**RISK**VERSITY

*Smart organizations manage risk. Exceptional organizations prepare for it.*

# Risk Terms Every Municipality Should Demand in a Data-Center Deal

*A negotiation checklist for local governments weighing a large data-center project*

*A RiskVersity resource. Educational starting point, not legal, tax, or financial advice. Adapt to your situation and review with your municipal attorney and financial advisor before negotiating or signing.*

## Before you use this

A large data-center deal is not just an economic-development win or a fight to be won. It is a long-duration commitment to a counterparty, and it deserves to be negotiated like one. Most towns negotiate the incentives hard, the jobs and the tax base and the abatement headline, and then accept the risk terms on a handshake. The terms below are the ones that protect the town if the project does not go the way everyone hopes.

You do not have to be for or against data centers to use this. The point is to negotiate from an informed position, so that a good outcome stays good and a bad turn does not become the town's problem alone.

The one thing to understand first: you are rarely negotiating with the party you actually depend on. The company that builds and operates the campus is usually not the company whose demand pays for it. The operator leases capacity to a separate tenant, often on a long-term contract you never see, and that tenant's business depends on conditions further upstream still. Your revenue rides on a chain, and most of the chain sits outside the room. The terms below give you visibility into that chain and protection against the links you cannot control.

## The checklist

*Each item: the ask (what to put on the table), why it matters, and the failure mode if you skip it.*

### 1. Counterparty visibility

☐ **Ask:** disclosure of the underlying tenant arrangement behind the operator, including the tenant's identity, the contract term, and renewal or termination rights, plus ongoing notice of material changes.

**Why it matters:** your new revenue depends on a party you otherwise never see or hear from.

**Failure mode:** you find out the tenant left from a drop in the tax receipts, months after the fact.

### 2. Failure and step-in protection

☐ **Ask:** written notice and step-in or cure rights if either the operator or the tenant defaults or files for bankruptcy, plus municipal consent rights on any change of control or assignment of the agreement.

**Why it matters:** the two links that carry your budget are both outside your control, and a distressed sale can move them to a party you never vetted.

**Failure mode:** an out-of-court restructuring hands the town's exposure to an unknown successor with no obligation to the community.

### 3. Decommissioning surety

☐ **Ask:** a bond or funded escrow for site restoration and equipment removal that does not depend on the operator's solvency, sized to the actual cost of removal, and re-sized on a set schedule as the site grows.

**Why it matters:** a stranded multi-building shell is a liability the town inherits, not an asset it keeps.

**Failure mode:** the company fails and the cleanup and restoration bill lands on local taxpayers.

### 4. Revenue-concentration discipline

☐ **Ask:** a written policy that recurring town operations will not be funded from single-tenant revenue, backed by a reserve or stabilization fund seeded from the windfall, with clear reserve targets and a drawdown rule.

**Why it matters:** revenue that can multiply the budget can also vanish, and a cost structure built on it does not survive its exit.

**Failure mode:** the town scales up services and staffing on the windfall, then cannot sustain them when the revenue steps down.

### 5. Performance clawbacks

☐ **Ask:** abatements and incentives tied to actual delivery (jobs, power draw, tax base, timeline) with defined milestones and recapture provisions if the milestones are missed.

**Why it matters:** incentives are granted up front, but delivery is a promise, not a certainty.

**Failure mode:** the town grants the full abatement, the project underdelivers, and there is no mechanism to recover the difference.

### 6. Utility and infrastructure protection

☐ **Ask:** a clear, written allocation of who pays for grid, water, road, and substation upgrades; protection for residential ratepayers; and treatment of stranded infrastructure if the load leaves.

**Why it matters:** purpose-built infrastructure is a cost the community can be left holding.

**Failure mode:** residents end up subsidizing the upgrades built for a tenant that is no longer there.

### 7. End-of-life and repurposing (optional but recommended)

☐ **Ask:** obligations for the condition of the site at exit, land reversion terms, and a plan for purpose-built assets at end of life.

**Why it matters:** the agreement will outlive the excitement, and someone has to plan for the day the campus goes dark.

**Failure mode:** there is no plan, and the town improvises a solution to a problem it could have priced years earlier.

## The question to ask out loud before the vote

Before the next vote, put one question to the room: if the tenant behind our data center walked away in year four, what in this agreement protects us? If the room goes quiet, the deal is not finished.

## Where RiskVersity fits

Everyone at the table negotiates the incentives. Fewer negotiate the downside protection. RiskVersity works with local governments to translate a data-center proposal into the specific risk terms worth demanding and to structure the deal so the town captures the upside without absorbing the whole downside alone. If you are approaching one of these negotiations, we are glad to help you prepare.

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*RiskVersity is an independent risk-management consulting firm. This checklist is a general educational framework and does not account for your jurisdiction's laws or the specifics of any proposed agreement. Review any terms with your municipal attorney, financial advisor, and governing body before acting.*