

What Small Town and Rural Leaders Need to Know About Community Benefits Agreements

As small towns and rural communities across the United States work to create high-paying jobs, reduce daily expenses, and improve the local quality of life for their residents, a new model has emerged to ensure that significant energy development projects benefit local community members. This model is known as a Community Benefit Agreement.

A Community Benefits Agreement (CBA) is a contract signed by community groups and a real estate, energy, housing, or economic developer that requires the developer to ensure local community members benefit directly from the development activity. In exchange, the community groups agree to support the project publicly or at least not oppose it during the permitting process.

Too often, economic and energy development projects are heavily subsidized by taxpayer dollars. Still, there is usually no guarantee that a project's "ripple effects" will benefit current residents. Community members have often felt misled by the suggestion that a project will benefit a community when good impacts never materialize..

Responding to these problems, the CBA model was created in the late 1990s as a way for the communities most impacted by development projects to meaningfully participate in the planning process and seek to ensure that development benefits will accrue to existing communities. When done right, CBAs can help ensure that development benefits the community.

A CBA is a legally binding contract signed by community benefit groups and a developer that:

- Ensure local people share the benefits of major developments in their communities
- Shift power in a developer-community relationship and amplify resident voices, needs, and concerns
- Provide a mechanism for customizable, community-by-community suites of community amenities
- Hold developers accountable for their promises
- Create room for community benefits, not just mitigation of project harms
- Encourage *early* negotiation between communities and developers
- Have shown to reduce or eliminate litigation around a project's development
- Are strategic vehicles for community improvement while benefiting private sector developers and both state and local governments. They are not zero-sum instruments.

Similarly Named Mechanisms:

Community Benefits Plans (CBPs): [CBPs outline the community's priorities for a development project and the developer's commitments to those priorities.](#) These are not typically legally binding. The Department of Energy is requiring CBPs for most funding opportunities, but a formal CBA is not required for those applications. While CBAs can provide stronger guarantees that the developer will follow through on its commitments, they can be more difficult to negotiate, implement, and enforce.

Good Neighbor Agreements (GNAs): GNAs and CBAs are both tools used to address community concerns related to development projects. However, they have some key differences:

Development Agreement: A Development Agreement (DA) is established between a city and a developer or property owner. This agreement focuses on infrastructure enhancements and other public facilities or services that align with and advance the objectives of the city and its community. DAs focus on project phasing of standard city requirements and timing of public improvements. These agreements are less likely to involve community input processes and benefits above and beyond regulations or area plans already established.

Why Small Towns and Rural Communities Use Community Benefits Agreements

The CBA negotiation process ensures that community issues are heard and addressed. Historically small-town and rural community members are often missing in the development process, and sometimes, the promises developers make when pitching a project do not come to fruition. CBAs legally commit developers – in writing – to promises they make.

CBAs encourage early negotiation between developers and a community. They can help foster a cooperative relationship between potentially adversarial parties and avoid conflict during the approval process; [the use of CBAs has led to a marked decrease in litigation, benefiting both developers and communities.](#)

How to Create A Community Benefits Agreement in Small Towns and Rural Communities

CBAs feature concrete deliverables, timeframes, monitoring requirements, and enforcement mechanisms. [An effective CBA is grounded in four core principles:](#)

1. A CBA is negotiated by a coalition that effectively represents the interests of the impacted community
2. The CBA process is transparent, inclusive, and accessible to the community
3. The terms provide specific, concrete, meaningful benefits and deliver what the community needs

4. There are clearly defined, formal means by which the community can hold the developer (and other parties) accountable for their obligations.

Five Steps for Creating Community Benefit Agreements

Typically, negotiations between a CBA coalition and a developer begin after a project has been announced but before governmental approval. CBA negotiations usually require communities to organize a broad coalition of community interests. Community advocates – or local governments – must bring community interests into the development process at the front end of discussions between developers and public entities.

● **Pro Tip!**
Forming a coalition takes time. While many coalitions form after a project is announced, communities that anticipate energy development can start now and be ready for a developer.

Step One: Create a Community Benefits Coalition

At the heart of the community benefits strategy is local coalition building. Community benefit groups are coalitions comprised of farmers/ranchers, neighborhood associations, faith-based organizations, unions, environmental groups, and other stakeholders. They represent the interests of residents who proposed developments will impact. Coalitions are usually unincorporated, but member community groups may enter into an operating agreement to govern their relationship in the coalition. Public hearings should be held at times and places that are neighborhood-friendly. Having a negotiation process helps provide a forum for affected communities.

Step Two: Conduct Community Meetings

● **Pro Tip!**
Covering the costs of a project, like reclaiming the land back to natural vegetation after disruption or financially supporting enough teachers for the influx of families with children, are project costs, not community benefits. Community benefits go above and beyond covering the project's basics!

Community benefit groups or coalitions are responsible for representing the interests of residents whom proposed developments will impact. Because of this, the local coalition must hold regular meetings with community members to generate feedback on the proposed project. During these meetings, desired elements of the CBAs should be identified. It is essential that the coalition reflects the community and takes time to ensure the residents with the greatest needs have their concerns addressed.

Step Three: Engage Local and State Government Officials

Elected officials and government agencies often play an active role in CBA negotiations. Local and state government officials are critical to the CBA process, especially for zoning approvals. Developers have clear incentives to accommodate community interests, so community benefit groups can solidify their negotiating power by working with government officials to understand the process in front of the project and anticipating the steps the developer will need to take. Engaging with government officials will ensure they know that the coalition is in active negotiation and should be consulted before government sign-off of the project.

Step Four: Create and Sign a Legally Binding Contract

This is only the beginning of the formal agreement. Community benefit groups should ensure they have legal representation to make sure the benefits are specific and enforceable. The groups also need to ensure that they have a plan for sustaining their coalition for the duration of the project to hold the developer accountable.

Sometimes, a state or local government agency will play an active role in CBA negotiations. Concerned citizens usually form community-based organizations involved in CBA negotiations and may be built upon traditional community organizing structures, such as block clubs or church-based groups.

Step Five: Monitor and Enforce the Agreement

CBAs are an enforceable contract between the developer and a community coalition. Most CBAs also create an Implementation Committee as a forum for monitoring compliance and addressing noncompliance issues at the earliest stages. When CBAs are incorporated into a public-private partnership agreement between the city and a developer, municipal officials can also bring their conciliation and enforcement strategies.

What to Watch Out For

While offering a pathway for meaningful local participation and better community outcomes in the planning of a major project, CBAs can be misused and abused. Local residents may be left unrepresented in the process, the developer could co-opt project support without carrying through on commitments, or an under-resourced community coalition may not be able to hold the developer to its commitments.

Beware of these CBA red flags:

- Lack of representation of residents - the demographics of the people actively in the conversations are not matching the demographics of the community itself. Relying on the people with the most experience rarely leads to good representation of community voices. The developer should not get to decide who the stakeholders are!
- Lack of transparency - do residents know the latest in the negotiations? Closed-door and secret negotiations breeds mistrust, raises questions about conflicts of interest, and leave stakeholders out.
- Unenforceable commitments - CBAs are ideally legal commitments with teeth. If the legal language is not vetted by an expert representing the community, if the commitments are too vague (i.e., “the developer will make an effort to...”) or if the agreement does not include accountability terms, promises may not be kept.
- Unresourced community coalition - development projects are often multi-decade in duration, and the enforceability of a CBA depends on a community coalition’s staying

power to hold the developer accountable. An agreement with a group that lacks a clearly sustainable path forward risks being unenforceable.

Community Benefits Agreement Case Study 1

Monhegan, Maine Off-Shore Wind

[The Monhegan Maine community benefit agreement for offshore wind is a significant part of the Maine Aqua Ventus project.](#) The community formed a “Community Benefits Advisory Committee” which developed [a report](#) of local needs, which included reliable energy, affordable housing, solid waste services, and job training, and recommendations based on scenarios. Early discussions included a range of possible benefits, including possibility of mainland grid connection, reduced electricity rates, and improved local broadband internet.

Highlights of the deal:

- [The demonstration project partners have agreed to pay \\$2 million into a designated energy and broadband infrastructure fund for Monhegan Island.](#)
- In addition to the infrastructure fund, they will provide \$40,000 a year for municipal support.
- [The agreement also includes royalties for any renewable energy credits the project might receive.](#)

Community Benefits Agreement Case Study 2

Los Angeles Staples Center

The pioneering model for CBAs was the Staples Center expansion in Los Angeles. The original Staples Center was completed in 1999 after little or no consultation with the neighboring community. When the Los Angeles Sports and Entertainment District announced plans for a \$1 billion expansion including a hotel, arenas, shops, and apartments, the local residents mobilized and provoked a dialogue with developers Philip Anschutz and Rupert Murdoch, seeking “community benefits” to ameliorate adverse impacts and affirmatively improve the quality of life in their neighborhoods.

Ending the threat of widespread opposition, [the developers of a major hotel and entertainment center around Staples Center agreed to an unprecedented package of concessions](#) demanded by community groups, environmentalists, and labor.

Highlights of the deal Los Angeles Staples Center CBA, [according to the Lost Angeles Times](#):

- More than \$1 million for the creation or improvement of parks within a mile of the project, with community input; a one-acre public plaza and other public open space.
- At least 70% of the estimated 5,500 permanent jobs to be created by the project--including those offered by tenants--will pay a living wage or better. Those are

defined as paying \$7.72 an hour with benefits or \$8.97 without or covered by a collective bargaining agreement. The deal also calls on the developer to notify the coalition 45 days before signing tenant lease agreements.

- A local hiring and job training program for those displaced by the arena, living within three miles of the project or living in low-income areas citywide. Developers will give \$100,000 in seed funding to create specialized job training programs through local community groups and ensure that appropriate residents are notified first of jobs.
- A residential parking permit program, financed by developers for five years, that will reserve street parking for residents. Common in affluent areas, officials say it will become the first parking permit zone in a low-income neighborhood.
- Construction of between 100 and 160 affordable housing units, or 20% of the total project. Those will be affordable to residents earning below 50%, 60% and 80% of the area's median income. The units exceed Community Redevelopment Agency requirements in number and serve families with lower incomes. Developers also will provide up to \$650,000 in interest-free loans for nonprofit housing developers in the early stages of developing projects in the area.

A list of additional CBA case studies can be found here:

- <https://law.tulane.edu/sites/default/files/Files/TPLC/summary-and-index-community-benefit-agreements.pdf>
- [Community Benefits Agreements Database | Sabin Center for Climate Change Law \(columbia.edu\)](#)
- [Community Benefits Agreement Guidelines for Renewable Energy Projects on Tribal Lands in the U.S. by MIT DUSP - Issuu](#) (Pg 17-18 has examples of other CBAs)