

SOLAR DEVELOPMENT

Community Benefits Agreements: What's in It for Us?

Townships that want to have more control over their community's future, especially when solar energy developers come a-knockin', are going beyond zoning ordinances to negotiate with developers through community benefits agreements. This article explains what these agreements entail and why townships may want to consider them.

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A community benefits agreement can address the impacts of a solar energy project and is typically between a developer and a municipality.

Editor's note: This is the seventh article in a series designed to inform municipal officials and employees about grid-scale solar projects. PSATS has partnered with the state Department of Environmental Protection (DEP) to provide these educational opportunities.

A growing number of Pennsylvania communities are putting more thought into how they see their future when it comes to sourcing and using energy. These preemptive discussions allow a diverse group of community members, in partnership with their elected and appointed officials, to proactively identify and plan for this community change. With the growing number of large, grid-scale solar facilities being proposed in rural municipalities, more municipalities are beginning to negotiate with solar developers, asking them to form deeper partnerships — called community benefits agreements (CBAs) — with the communities that their projects will impact by making investments for the collective local benefit.

CBAs form the foundation of this partnership, creating the social buy-in that solar companies need to gain local acceptance of their proposed project, while allowing the larger community to find wider value from new energy development than it has in the past.

With an increasing number of grid-scale solar projects in the permitting queue in Pennsylvania, some communities are working to accommodate them as part of their local climate action goals. Other municipalities are moving in the opposite direction, believing that although they support solar, they don't necessarily feel these large solar facilities are a good fit in their community. Often this opposition is based on the question, "What's in this for the municipality?" A CBA can be part of the answer.

What is a community benefits agreement?

A community benefits agreement is a legally binding document that addresses the public impacts of a large infrastructure project, such as a large-scale solar energy development. A CBA is usually between the project

developer and the municipality(ies) where the project is proposed to be constructed, but it can also be forged with a coalition of local groups. These coalitions might include local or regional economic development agencies, workforce training entities, educational institutions, local small business associations, county government, and others.

In exchange for support for the project, a solar developer often invests in the community through both monetary and nonmonetary means as agreed to in the CBA. This can help build the wider local economy and help the developer become a core part of the community.

The premises behind CBAs are that the community investment should have wide, measurable benefits that are tailored to the specific community's needs and that the agreements are enforceable.

Federally funded projects require CBAs

The 2021 Bipartisan Infrastructure Law and the 2022 Inflation Reduction Act included billions of dollars of support for clean energy develop-

ment. Projects funded at least in part through this federal money require that a community benefits plan (CBP) be included in the application for funding, and the content of the CBP is a factor in whether the project is funded. A CBP is essentially a CBA for a project receiving federal funding.

For projects that are not federally funded, a CBA is optional. However, many communities across the country, including in Pennsylvania, are negotiating direct community investments during the permitting process as part of privately funded projects. Some companies are more willing than others to negotiate them, but as more communities insist on these agreements, the number will likely increase.

Advantages all around

An early and thoughtful community benefits planning process gives the municipality a greater voice in the negotiation by increasing the range of people working with the developer to identify and work toward potential benefits. This directly helps municipal officials in their role to administer local ordinances fairly and pursue common cause with their constituents.

The developer gains by building public trust, which can speed project approval. Participation in the community benefits process reduces the developer's risk because project comple-

Community benefits vary

Crafting a community benefits agreement may seem daunting for municipalities that have never created one. To give townships an idea of the kinds of benefits that can be included in a CBA, here are some actual items from recent agreements for various kinds of projects:

- funding for emergency services, education, and/or workforce development;
- establishment of a community center, child care center, or health center;
- funding for educational and/or youth programming;
- investment in affordable housing;
- annual payments to the local government based on the amount of electricity produced, with scheduled annual increases;
- commitment to pay a fair, locally indexed wage;
- minimum percentage of local workers and/or marginalized workers;
- use of some apprentice labor to help train the future workforce;
- investment in local infrastructure and repair;
- mentoring of minority-, women-, and veteran-owned businesses;
- investments in local programs for the protection of agriculture and open space; and
- encouragement of green building techniques.

COMMUNITY BENEFITS AGREEMENTS

The most important thing to know about negotiating a CBA is that **communication with the community and all stakeholders is an ever-present need** throughout the process.

tion is more likely. Risk associated with acquiring the needed permits to build a project is one of the biggest hurdles these projects face in Pennsylvania and nationwide.

How CBAs are developed

The following are some common steps of the community benefits development process.

The most important thing to know about negotiating a CBA is that communication with the community and all stakeholders is an ever-present need throughout the process.

Most community members are likely not familiar with CBAs or the process required to achieve them, so they may find some background information throughout the process to be helpful. At times, hiring an outside expert partner can be helpful in this effort because they can serve as a trustworthy and unbiased guide.

Ideally, public engagement for development of a community benefits “wish list” should occur very early in the project, when it is in proposal stage and before the developer has a land-use agreement with the local government. This timing gives the community the greatest leverage. A municipality might be best served by developing a list of community goals before a large-scale solar project is even proposed so they have a foundation on which to negotiate a CBA if a proposed project appears.

It is wise to enlist local government and community leaders in the public education and engagement campaign to maximize turnout at these early planning sessions.

The wish list is best generated by collecting ideas from a diverse group of residents representing the widest possible range of community stakeholders and by researching other communities’

CBAs. A trusted local leader might kick off the conversation by asking, “In an ideal world, assuming money is no object, how could our community be different?”

Public input and tailoring the wish list to the community’s needs increase local buy-in and positive outcomes for the resulting CBA. Generally, the larger the proposed project, the greater the CBA investment to maximize local benefit.

Once this process is complete, the coalition should consider how its identified items align with the local government’s development or redevelopment goals to ensure that projects meet community needs. This will help the community coalition members and local leaders jointly prioritize key items for a CBA during negotiation.

The preferences of stakeholders with the most “skin in the game” (*for example, immediate neighbors to a proposed solar project*) might be given heavier weight when there is disagreement about which priorities should prevail. The community benefits process culminates with agreement on a CBA and formal signing of the document. Then, the groups assigned to monitor progress toward the agreement begin that work.

If agreement cannot be reached with the developer, the community coalition should rethink and reprioritize the outcomes they were looking to achieve.

Tips for a strong CBA

All CBA negotiations should be done in public, not privately between the developer and the local government. Community groups that can participate in the CBA process should be sorted out by the municipality or some entity that it nominates to build the coalition to work through this community visioning process.

Many CBAs have a goal of target-

ing marginalized groups — including workers in industries that have downsized, costing them their jobs — to receive a greater share of the benefits.

Having the participation of a diverse group of stakeholders will yield a stronger CBA.

CBA items should meet the oft-cited “SMART” test for goals. Each item should be: **S**pecific (*for example, specific dollar amount donated per year*), **M**easurable (*appropriate and workable metrics*), **A**chievable (*reasonable change compared to the baseline status*), **R**el- evant (*items the community identifies as needs*), and **T**ime bound (*include a schedule and penalties for noncompliance*).

See the sidebar on page 63 for a list of community benefits from actual CBAs.

As more and more townships are approached by developers of large-scale solar facilities, they should do all they can to ensure that development meets the community’s goals and benefits the township and its residents. Community benefits agreements can be a first step in that process.◆

Here’s where to find more information

To learn more about grid-scale solar and related ordinance review and development, email Tom Murphy, PSATS’ solar program educator, at tmurphy@psats.org, or call the PSATS office at (717) 763-0930. Additional resources on grid-scale solar development can be found in the *Municipal Officials’ Guide to Grid-Scale Solar Development in Pennsylvania* at www.marcellus.psu.edu/solar.