

TEMPLATE COMMUNITY BENEFITS AGREEMENT

This template community benefits agreement can be used for a variety of projects, such as CO₂ or natural gas pipelines, liquid natural gas terminals, hydrogen hubs, or polluting facilities.

This AGREEMENT is made this [DATE], by and among [DEVELOPER] and [COMMUNITY ORGANIZATION AND/OR MUNICIPALITY].

RECITALS

Note that recitals are not a binding part of the contract but generally aim to provide the background and purpose of the Agreement. The court may look to the recitals for guidance in interpreting the legal Agreement. These examples are pulled from a few different CBAs and they aim to be comprehensive. However, the content of each recital can be adjusted to better fit the specific project/Agreement in question.¹

WHEREAS, [COMMUNITY AND/OR MUNICIPALITY] is host community to the proposed [insert project type, such as “carbon dioxide (CO₂) pipeline system”] (the “Project”) to be built [insert along the route for pipelines or at the site for single-site facilities] specified in [EXHIBIT X] to be constructed, owned and operated by [DEVELOPER];

WHEREAS, both [DEVELOPER] and [COMMUNITY ORGANIZATION AND/OR MUNICIPALITY] desire that, should the proposed Project be authorized by the applicable regulatory agencies and government authorities and thereafter be constructed, the construction be carried out, subject to such authorizations, in a manner that: minimizes impacts to the environment, ensures the safety of the public, and minimizes disruption to the community and the public resulting from the Project; and provides reasonable assurance to the community and its residents that such construction impacts will be mitigated;

WHEREAS, [DEVELOPER] has applied and will continue to apply for all licenses, permits, and approvals necessary for the development and construction of the [insert pipeline system or facility], including, but not limited to, [insert state permit and other legal requirements dependent on project];

This CBA template provides educational information. It does not, nor is it intended to, provide legal advice. No attorney-client relationship is established by use of this CBA template. Consult with an attorney for any needed legal advice. There is no warranty of accuracy, adequacy or comprehensiveness. Those who use information from this CBA do so at their own risk. Laws vary considerably from jurisdiction to jurisdiction. This CBA template is not specific to any jurisdiction. It should be viewed solely as a starting point for interested stakeholders, and would need to be adapted and modified to the particularities of local, county, state, federal and other legal systems in consultation with an attorney licensed to practice and experienced in the drafting of contracts in that jurisdiction.

¹ Community Benefits Agreement Between Footprint Power Salem Harbor Real Estate LP & the City of Salem, Massachusetts (Dec. 16, 2014), <https://climate.law.columbia.edu/sites/default/files/content/CBAs/Salem%20Harbor.pdf>; Community Benefits Agreement Between Trailblazer CO₂ Pipeline & Bold Education Fund Inc. (Mar. 27, 2024), <https://boldnebraska.org/tallgrass-bold-alliance-and-key-agricultural-and-first-responder-organizations-announce-a-community-benefits-agreement/>.

WHEREAS, [DESCRIPTION OF COMMUNITY INVOLVEMENT PRIOR TO AGREEMENT];

Example: the Mayor of [MUNICIPALITY] convened a Stakeholders Group, comprised of over a dozen community leaders and chaired by the Mayor, which Group met on numerous occasions over several months with the purpose of helping to formulate and assist in the terms, conditions and provisions of this Agreement on behalf of the community.²

WHEREAS, [DEVELOPER] is willing to undertake all actions set forth herein upon the beginning of the applicable Project phase, construction or operation;

WHEREAS, [DEVELOPER] and [COMMUNITY ORGANIZATION AND/OR MUNICIPALITY] agree and acknowledge that [COMMUNITY ORGANIZATION AND/OR MUNICIPALITY] has identified certain concerns with respect to the impact of the construction and operation of the [insert pipeline system *or* facility]; and

WHEREAS, [DEVELOPER] and [COMMUNITY ORGANIZATION AND/OR MUNICIPALITY] agree and acknowledge that the performance by [DEVELOPER] of their obligations as set forth herein will address such concerns to the [COMMUNITY ORGANIZATION AND/OR MUNICIPALITY]'s satisfaction.

Now, THEREFORE, in consideration of the covenants set forth herein and other good and valuable consideration, the receipt and sufficiency of which are hereby acknowledged, [DEVELOPER] and [COMMUNITY ORGANIZATION AND/OR MUNICIPALITY] hereby agree as follows.

AGREEMENT

I. Non-Opposition and Other Consideration to be Provided by the [COMMUNITY ORGANIZATION AND/OR MUNICIPALITY]

1. From the date of this Agreement, neither the [COMMUNITY ORGANIZATION AND/OR MUNICIPALITY] nor any of its agents or representatives will take any action, either directly or indirectly, publicly or privately, in any forum, to oppose or to assist any party in the opposition of the development, construction, or operation of the [insert pipeline system *or* facility], except as provided below.³

A more simplified alternate provision: [COMMUNITY ORGANIZATION AND/OR MUNICIPALITY] will not make any public statements or announcements in opposition to the Project and will not interfere in the development of the Project, so long as [DEVELOPER] is in compliance with the Agreement.⁴

² Community Benefits Agreement Between Footprint Power Salem Harbor Real Estate LP & the City of Salem, Massachusetts (Dec. 16, 2014),

<https://climate.law.columbia.edu/sites/default/files/content/CBAs/Salem%20Harbor.pdf>.

³ Id.

⁴ Community Benefits Agreement Between Trailblazer CO2 Pipeline & Bold Education Fund Inc. (Mar. 27, 2024),

Another option: [COMMUNITY ORGANIZATION AND/OR MUNICIPALITY] agrees to terminate any legal or administrative proceedings that they have brought against [DEVELOPER] over this Project.

2. Nothing contained herein shall prevent [COMMUNITY ORGANIZATION AND/OR MUNICIPALITY] from pursuing any claim for physical harm suffered by it, or for injuries or property damage suffered by it or any persons or property lawfully upon its premises arising out of the construction or operation of the [insert pipeline system *or* facility] or [DEVELOPER]’s actions or omissions in connection with the same.⁵ *If a municipality, include: Nothing contained herein shall prevent the [MUNICIPALITY] or any of its permitting boards, commissions, or officials from legally exercising its or their own legal regulatory authority to the extent not inconsistent with this Agreement.*
3. Nothing contained herein shall prevent the [COMMUNITY ORGANIZATION AND/OR MUNICIPALITY] from seeking to participate, and [DEVELOPER] agrees not to oppose the [COMMUNITY ORGANIZATION AND/OR MUNICIPALITY] seeking to participate, in any adjudicatory proceeding before the Siting Board or other federal or state agency or court in which is being considered significant new information regarding, or a significant change to, the Project proposal that is not consistent with the filings made in any pending federal, state or municipal proceedings involving the Project as of the date of this Agreement, if the [COMMUNITY ORGANIZATION AND/OR MUNICIPALITY] and [DEVELOPER] agree after good-faith consultation that such new information demonstrates, or that such change may cause, significant public health, safety, or environmental impacts to the [COMMUNITY ORGANIZATION AND/OR MUNICIPALITY] that are materially greater and more adverse than those that have been presented in such proceedings as of the date of this Agreement.⁶
4. Nothing herein prevents [COMMUNITY ORGANIZATION AND/OR MUNICIPALITY] from instituting or participating in legal or administrative proceedings with respect to alleged violations of this Agreement or applicable legal requirements, or from making public statements with respect to such alleged violations. However, good-faith consultation is required with [DEVELOPER] before doing so.
5. Nothing herein prevents [COMMUNITY ORGANIZATION AND/OR MUNICIPALITY] from engaging in any necessary emergency response or investigation of any alleged violation, and [DEVELOPER] must cooperate with such investigation.
6. Nothing herein prevents [COMMUNITY ORGANIZATION AND/OR MUNICIPALITY] from opposing any project other than the Project specified herein.

II. Consideration to be Provided by [DEVELOPER]

In exchange for the community organization’s support or commitment not to oppose the project,

<https://boldnebraska.org/tallgrass-bold-alliance-and-key-agricultural-and-first-responder-organizations-announce-a-community-benefits-agreement/>.

⁵ Community Benefits Agreement Between Footprint Power Salem Harbor Real Estate LP & the City of Salem, Massachusetts (Dec. 16, 2014),

<https://climate.law.columbia.edu/sites/default/files/content/CBAs/Salem%20Harbor.pdf>.

⁶ *Id.*

the developer will make a number of commitments that can broadly be divided into a few categories: construction, monitoring, emergency preparedness/public awareness, landowner protections, employment, decommissioning, and community investment. Monitoring is particularly important as violation of the CBA will only be detected if there are clear requirements outlining the duty to monitor. Below are example provisions of commitments the developer could make. Note that to be legal consideration, these commitments must be additional actions the developer agrees to take that would not otherwise be required (for example, compliance with laws does not constitute consideration).

CONSTRUCTION

7. [DEVELOPER] shall prepare a construction management plan in consultation with [COMMUNITY ORGANIZATION AND/OR MUNICIPALITY] before construction begins. The plan will include, among other things, the location of any construction staging and equipment storage areas and a written timetable setting forth the pre-construction, construction, and completion schedule. The plan will be posted on [DEVELOPER]’s website. [DEVELOPER] shall provide prior notice to [COMMUNITY ORGANIZATION AND/OR MUNICIPALITY] of any material changes to the construction management plan, which shall include any delay of [X MONTHS] or more in the pre-construction, construction, or completion schedule(s).⁷
8. To the extent that [DEVELOPER] expands or modifies the Project during the Term of this Agreement, [DEVELOPER] will notify [COMMUNITY ORGANIZATION AND/OR MUNICIPALITY] of and will prepare a new or revised construction management plan for such expansion or modification [X DAYS] before the expansion or modification.
9. [DEVELOPER] agrees to mitigate visual and noise impacts of construction as follows:
 - a. [DEVELOPER]’s active construction will be conducted in accordance with applicable laws but in no case shall be outside the following hours: Monday – Friday, [X TIME – X TIME]. No construction shall be conducted on legal holidays. Under no circumstances shall these hours be altered without the written approval of a duly authorized representative of [MUNICIPALITY] in his/her sole discretion.
 - b. [DEVELOPER] shall use commercially reasonable efforts through final design and construction of the Project to shield abutting properties from increases in noise and visual impacts.
 - c. [DEVELOPER] agrees to work with [MUNICIPALITY] officials to address both construction- and operations-phase traffic, and to include traffic mitigation as part of its construction management plan.
10. All construction equipment must be electric to the extent that such equipment is available, and advanced emission and noise controls must be utilized on all electric generators.

MONITORING

Effective monitoring requires the designation of an objective point person or committee to occupy the oversight duty. Other requirements may include holding recurring meetings to take

⁷ Host Community Agreement Between the Town of Medway, Massachusetts & Medway Grid, LLC (Sept. 7, 2022), <https://climate.law.columbia.edu/sites/default/files/content/CBAs/Medway%20Grid%20BESS%20HCA.pdf>.

stock of compliance, funding by the developer of the point person's salary (in deciding whether to include this, consider the value of maintaining independence), access to the project site and reports submitted to regulating agencies, and technical monitoring requirements.

Transparency/ Community Ability to Monitor

11. [DEVELOPER] shall provide safety officials with reasonable access to the Project Site to ensure the operations of the Project adhere to applicable laws and this Agreement.⁸
12. [DEVELOPER] shall provide and maintain a Company employee or employees as a point of contact for [COMMUNITY ORGANIZATION AND/OR MUNICIPALITY]. The representative(s) shall be knowledgeable about the Project and be in a position of authority to assist with construction, operation, emergency, and decommissioning questions. Upon the Effective Date, [DEVELOPER] shall provide the contact information (name, address, mobile telephone and email address) of the representative(s) and promptly update [COMMUNITY ORGANIZATION AND/OR MUNICIPALITY] in the event of a change in the representative(s). In the event of any assignment or sale of the Project, [DEVELOPER] shall promptly notify the successor owner of the requirement to provide this contact information.⁹
13. Any disbursement of funds to satisfy the action items agreed upon in the Agreement must be documented and made available by the [COMMUNITY ORGANIZATION AND/OR MUNICIPALITY] to its members in a transparent, clear and timely way.¹⁰
14. Complaint Management Program. [DEVELOPER] will establish a local complaint hot line telephone number and email account, which will be in operation and accessible on a 24 hour a day, 7 day a week, basis for the receipt of citizen complaints regarding Project operations, including, but not limited to, odors, litter, dust, noise, truck traffic, hours of operation, air contamination, water quality.¹¹
15. All complaints received through the complaint line or email will be recorded in a complaint log, with the permission of the complainant, showing the date and time of the complaint, the name of the complainant and telephone, email address, and address if available, location, nature and duration of the circumstances giving rise to the complaint and other supporting details. [DEVELOPER] will record the details of its investigation and its findings including whether any mitigation measures were undertaken as a result and shall notify complainant of any actions taken in response to their complaint.¹² [COMMUNITY ORGANIZATION AND/OR MUNICIPALITY] should be provided access to the log upon request.
16. [DEVELOPER] will timely investigate the complaint and determine the appropriate response to mitigate the conditions giving rise to the complaint. [DEVELOPER] will implement reasonable corrective measures to eliminate or mitigate the conditions giving

⁸ Id.

⁹ Id.

¹⁰ Community Benefits Agreement Between Footprint Power Salem Harbor Real Estate LP & the City of Salem, Massachusetts (Dec. 16, 2014),

<https://climate.law.columbia.edu/sites/default/files/content/CBAs/Salem%20Harbor.pdf>.

¹¹ Community Benefits Agreement Between the Town of Waterloo & Seneca Meadows, Inc. (Aug. 16, 2005),

<https://climate.law.columbia.edu/sites/default/files/content/CBAs/Town%20of%20Waterloo%20CBA.pdf>.

¹² Id.

rise to the complaint.¹³

17. Site Inspection. At the request of [COMMUNITY ORGANIZATION AND/OR MUNICIPALITY], [DEVELOPER] shall prepare and certify to [COMMUNITY ORGANIZATION AND/OR MUNICIPALITY] a site inspection of the pipeline or associated infrastructure pursuant to reasonable requirements of [COMMUNITY ORGANIZATION AND/OR MUNICIPALITY]. Such inspection may be requested periodically, but no more often than [X] per calendar year, as long as the Project remains operational. This inspection shall demonstrate [DEVELOPER]'s state of compliance with all federal, state or local environmental laws, rules or regulations applicable to the Project and with any conditions or requirements specified in any local siting conditions imposed by [MUNICIPALITY] and shall include all supporting documents and records. In the alternative, [COMMUNITY ORGANIZATION AND/OR MUNICIPALITY] may perform its own inspection no more than [X TIMES] per calendar year, in which case, upon reasonable notice from [COMMUNITY ORGANIZATION AND/OR MUNICIPALITY], [DEVELOPER] shall provide reasonable access to the property and all applicable documentation and records to facilitate said inspection. Unless [COMMUNITY ORGANIZATION AND/OR MUNICIPALITY] is aware of adverse environmental conditions at the Project and notifies [DEVELOPER] of the same, there shall be no more than [X AMOUNT] inspections per calendar year, whether said audits are prepared by [DEVELOPER, COMMUNITY ORGANIZATION AND/OR MUNICIPALITY].¹⁴ Nothing herein shall prevent Municipality or other government officials from undertaking any needed emergency response.

Example of an alternative site inspection provision:

18. Inspections. The [COMMUNITY ORGANIZATION AND/OR MUNICIPALITY] shall have the right to inspect the Project Site between [X HOUR and X HOUR]. During the course of each calendar year under this Agreement, [COMMUNITY ORGANIZATION AND/OR MUNICIPALITY] shall designate an inspector(s) to conduct such inspections. The [COMMUNITY ORGANIZATION AND/OR MUNICIPALITY] acknowledges, agrees and understands that, except in emergency situations where immediate inspection may be warranted, any inspector shall notify [DEVELOPER] at least 24 hours in advance of a planned inspection and request that they be accompanied by at least one (1) Company representative during the course of such inspection. In the event a Company representative declines or fails to accompany the inspector, the inspector may proceed with the inspection. All applicable safety rules will be followed by such inspector(s) during the course of any such inspection.¹⁵

Example of an alternative complaint system:

¹³ Id.

¹⁴ Host Agreement Between Veolia ES Zion Landfill, Inc., Lake County, Illinois, & the Solid Waste Agency of Lake County, Illinois (Jan. 28, 2010),

<https://climate.law.columbia.edu/sites/default/files/content/CBAs/Lake%20County%20HCA.pdf>.

¹⁵ Community Host Agreement Between the City of Moline and Lakeshore Recycling Systems, LLC (Jan. 24, 2023), <https://climate.law.columbia.edu/sites/default/files/content/CBAs/City%20of%20Moline%20HCA.pdf>.

19. Monitoring by [DEVELOPER] in-house staff and/or an independent third-party monitor. [DEVELOPER] will ensure that all aspects of this Agreement are effectively monitored by either its own in-house monitoring staff or by an independent third-party monitor, or both. Any member of the public may register a complaint with [DEVELOPER]'s in-house staff, the independent third-party monitor, and/or any government agency, alleging any party's failure to comply with the terms of this Agreement. Upon receipt of such complaints [DEVELOPER]'s in-house staff or the independent third-party monitor shall investigate the complaint and determine whether there has been a violation. Summaries of all complaints, investigations and determinations shall be available to [DEVELOPER] and the [COMMUNITY ORGANIZATION AND/OR MUNICIPALITY] upon request. The in-house monitoring staff or independent third-party monitor shall provide monthly written reports to [DEVELOPER] and [COMMUNITY ORGANIZATION AND/OR MUNICIPALITY] concerning [DEVELOPER]'s compliance with the requirements of this Agreement, reported violations of the terms of this Agreement, investigations of such reports, and their final determinations. [DEVELOPER] shall require entities subject to the requirements of this Agreement to provide records to [DEVELOPER]'s in-house staff or the independent third-party monitor, sufficient to conduct investigations and make determinations concerning reported violations of this Agreement. For the term of this Agreement, [DEVELOPER] shall maintain a cumulative and standardized reporting mechanism tracking its compliance with Agreement terms and the date and results of complaint investigations for each Agreement Section.¹⁶

Establishing Role/Bodies for Monitoring

20. A CBA Committee shall meet quarterly to discuss the operation of the Agreement and any issues thereunder.

- a. The CBA Committee shall be comprised of 11 members: (1) the Mayor of [MUNICIPALITY]; (2) a representative of [DEVELOPER]; (3) a representative of [LOCAL ENV'T NONPROFIT]; (4) a representative of [LOCAL HISTORIC NEIGHBORHOOD ASSOCIATION], (5) a representative of the [MUNICIPALITY] Chamber of Commerce, (6) a representative of [LOCAL UNIVERSITY], (7) a member of the City Council designated by the President of the City Council, (8) a community representative designated by the community, and (9) a representative from [LOCAL ENV'T JUSTICE GROUP]. The right to membership on the CBA Committee shall belong to the represented organization and not to the individual representatives, each of whom will serve at the pleasure of their represented organization. The CBA Committee may retain the right to recommend that the [COMMUNITY ORGANIZATION AND/OR MUNICIPALITY] seek enforcement of any applicable permit from the board, agency, or other regulatory authority with jurisdiction over the enforcement of such permit.¹⁷

¹⁶ Community Benefits Agreement Between the Metropolitan St. Louis Sewer District ("MSD") & the Signatory St. Louis Area Community Groups and Organizations ("Signatories") (Dec. 4, 2013), <https://climate.law.columbia.edu/sites/default/files/content/CBAs/Metro%20St%20Louis%20Sewer.pdf>.

¹⁷ Community Benefits Agreement Between Footprint Power Salem Harbor Real Estate LP & the City of Salem, Massachusetts (Dec. 16, 2014),

21. Monitoring Oversight Committee. [DEVELOPER] and the [COMMUNITY ORGANIZATION AND/OR MUNICIPALITY] shall form a Monitoring Oversight Committee, which shall consist of three (3) persons selected by [DEVELOPER] and three (3) persons selected by [COMMUNITY ORGANIZATION AND/OR MUNICIPALITY]. Once per quarter, the Monitoring Oversight Committee shall meet with [DEVELOPER]'s in-house monitoring staff or an independent third-party monitor, to discuss the progress of the compliance with all Agreement terms. At the request of any two committee members, the Monitoring Oversight Committee may meet at more regular intervals, as needed.¹⁸
22. Selection of independent third-party monitor. If all monitoring is not performed by [DEVELOPER]'s in-house staff, then [DEVELOPER] shall complete a Contract Award Process for selection of the independent third-party monitor, who shall perform all or part of the monitoring not performed by [DEVELOPER]'s in-house staff and shall consult with [COMMUNITY ORGANIZATION AND/OR MUNICIPALITY] in preparation of an RFP for use in the selection process. In any case, [DEVELOPER] will contract with and utilize the services of a third-party monitoring Consultant through the end of fiscal year [X] to assist with the monitoring effort.¹⁹

It is possible but less common to be more prescriptive about specific monitoring processes. For instance, in the case of CO₂ pipelines, Summit Carbon Solutions describes its safety measures for pipelines [here](#).²⁰ Any of those measures could be included as part of a CBA, including, for example:

- *Monitoring internal and external corrosion threats*
- *Leak detection and control:*
 - *24/7 control room with real-time, in-person monitoring of entire pipeline system*
 - *Enabled remote operation when necessary, incorporating surge protection and automatic valve shutdown in the event of significant pressure fluctuations*
 - *Computerized Pipeline Monitoring System ("Real-Time Transient Model"), which detects leaks and provides real-time information to Control Room*
 - *Metering at all capture and sequestration sites*
- *Installation of air monitoring equipment*

As another example, the World Bank Group describes possible safety measures for liquid natural gas facilities [here](#).²¹ A CBA could include safety measures regarding:

- *Threats to aquatic and shoreline environments*
- *Hazardous releases from storage tanks, pipes, hoses, and pumps on land facilities and transportation vessels*
- *Wastewater management*

<https://climate.law.columbia.edu/sites/default/files/content/CBAs/Salem%20Harbor.pdf>.

¹⁸ Community Benefits Agreement Between the Metropolitan St. Louis Sewer District ("MSD") & the Signatory St. Louis Area Community Groups and Organizations ("Signatories") (Dec. 4, 2013), <https://climate.law.columbia.edu/sites/default/files/content/CBAs/Metro%20St%20Louis%20Sewer.pdf>.

¹⁹ *Id.*

²⁰ Safety Management and Emergency Response: A Comprehensive Guide & Safety Fact Sheet, Summit Carbon Solutions (May 2014), <https://summitcarbonsolutions.com/project-safety-2/>.

²¹ Environmental, Health, and Safety Guidelines for Liquified Natural Gas (LNG) Facilities, World Bank Group (Apr. 30, 2007), <https://documents1.worldbank.org/curated/en/606041484215593420/pdf/111929-WP-ENGLISH-Liquified-Natural-Gas-PUBLIC.pdf>.

- *Emission of exhaust gases or boil off gas*
- *Occupational health and safety*

EMERGENCY RESPONSE & PUBLIC AWARENESS

Project safety requires preparedness to act in the case of an emergency. CBAs often include commitments by developers to fund and support training programs at local fire departments and emergency agencies, as well as educational outreach to nearby residents. A specific role may be created within a fire department or emergency agency to focus on the project.

The CBA between Bold Alliance and Tallgrass CO₂ Pipeline²² includes fairly comprehensive emergency response language, which could be adapted for other types of projects:

Within [X MONTHS] of the Effective Date, [DEVELOPER] will:

23. Commit [X FUNDS] to fund the development and deployment of a First Responder CO₂ training program, with the curriculum and the training deployment schedule to be reviewed by [STATE EMERGENCY MANAGEMENT AGENCY], [APPLICABLE FIRE MARSHAL], and by the [APPLICABLE FIRE ASSOCIATION]. Further, [DEVELOPER] will make commercially reasonable efforts to have the curriculum added to the annual [STATE OR MUNICIPALITY] fire school training curriculum.
24. Use commercially reasonable efforts to host a meeting with [STATE EMERGENCY MANAGEMENT AGENCY], [APPLICABLE FIRE MARSHAL], [APPLICABLE FIRE ASSOCIATION], and [COMMUNITY ORGANIZATION AND/OR MUNICIPALITY] to review the pipeline route and plume models for the Project.
25. Prior to the Commercial Operations Date (as defined below), and every calendar year thereafter, provide material safety data sheets (SDS), PHMSA Emergency Response Guides (ERG), and potential hazard zone information to all relevant [STATE/ LOCAL EMERGENCY PLANNING COMMITTEES].
26. Use commercially reasonable efforts to continue and broaden its existing coordination with [STATE EMERGENCY MANAGEMENT AGENCY], [STATE EMERGENCY RESPONSE TEAMS], and [STATE/ LOCAL EMERGENCY PLANNING COMMITTEES] whose jurisdictions are associated with the Project to include CO₂ incident response in their annual training programs.
27. Use commercially reasonable efforts to continue to broaden its existing coordination with [STATE EMERGENCY MANAGEMENT AGENCY], [APPLICABLE FIRE MARSHAL] and the [APPLICABLE FIRE ASSOCIATION] to develop a First Responder grant program to which [DEVELOPER] will commit [X FUNDS] to support emergency response organizations to purchase equipment that assists in the preparation, detection, and response to a CO₂ release. Following the Commercial Operations Date, [DEVELOPER] will commit up to [X FUNDS] per year to replace any equipment that assists in the preparation, detection and response to a CO₂ release, if requested by any First Responders in the counties that include rights-of-way with the Project.

²² Community Benefits Agreement Between Trailblazer CO₂ Pipeline & Bold Education Fund Inc. (Mar. 27, 2024), <https://boldnebraska.org/tallgrass-bold-alliance-and-key-agricultural-and-first-responder-organizations-announce-a-community-benefits-agreement/>.

Less detailed option:

28. [DEVELOPER] will provide funding needed to train public safety personnel on an ongoing basis as needed, in particular a minimum of [X NUMBER] drills per year for Fire Department personnel or as agreed to with the Fire Chief; provided, that such funding shall not exceed [X AMOUNT] per year in the aggregate.

The CBA between Medway Grid and the Town of Medway²³ regarding a battery energy storage system provides a more generic option:

29. [DEVELOPER] shall provide emergency management preparedness training, via its battery supplier and/or operations and maintenance provider, to [COMMUNITY ORGANIZATION AND/OR MUNICIPALITY] on an annual basis. [DEVELOPER] will also provide [COMMUNITY ORGANIZATION AND/OR MUNICIPALITY] with an Emergency Response Plan that will be provided to [COMMUNITY ORGANIZATION AND/OR MUNICIPALITY] prior to [DEVELOPER]'s commissioning of the Project.
30. To the extent that [COMMUNITY ORGANIZATION AND/OR MUNICIPALITY] identifies additional training that is required to render emergency response services to the Project beyond what is provided in section (29) above, the [COMMUNITY ORGANIZATION AND/OR MUNICIPALITY] shall describe in writing those additional needs and [DEVELOPER] shall fund such additional training measures in an amount not to exceed [X AMOUNT] per year.
31. To assist the Community with Emergency Preparedness, [DEVELOPER] shall pay the [COMMUNITY ORGANIZATION AND/OR MUNICIPALITY] the sum of [X AMOUNT] annually due each [DATE] to be used by the [COMMUNITY ORGANIZATION AND/OR MUNICIPALITY] for any public safety or emergency management purposes, exclusive of any other payments under this Agreement.

Developer funds can also be used to create a job position specific to the risks of the project:

32. [DEVELOPER] will provide municipality with [X FUNDS] for the first [X YEARS] of this Agreement to help fund a Risk Reduction and Training position within the [APPLICABLE FIRE ASSOCIATION].²⁴

Public awareness examples:

Within [X MONTHS] of the Effective Date, [DEVELOPER] will:

33. Coordinate with the [STATE EMERGENCY MANAGEMENT AGENCY] and the local community and commit [X FUNDS] to support the development or enhancement of a regional emergency communication alert system and evacuation plan. The alert system will require community notice in the event of any and all *[insert emergency risk; for*

²³ Host Community Agreement Between the Town of Medway, Massachusetts & Medway Grid, LLC (Sept. 7, 2022), <https://climate.law.columbia.edu/sites/default/files/content/CBAs/Medway%20Grid%20BESS%20HCA.pdf>.

²⁴ Id.

example, if the project is a CO₂ pipeline, insert “CO₂ releases”]. [DEVELOPER] will make commercially reasonable efforts to have the system made public on the Fire Marshal’s or [STATE EMERGENCY MANAGEMENT AGENCY]’s website.²⁵

34. Create a Project website to make information available to the public about the Project (including *insert desired details, such as the anticipated route, length, and pressure of a pipeline or the specific types of waste to be processed and stored at a landfill*), detailed *insert subject of safety concern, such as “CO₂” for a CO₂ pipeline project* safety information, [DEVELOPER]’s contact information, and instructions on recognizing a *insert project type, such as “CO₂ pipeline”* incident and what to do in such occurrence.²⁶
35. [DEVELOPER] shall create and maintain a web page that it will regularly update to provide the community with status and progress reports on the permitting, construction, and operation of the Project and any changes thereto, but in no case shall the web page be updated less than once every two weeks.²⁷
36. After the Project begins commercial operations, [DEVELOPER] will utilize well-established resources through the United States Postal Service to drop-ship at least one mailer per calendar year to all addresses within a one-mile radius of the Project or of any associated equipment. Mailers will contain information related to recognizing a *insert project type* incident, general *insert project type or substance of concern, such as “liquid natural gas”* safety and emergency response information, and [DEVELOPER]’s contact information. [DEVELOPER] will also make e-mail delivery of its mailers available to any landowner that requests to receive the mailers via e-mail and provides the appropriate contact information.²⁸

DECOMMISSIONING

Decommissioning is the process of taking a facility out of service permanently and safely. Decommissioning does not typically include the removal of the facility components, so removal and remediation are additional things that could be required. However, note that removal would create more construction and community disruption than simple decommissioning.

37. [DEVELOPER] shall decommission the Project following the end of all use and/or operations of the Project, at [DEVELOPER]’s sole cost and expense, in accordance with Applicable Laws and good industry practice and in a safe and environmentally controlled process. [DEVELOPER] shall provide [COMMUNITY ORGANIZATION AND/OR MUNICIPALITY] with a copy of any decommissioning plan it files with any Governmental Authority in connection with permitting or approval of the Project. [DEVELOPER] shall provide [COMMUNITY ORGANIZATION AND/OR

²⁵ Community Benefits Agreement Between Trailblazer CO₂ Pipeline & Bold Education Fund Inc. (Mar. 27, 2024), <https://boldnebraska.org/tallgrass-bold-alliance-and-key-agricultural-and-first-responder-organizations-announce-a-community-benefits-agreement/>.

²⁶ Id.

²⁷ Host Community Agreement Between the Town of Medway, Massachusetts & Medway Grid, LLC (Sept. 7, 2022), <https://climate.law.columbia.edu/sites/default/files/content/CBAs/Medway%20Grid%20BESS%20HCA.pdf>.

²⁸ Community Benefits Agreement Between Trailblazer CO₂ Pipeline & Bold Education Fund Inc. (Mar. 27, 2024), <https://boldnebraska.org/tallgrass-bold-alliance-and-key-agricultural-and-first-responder-organizations-announce-a-community-benefits-agreement/>.

MUNICIPALITY] [X DAYS] prior written notice of the decommissioning of the Project. This section shall survive the termination of this Agreement until all obligations hereunder have been fully discharged.²⁹

Decommissioning may be a sticking point in negotiations with a developer. A less protective option is below.

38. [DEVELOPER] will establish and maintain a form of financial security chosen by [DEVELOPER], which may include a guaranty of [DEVELOPER] in an amount sufficient to fund the estimated costs of decommissioning the Project at the conclusion of its scheduled operational life in accordance with the requirements of applicable federal and state laws, regulations, licenses, permits and approvals, the amount of which financial security instrument shall be revised no less frequently than once every five years in order to keep pace with changes in such estimated costs.³⁰

EMPLOYMENT AND INCLUSION

Developers will often include commitments surrounding labor and hiring practices as well as support for youths who may be interested in pursuing a related career path. These suggestions are applicable to an ongoing operation that employs a substantial workforce. Not all may be relevant to a limited construction project. Options here include but are not limited to:

- *Requiring a percentage of local hires and/or a percentage of disadvantaged community hires with an included definition of this or another target group*
- *Job training commitments (including retraining if new project is replacing old project)*
- *DEI commitments*
- *Funding apprentice programs at local academic institutions*
- *Funding for scholarships*
- *Providing transportation to the workforce or training opportunities*
- *Minimum base pay (above the state's minimum wage)*
- *Affirming the rights of workers to unionize*
- *Child-care spaces or funds for child-care services*
- *Emergency cash assistance for tools/work clothing*

Some examples:

39. Throughout the duration of this Community Benefits Agreement, each [DEVELOPER] shall employ at least [X %] of its employees from the [TARGETED JOB APPLICANTS] and each Employer shall make this requirement part of any contract or Agreement with any third party that will operate a business at or provide services for the Project. Targeted Job Applicants shall be hired in the following order of priority. *[Priority tiers can be*

²⁹ Host Community Agreement Between the Town of Medway, Massachusetts & Medway Grid, LLC (Sept. 7, 2022), <https://climate.law.columbia.edu/sites/default/files/content/CBAs/Medway%20Grid%20BESS%20HCA.pdf>.

³⁰ Community Benefits Agreement Between Trailblazer CO2 Pipeline & Bold Education Fund Inc. (Mar. 27, 2024), <https://boldnebraska.org/tallgrass-bold-alliance-and-key-agricultural-and-first-responder-organizations-announce-a-community-benefits-agreement/>.

determined based on geographic area, employment status, income, etc.]. It is agreed to by the Parties that should a Targeted Job Applicant be hired and subsequently move out of [TARGET NEIGHBORHOOD], that such Target Job Applicant shall still count towards the aforementioned [X %] requirement for a period of up to [X YEARS] from the date of such Target Job Applicant's move.³¹

Example definition of targeted job applicant: individuals who are (a) recipients of public assistance, (b) Previously Incarcerated Individuals, (c) disabled, (d) veterans, (e) youths (age seventeen (17) and younger), (f) seniors (age sixty (60) and older), and (g) members of the minority groups.³²

40. [DEVELOPER] will adopt a “hire local” initiative whereby local workers are sought out and trained by [DEVELOPER]. [DEVELOPER] and the [COMMUNITY ORGANIZATION AND/OR MUNICIPALITY] will work together to identify appropriate goals in terms of the percentage of employees to be hired locally.³³
[Alternatively, could include the percentage here.]
41. [DEVELOPER] agrees to use commercially reasonable efforts to hire local labor in connection with the construction of the Project.³⁴
42. [DEVELOPER] will establish an internship program for local youth. This program would provide, to the extent permitted by law, internships for [X] college and [X] high school interns per year to participate in [X-WEEK] internships focusing on skills and industries related to [DEVELOPER]’s operations (power generation, alternative energy development, etc.).³⁵

COMMUNITY INVESTMENT

This section will be the most dependent on the specific needs of the community and provides room for creativity by negotiators. A non-exhaustive list of categories of benefits to consider includes:

- *Efforts to foster community participation in project construction and operation (translation of key planning documents into languages spoken in the surrounding community, funding for communication and distribution of information related to the project, outreach programs)*
- *Funding for local nonprofit organizations*
- *Environmental initiatives (including funding for local sustainable initiatives,*

³¹ Community Benefits Agreement Between the Coalition and Developer to Maximize the Benefits of the Project to the Northwest Bronx Community,

<https://climate.law.columbia.edu/sites/default/files/content/CBAs/Kingsbridge%20Armory.pdf>.

³² Id.

³³ Community Benefits Agreement Between Footprint Power Salem Harbor Real Estate LP & the City of Salem, Massachusetts (Dec. 16, 2014),

<https://climate.law.columbia.edu/sites/default/files/content/CBAs/Salem%20Harbor.pdf>.

³⁴ Host Community Agreement Between the Town of Medway, Massachusetts & Medway Grid, LLC (Sept. 7, 2022), <https://climate.law.columbia.edu/sites/default/files/content/CBAs/Medway%20Grid%20BESS%20HCA.pdf>.

³⁵ Community Benefits Agreement Between Footprint Power Salem Harbor Real Estate LP & the City of Salem, Massachusetts (Dec. 16, 2014),

<https://climate.law.columbia.edu/sites/default/files/content/CBAs/Salem%20Harbor.pdf>.

commitments to assist renewable energy development on project land to the extent possible, development of off-site emission reduction program to counter impact of project)

- *Improvements to local infrastructure (funding for pavement management and roadway repair on and around surrounding roadways, funding for sidewalk construction along project, traffic calming measures like appropriate signage)*
- *Funding for educational initiatives like local scholarship programs, local nonprofit organizations, public art initiatives*
- *Bonuses for landowners*

Examples of community fund structures:

43. In order to leverage State funding, [DEVELOPER] will contribute a total of [X AMOUNT] per year for [X YEARS] to the [X FUND] in order to support [X] and [X].³⁶
44. To support the establishment of the [X FUND] and facilitate its viability, at Financial Close for the [X PROJECT], [DEVELOPER] shall contribute [X AMOUNT] to the Fund. To provide continued support for the fulfillment of the purposes of the Fund, [DEVELOPER] shall contribute [X AMOUNT] to the Fund at Financial Close for each of the [FUTURE PROJECTS].³⁷
45. [DEVELOPER] shall provide [COMMUNITY ORGANIZATION AND/OR MUNICIPALITY] with a sum of money for the first [X years] of this Agreement to help fund a [X POSITION OR PROGRAM]. The amounts due to [COMMUNITY ORGANIZATION AND/OR MUNICIPALITY] on the dates shown are as follows: [INSERT YEARS AND ASSOCIATED AMOUNTS].³⁸

COMPLIANCE WITH LAWS

Although developers are legally required to follow existing permitting requirements and regulations, it is good practice to include a section about legal compliance. This helps to emphasize the purpose of the Agreement, which is to ensure safe and responsible construction and operation. Below are examples drawn from prior CBAs.

46. [DEVELOPER]’s infrastructure will be built, maintained and operated under [insert relevant government agency]’s regulations. [DEVELOPER] will abide by [insert relevant government agency] regulations on [insert project type, such as “CO₂ pipelines”].³⁹
47. In the event of an incident involving [insert potential incident; for example, “a release from the pipeline”], [DEVELOPER] will in accordance with federal and state regulations

³⁶ Id.

³⁷ Good Neighbor Agreement Between Vineyard Wind LLC, the Town and County of Nantucket, the Maria Mitchell Association, and the Nantucket Preservation Trust (Aug. 27, 2020), <https://nantucket-ma.gov/DocumentCenter/View/37347/Good-Neighbor-Agreement-PDF>.

³⁸ Host Community Agreement Between the Town of Medway, Massachusetts & Medway Grid, LLC (Sept. 7, 2022), <https://climate.law.columbia.edu/sites/default/files/content/CBAs/Medway%20Grid%20BESS%20HCA.pdf>.

³⁹ Jane Kleeb, Tallgrass, Bold Alliance, and Key Agricultural and First Responder Organizations Announce a Community Benefits Agreement, Bold Nebraska (Apr. 9, 2024), <https://boldnebraska.org/tallgrass-bold-alliance-and-key-agricultural-and-first-responder-organizations-announce-a-community-benefits-agreement/>.

directly manage any necessary emergency or environmental response including any required remediation for the incident.

48. [DEVELOPER] shall meet all noise limitations imposed with respect to the Project under its construction and operating permits, licenses and municipal permits under applicable municipal, state, and federal statutes and regulations. [DEVELOPER] shall comply with any applicable noise monitoring protocol and shall promptly forward the results of such monitoring directly to the municipality's designated representative.⁴⁰
49. [DEVELOPER] shall meet all air emissions requirements imposed with respect to the Project under its operating permits and licenses and under applicable municipal, state, and federal statutes and regulations. [DEVELOPER] shall comply with all applicable requirements and regulations concerning the safe *[insert details of the project's operations; for example, if the project is a CO₂ pipeline, "transportation, handling, use, and storage of CO_{2.⁴¹}*

LANDOWNER PROTECTIONS & EASEMENT CONDITIONS

The following provisions are applicable if the project will require the use of eminent domain to acquire easements or other property interests in land owned by community members. The following provisions are sourced from the Bold-Tallgrass CO₂ pipeline CBA.⁴²

To protect the rights and interests of affected landowners of the Project, [DEVELOPER] affirms it will operate in good faith effort to abide by the following conditions:

50. For land surveys of property where it does not already hold an easement, upon receiving survey permission, [DEVELOPER] will make commercially reasonable efforts to provide a landowner with 48-hour notice prior to the survey. If a landowner provided [DEVELOPER] with survey permission for the Project and does not receive an easement payment from [DEVELOPER], then [DEVELOPER] will offer a one-time payment of [X AMOUNT] to that landowner.
51. Initial offers to acquire rights-of-way that are first provided to landowners after the Effective Date will include the following, as each is further described in the applicable easement:
 - a. The option for landowners to choose between a one-time, lump-sum payment or annual easement payments as compensation for the use of an easement.
 - b. A provision that the landowner will have the right to terminate the easement if construction of the applicable facility does not commence within [X YEARS] from the date of the execution of the easement, unless, at its option, [DEVELOPER] extends the period by making an additional payment to the landowner.
 - c. A provision that, in the event [DEVELOPER] files a release of the easement

⁴⁰ Community Benefits Agreement Between Footprint Power Salem Harbor Real Estate LP & the City of Salem, Massachusetts (Dec. 16, 2014),

<https://climate.law.columbia.edu/sites/default/files/content/CBAs/Salem%20Harbor.pdf>.

⁴¹ Id.

⁴² Community Benefits Agreement Between Trailblazer CO₂ Pipeline & Bold Education Fund Inc. (Mar. 27, 2024), <https://boldnebraska.org/tallgrass-bold-alliance-and-key-agricultural-and-first-responder-organizations-announce-a-community-benefits-agreement/>.

rights, after the applicable pipeline is fully decommissioned, and is no longer intended to be used by [DEVELOPER] to transport *[insert relevant substance, such as CO₂ or natural gas]* or any other substance, [DEVELOPER] will, at the option of the landowner, either: (1) remove the applicable facility and reclaim and restore the affected property, or (2) abandon the buried portion of the applicable facility in place in accordance with all applicable regulations and laws, and install any seals, caps, or other devices necessary to ensure no leakage of any matter out of or into the facility. If, at the time of execution of the easement, the landowner makes an advance election that, in the event the applicable facility is abandoned, the buried facility be abandoned in place, the landowner will receive a one-time payment of [X AMOUNT] following such abandonment in place.

- d. Once the applicable pipeline is fully abandoned in accordance with the terms of the easement Agreement, defined as 60 continuous months of nonuse of the easement rights, [DEVELOPER] shall file in the county land records a release of the easement rights, and the easement reverts back to the landowner.
- 52. [DEVELOPER] agrees that easements will be used only for the transportation of the substance(s) articulated in the negotiated Agreement unless written consent from the signatories to the Agreement is obtained.

The following provision could be included if the project, typically a single-site facility, is expected to cause surrounding property values to decrease. This provision is sourced from the Perinton-Waste Management of New York landfill CBA.⁴³

- 53. [DEVELOPER] agrees by means of a Property Value Protection Program⁴⁴ as set forth in [X EXHIBIT] attached hereto to provide compensation according to the terms and conditions of this program hereinafter set forth. The purpose of this program is to compensate the owners of identified residential properties whose residences suffer a decline in value at the time of the sale of their property as a result of the Project. A list of property owners and the Property Value Protection Program is included in [X EXHIBIT] and is incorporated herein.

GENERAL PROVISIONS

The following are general contract provisions that should be included in any CBA, although the details will vary depending on the needs of the parties. Of particular importance are the provisions on default and remedies as these determine whether the CBA is legally enforceable.

Default and Remedies

- 54. Default. Failure by [DEVELOPER] to perform or comply with any term or provision of this Agreement, if not cured, shall constitute a default under this Agreement.⁴⁵

⁴³ Host Community Agreement Between Town of Perinton and Waste Management of New York (Dec. 28, 2021), <https://climate.law.columbia.edu/sites/default/files/content/CBAs/Town%20of%20Perinton%20HCA.pdf>.

⁴⁴ Id. An example of such a program can be found in Exhibit C, beginning on page 29 of the PDF.

⁴⁵ Community Benefits Agreement Between Trailblazer CO₂ Pipeline & Bold Education Fund Inc. (Mar. 27, 2024), <https://boldnebraska.org/tallgrass-bold-alliance-and-key-agricultural-and-first-responder-organizations-announce-a/>

55. Right to Cure. If any Party believes that another Party is not complying with its obligations under this Agreement, it shall provide written notice to the allegedly non-complying Party of the non-compliance; offer to meet and engage in good faith effort to resolve the issue; and except where delay may cause irreparable injury, provide [X DAYS] to cure the alleged non-compliance, commencing at the time of the notice. Any notice given pursuant to this provision shall specify the nature of the alleged non-compliance and, where appropriate, the manner by which the alleged non-compliance may be cured.⁴⁶
56. Remedies. Upon the substantial and material breach of any provision of this Agreement by a party hereto, the other party or parties may exercise any and all remedies available to it, in law, in equity, or otherwise.
57. Enforcement. Upon the substantial and material breach of any provision of this Agreement by [DEVELOPER] hereto, [COMMUNITY ORGANIZATION AND/OR MUNICIPALITY] may seek enforcement of this Agreement in [specify court]. [DEVELOPER] hereby consents to the jurisdiction of [specify court] for purposes of this provision, and to the service of process in connection with any proceeding brought under this provision.

It is also worth considering including specific penalties for certain violations with failure to cure, but it is difficult to foresee exact violations and appropriate penalties. Note that with the above provision, financial penalties can be sought in court.

Term & Termination

58. The term of this Agreement will commence on the Effective Date and terminate after decommissioning is complete.
59. This Agreement shall not be subject to termination, except for the following events of termination: (1) By mutual written Agreement of the Parties, (2) By [DEVELOPER] in the event that it abandons the Project prior to commencement of construction or if there is any regulatory or legal proceeding or government investigation that results in an unfavorable judgment, order, decree, stipulation or injunction that prevents [DEVELOPER] from commencement of construction,⁴⁷ or (3) by [COMMUNITY ORGANIZATION AND/OR MUNICIPALITY] in the event of an incurable [DEVELOPER] default.

Public Announcements

60. Within [X DAYS] of the Effective Date, the Parties shall (a) make the Agreement publicly available and (b) publicly announce the successful execution of the Agreement and each Party's support for the Project. The Parties shall coordinate any initial announcements to ensure alignment.⁴⁸ Prior to the Effective Date, [COMMUNITY

⁴⁶ community-benefits-agreement/.

⁴⁶ Id.

⁴⁷ Host Community Agreement Between the Town of Medway, Massachusetts & Medway Grid, LLC (Sept. 7, 2022), <https://climate.law.columbia.edu/sites/default/files/content/CBAs/Medway%20Grid%20BESS%20HCA.pdf>.

⁴⁸ Community Benefits Agreement Between Trailblazer CO2 Pipeline & Bold Education Fund Inc. (Mar. 27, 2024),

ORGANIZATION AND/OR MUNICIPALITY] is not precluded from inviting public input in the negotiations process, including but not limited to announcing that the Agreement is under negotiation and disclosing terms under consideration.

Severability

61. Each provision of this Agreement is severable. If any provision of this Agreement is determined to be illegal, invalid or unenforceable in any jurisdiction, the illegality, invalidity or unenforceability of that provision shall not affect (a) the legality, validity or enforceability of the remaining provisions of this Agreement, or (b) the legality, validity or enforceability of that provision in any other jurisdiction; and provided further, the subject provision shall be applied to the fullest extent permitted by applicable law, and the Parties shall revise the provision so as to confirm their mutual intention upon entering this Agreement and yet be legal, valid and enforceable in the applicable jurisdiction. The provisions of this Agreement shall survive the termination of this Agreement.⁴⁹

Notices

62. Unless specifically provided above, all notices to be given with respect to this Agreement shall be given to the Parties in writing. Notice via email followed by notice by post shall be sufficient. All notices shall be effective upon actual receipt by the Party to whom given during normal business hours; and where receipt occurs outside of normal business hours, the receipt shall be deemed to have occurred on the immediate next business day. The individual and/or addresses for notices may be changed upon written notice to the other party which is sent in the manner stated herein.⁵⁰ Notice shall be provided as follows. If the identity or contact information for any of the following is changed, all other parties shall promptly be given the new contact information.

For [DEVELOPER: Provide name, mailing address, email address]

For [COMMUNITY ORGANIZATION: Provide name, mailing address, email address]

For [MUNICIPALITY: Provide name, mailing address, email address]

Binding on Successors; Third Party Beneficiaries

63. No Party may assign, transfer, or delegate any or all of its rights or obligations under this Agreement without the prior written consent of the other Party. This Agreement shall be binding upon and inure to the benefit of the heirs, administrators, executors, successors in interest, and permitted assigns of each of the Parties. Any reference in this Agreement to a specifically named party shall be deemed to apply to any successor in interest, heir, administrator, executor, or assign of such party. The Parties do not confer any rights or remedies upon any person other than the Parties to this Agreement and their respective

<https://boldnebraska.org/tallgrass-bold-alliance-and-key-agricultural-and-first-responder-organizations-announce-a-community-benefits-agreement/>.

⁴⁹ Id.

⁵⁰ Id.

successors and permitted assigns.⁵¹

64. [DEVELOPER] shall notify [COMMUNITY ORGANIZATION AND/OR MUICIPALITY] 30 days in advance of any planned assignment, sale, or any other change in ownership or control.

Relationship of Parties

65. Neither this Agreement nor any activities undertaken by the Parties pursuant to this Agreement, nor any communications had or to be had among the Parties or with any person or entity relating to the activities contemplated by this Agreement are intended to or will create or establish a partnership, relationship of trust or agency, joint venture or any other business association between or among the Parties. No Party may assert, and each Party expressly waives any rights to assert, under any applicable law or otherwise, that any such association exists based upon this Agreement or any actions taken hereunder by or on behalf of a Party.⁵²

66. This Agreement may be executed in multiple original counterparts, each of which shall be deemed an original, and together they shall constitute one and the same. Signature of this Agreement may be effected by facsimile (with confirmation by transmitting machine) and/or transmitted by portable document format (“pdf”) file which shall be treated as an original signature, and any such signature, facsimile, pdf file or copy of this signed Agreement shall be construed and treated as the original and shall be binding as if it were the original.⁵³

Force Majeure

67. It is distinctly understood and agreed that all parties hereto shall make a reasonable and good faith effort to perform their obligations under this Agreement. If and to the extent that either party is prevented from performing its obligations hereunder by an event of force majeure, such party shall be excused from performing hereunder and shall not be liable in damages or otherwise, and the parties instead shall negotiate in good faith with respect to appropriate modifications to the terms hereof. For purposes of this Agreement, the term force majeure shall mean any supervening cause beyond the reasonable control of the affected party, including without limitation requirement of statute or regulation; action of any court, regulatory authority, or public authority having jurisdiction; storm, flood, fire, earthquake, explosion, civil disturbance, labor dispute, or act of God or the public enemy.⁵⁴

68. Force Majeure shall not include (i) any event or circumstance which is within the reasonable control of the Parties and (ii) the following conditions, except to the extent that they are consequences of an event that is otherwise Force Majeure: Unavailability, late delivery, or changes in cost of the Project, machinery, equipment, materials, spare

⁵¹ Id.

⁵² Id.

⁵³ Id.

⁵⁴ Community Benefits Agreement Between Footprint Power Salem Harbor Real Estate LP & the City of Salem, Massachusetts (Dec. 16, 2014), <https://climate.law.columbia.edu/sites/default/files/content/CBAs/Salem%20Harbor.pdf>.

parts or consumables for the Project; Delay in the performance of any contractor, subcontractor or their agents; Non-performance resulting from normal wear and tear typically experienced in Project materials and equipment; Strikes at the facilities of the Affected Party; Insufficiency of finances or funds or the Agreement becoming onerous to perform; and Non-performance caused by, or connected with, the Affected Party's: Negligent or intentional acts, errors or omissions; Failure to comply with an Applicable Law; or Breach of, or default under this Agreement.

Entire Agreement & Amendment

69. This Agreement constitutes the entire Agreement between the Parties and supersedes any prior written or oral Agreements, or contemporaneous communications with respect to this subject matter. No subsequent amendment to this Agreement between the Parties shall be binding on any Party unless reduced to writing and signed by an authorized representative of each Party. Preparation of the Agreement has been a joint effort of the Parties, and the resulting documents shall not be construed more severely against one of the Parties than against the others.⁵⁵

Note that it is possible to create specific amendments contingent on potential future circumstances. A good example can be found at Article III in [this CBA](#).⁵⁶

Effective Date of Agreement

70. This Agreement shall become effective upon the execution and delivery hereof by the Parties hereto.

IN WITNESS WHEREOF, the Parties have executed this Agreement as of [DATE]. By signing below, the Parties affirm that the individual signing below has the requisite authority to authorize the commitment described herein.

COUNTERPARTIES

[SIGNATURES]

⁵⁵ Community Benefits Agreement Between Trailblazer CO2 Pipeline & Bold Education Fund Inc. (Mar. 27, 2024), <https://boldnebraska.org/tallgrass-bold-alliance-and-key-agricultural-and-first-responder-organizations-announce-a-community-benefits-agreement/>.

⁵⁶ Agreement Between Cable Companies and Fisherman (Jan. 30, 2002), <https://climate.law.columbia.edu/sites/default/files/content/CBAs/Cable%20Companies%20Agreement.pdf>.