Investment (direct, i.e. cash contributions and/or low- or no-interest loans; in-kind services or labour; sponsorships)

Environmental and Public Realm Benefits

Parks (creation of or improvements to)
Community spaces and facilities (including affordable community access)
Carbon/greenhouse gas reduction
Waste reduction
Pollution reduction (air, noise, soil, other)
Renewable energy initiatives
Resilience and adaptation initiatives
Ecosystem and biodiversity enhancement or conservation initiatives (e.g. tree planting, wetlands)
Green technology and infrastructure
Water and energy conservation initiatives

Housing and Social Benefits

Affordable housing (rental of units below average market rent/rent geared to income units/affordable or assisted home or condo ownership programs/tiny homes/supportive housing/other models)
Community capacity-building support and initiatives
Increased accessibility (over legislated minimums)
Scholarships and support for local schools
Social programming (including youth programming, programs for newcomers, seniors, etc.)
Daycare
Arts and culture (e.g. free or subsidized workspace or performance space, programming, public art)