SOLAR CONTRACTS BETWEEN LOCAL GOVERNMENTS AND SOLAR DEVELOPERS

Useful Tips for Considering and Developing Solar Contracts

Local officials may negotiate directly with a solar developer to approve a contract, in which the solar developer and local governments formalize roles and financial commitments, while ensuring compliance with local and state standards. **Solar contracts have been negotiated and signed for 16 solar projects in Wisconsin that are 100 megawatts or larger.** Local governments are encouraged to consider negotiating a solar contract because it may create standards and benefits not otherwise available under Wisconsin law, including:

- Road routes and road repair obligations
- Decommissioning - financial assurances, timing and extent
- Replacement of lost property tax revenue to schools and technical colleges
- Utility aid payments to local governments in lieu of property taxes
- Road setbacks
- Setbacks for adjacent neighbors
- Noise and glare restrictions
- Reimbursement for professional services
- Payments to build community amenities
- Conservation commitments including:
  - Stormwater management
  - Control measures for wind and water erosion
  - Fencing types and locations
  - Setbacks from waterways and wetlands
  - Vegetation planting and management
  - Topsoil preservation

Solar contracts provide greater certainty for the local governments and the developer about how the project will unfold if built. These contracts go by a number of names including joint development agreement (JDA), developer agreement, local operating contract, roads and revenue agreement, or memorandum of understanding.

People who are against a solar proposal may not like the idea of signing an "agreement" with a solar developer. It can be called a "contract" instead and accomplish the same things. Signing a contract or agreement does not make the solar project happen or not happen. It does set standards that need to be met by the developer and local governments if the solar project goes forward.

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Contracts for Wisconsin Solar Projects

Solar contracts have been negotiated and signed for **16 of the 21** solar projects in Wisconsin that are 100 megawatts or larger.

Solar contracts can benefit local governments by spelling out road repair obligations.

LAND+WATER

Local government options when a large solar project is proposed

1. Local governments do not have legal authority to decide on solar projects 100 megawatts and larger. Wisconsin state law gives authority to approve or deny solar and other energy projects that are 100 megawatts (MW) or larger to the Public Service Commission of Wisconsin (PSC)[1]. 100 MW is approximately 600 acres of solar panels. **The PSC has approved more than 20 solar projects over 100 MW and has not denied any solar project applications through 2025**. Their decisions on past solar project applications are available at the Wisconsin PSC website https://psc.wi.gov/ by searching for the solar project name, and under "Key Application Documents" clicking on "PSC Final Decision". On the solar project docket page, PSC final decisions are listed under "Order". PSC discussion of past solar proposals can also be viewed by searching for the project name on the PSC YouTube channel at https://www.youtube.com/@PSCWI.

2. Local governments can participate in the PSC process.[2] The PSC has acknowledged input from local governments and members of the public who have provided public comments and/or hired an attorney to represent the local government as an intervenor in the formal party hearings.

Based on a cursory review of past PSC decisions on large solar projects, the following table provides examples of topics where local governments, neighbors or DNR staff have expressed concerns and whether or not the PSC has added requirements to their decisions to respond to those concerns.

EXAMPLE PSC DECISIONS ABOUT SOLAR PROJECTS

PSC did not add requirements to	PSC sometimes added requirements to
Move arrays off agricultural land[3]	
Move arrays off red pine plantation land[4]	Move proposed arrays off natural forested land or avoid mass tree clearing[5, 6]
Move proposed arrays based on the comprehensive plan, stating the plan was out of date and the plan did not explicitly state or exclude energy generation facilities in area[7]	
Move proposed arrays off multiple archaeological sites[8]	Move proposed arrays off approximately 50 acres to avoid impacts to one archaeological site where thousands of artifacts have been mapped and collected[9]
Move proposed arrays away from a neighbor's home[10]	Move proposed array to be equal to a nearby setback from the highway[11]
	Require relocation of a laydown yard (construction hub) away from a neighbor's home[12]
Move proposed arrays away from key documented habitat for a threatened species as recommended by DNR wildlife biologists[13]	Reduce fence height to seven feet near documented threatened prairie species breeding grounds[14]
Avoid trap situations for large wildlife[15]	Require fencing with a specified size of bottom openings to allow small wildlife movement as recommended by DNR staff[16]
	Exclude non-native aggressive plant species from the seed mix to be planted on the site as recommended by DNR staff[17]
	Require winter soil stabilization[18]

3. Local governments can negotiate directly with a solar developer to agree upon and sign a legally binding solar contract. It is best to negotiate a solar contract with the developer early in the process because the solar developer has more flexibility to modify the proposed project, including layout, and the local government has more negotiating leverage before PSC makes a decision on the project.

If a local government does not negotiate a solar contract, it could be difficult or impossible to limit which roads are used by heavy project trucks and get the developer to pay for any road damage.

PERMITTING PROCESS FOR SOLAR PROJECTS 100 MW OR LARGER

Local government and the developer **negotiate a solar contract**.
It is voluntary but legally binding.
This should occur **before or during** the (PSC) process.

BEFORE PSC PROCESS

Local Government

Adopts solar map and rationale

Shares with solar developers

Developer

Identifies solar project locations, seeks land leases & plans project

Applies to Midcontinent Independent System Operator to connect to grid

PSC PROCESS (TYPICALLY 1 YEAR)

Developer

Applies to PSC for Certificate for Public Convenience & Necessity (CPCN)

Local Government

1. Retains legal counsel following the CPCN application filing to advise the local government, assist with contract negotiations, and prepare agreements and/or PSC comments

2. Assesses the potential environmental impacts of the proposed development and submits comments during the Environmental Assessment (EA) and/or Environmental Impact Statement (EIS) review process

3. Represents the local government in PSC proceedings by coordinating technical experts, preparing briefs and testimony, and advocating for local government interests during hearings

4. Submits comments during the public hearing process

PSC DECISION

Local Government

Evaluates whether to appeal the PSC decision and, if appropriate, files an appeal with the circuit court within the required 30-day timeframe

Tips for developing a solar contract[19]

1. Ensure you have a good attorney who can devote time to a solar contract

Begin by ensuring you have a good attorney who will devote time to developing the solar contract. If you do not, hire one right away. The solar Certificate for Public Convenience & Necessity (CPCN) permitting process with the PSC takes only one year (possibly shorter) and the solar contract should be developed, negotiated and signed before the PSC decides on the CPCN.

Local governments must quickly research and develop their positions when determining whether to negotiate a solar contract with a developer and whether to participate in the Public Service Commission (PSC) process as an intervenor. The next step involves preparing legal documents for one or both processes. An attorney can typically take on much of this workload, which is often necessary given that local governments may only meet once or twice per month.

When selecting legal counsel, local governments should consider an attorney's experience with renewable energy development, land use, and utility regulation matters.

If the local government has an established relationship with an attorney familiar with their operations, that attorney may be well positioned to support contract negotiations. Local governments may also benefit from consulting with peer communities that have previously negotiated solar development agreements. Several completed solar contracts that identify the attorneys who represented local governments during negotiations are available on the Wisconsin Land+Water renewable energy webpage.

Given the complexity of these agreements and the regulatory framework involved, experienced legal representation is an important consideration for local governments. After a solar developer submits a Certificate of Public Convenience and Necessity (CPCN) application to the Public Service Commission (PSC), local governments should consult with legal counsel to determine whether intervenor status in the PSC proceeding is appropriate.

2. Identify community priorities related to a proposed solar project

Every community is different in its land, its people, and its values. Ask your community what their priorities are and focus on these topics in the solar contract. Possible community priorities or concerns may include:

- Limiting impacts on homes close to the project
- Maintaining wildlife habitat and wildlife corridors
- Protecting soils, limiting erosion, and returning project site to farmland after solar
- Ensuring road damage is paid for by solar developer
- Developing decommissioning agreements for the end of a solar project
- Ensuring any additional community benefits are included in the contract

Talk with the developer about solar project layout concerns such as setbacks from roads, lakes, streams, trails and nearby homes early in the process when the solar developer has more flexibility to modify the proposed project and the layout has not been approved by the PSC.

3. Share the workload when developing a solar contract

Because these contracts are complex and cover many topics, it is important to include others from the local government in the process. Tasking one person to develop all the language in a solar contract may be overwhelming due to the large number of topics included that require technical expertise and research. Communities who tasked one person with developing the solar contract were less likely to complete a solar contract. Communities who had multiple people working together to decide whether to develop a contract, develop language for the contract, and negotiate the contract were more likely to complete a contract.

4. People to get involved in developing a solar contract

Towns and counties that have completed contracts have included the following people to develop contract language, so it is informed by local experts and tailored to local soils, plants and wildlife:

- Legal: Local government attorney and/or outside counsel
- Head elected official or head staff person (county/town board chair, county/town administrator, etc.)
- Plan commission occasionally took the lead for towns instead of town board chair
- Other local governments affected
    - Planning and zoning staff; used by counties and towns
    - Land and water conservation staff; used by counties and towns
    - Highway/road staff
    - Fire/EMS staff
    - County finance director related to financial obligations
    - Farm drainage board if the site is drained

5. Use strong rather than weak language in solar contracts

It is important to keep in mind that wording matters:

- **Strong, enforceable language** requires an action to be completed or a standard to be met and uses words like "shall", "must" or "required to" by a certain date or point in the process.
- **Weak language** that does not require an action includes "may", "consider", "shall attempt to", "shall be encouraged", "when necessary" and "when practicable".

Ensure language is clear about specific information, locations, measurements, and/or dates of completion.

6. Pay attention to who is responsible for actions and who decides when a solar contract standard has been met

Note whether responsibility falls to the local government or the solar developer to:

- Complete an action to meet a standard
- Choose the person who will complete an action to meet a standard; and does this person have to have appropriate expertise, such as a professional engineer or hydrologist for stormwater management, or a professional ecologist or botanist for vegetation planning and planting
- Decide when a solar standard has been met or what additional work needs to be completed to meet it

7. Learn from local governments who have already negotiated one or more solar contracts

Prepare by reviewing solar contracts and soliciting advice from experienced local government staff. Resources, including examples of solar contracts, are provided at the end of this document. The following people have been involved in developing and negotiating a solar contract and are willing to share their experiences:

- **Jim Garbe,**
  Chairman, Town of Plover,
  715-340-2799 and chair@townofplover.wi.gov
- **Patricia Cicero,**
  Jefferson County Conservationist,
  920-674-7121 and PatriciaC@jeffersoncountywi.gov
- **Kurt Calkins,**
  Columbia County Land Resources Director,
  608-742-9670 and kurt.calkins@columbiacountywi.gov
- **Matt Zangl,**
  Jefferson County Director of Planning and Development,
  920-674-8638 and mattz@jeffersoncountywi.gov

8. Share the solar contract standards and rationale with contractors and subcontractors

Local governments administer and enforce the solar contract, so it is important that they build a relationship with the developer and their Engineering, Procurement and Construction (EPC) contractor, including the construction site manager. Communication about the solar contract standards will need to be further shared and explained to subcontractors, truck drivers and everyone working on the solar project. It will likely take many discussions over time to keep the solar contract standards front of mind, so scheduled monthly update meetings are recommended. Local governments can consider hiring a third-party inspector to inspect and enforce when needed.

Resources

In 2025, the Center for Land Use Education obtained and analyzed completed solar contracts for 14 Wisconsin solar projects that were 100 MW or greater. To learn more, see the following resources:

1. Solar Contract Table: Spreadsheet summarizing contents of solar contracts for 14 Wisconsin solar projects
2. Solar Contracts: Full text of the solar contracts for 14 Wisconsin solar projects
3. Solar Contract Standards: Provides in depth information about many different types of solar contract standards from road damage standards to decommissioning standards to wildlife standards. Includes an explanation of why a community may want to include each type of standard, and most favorable language found for each standard in the solar contracts analyzed.
4. Best Management Practices for Solar Energy Projects, Wisconsin Department of Natural Resources

1. *ss. 196.491(1)(g) and 196.491(3)(a)1, Wis. Stats.*
2. *Regulation of Solar Generation Facilities, Wisconsin Legislative Council, 2024.*
3. *Whitewater Solar PSC Order, page 43.*
4. *Saratoga Solar PSC Order, page 17.*
5. *Paris Solar PSC Order, pages 12 and 38. Environmental Assessment, page 28, where dominant species consist of maple, basswood, and ash in southern Wisconsin, Kenosha County. Decision Matrix, page 6, says Commission Staff identified this area and Paris Solar stated it would no longer use that site. PSC then applied condition affirmatively removing this area from the authorized project area.*
6. *Northern Prairie Solar PSC Order, pages 15 and 31, avoid mass tree clearing for proposed alternate arrays that include approximately 48 acres of natural woodland in St. Croix County in northern Wisconsin because forested land removal would generally impose greater impacts to wildlife than use of other land types (mostly agriculture) present in the project area.*
7. *Springfield Solar PSC Order, pages 16-18, did not require moving proposed arrays based on the comprehensive plan, stating the plan was out of date and the plan did not explicitly state or exclude energy generation facilities in area of expected industrial development where a sewer line had been extended.*
8. *Paris Solar PSC Order, pages 12 and 38. Environmental Assessment, page 32, describes the archaeological sites.*
9. *Paris Solar PSC Order, pages 12 and 38. Environmental Assessment, page 32, describes the archaeological sites, requires moving proposed arrays off approximately 50 acres to avoid impacts to one archaeological site where thousands of artifacts have been mapped and collected. Decision Matrix, page 6, says Commission Staff identified this area and Paris Solar stated it would no longer use that site. PSC then applied condition affirmatively removing this area from the authorized project area.*
10. *Whitewater Solar PSC Order, page 28.*
11. *Northern Prairie Solar Order, page 33.*
12. *Whitewater Solar PSC Order, page 26, required relocation of laydown yard from a nearby home but did not specify how far away it must be from the home.*
13. *Vista Sands Solar PSC Order, page 28.*
14. *Vista Sands Solar PSC Order, page 52.*
15. *Vista Sands Solar PSC Order, page 36 and Direct-WWF-Hauge-r2-17, 20-22 (PSC REF#: 515383), page 17.*
16. *Vista Sands Solar PSC Order, page 53; Whitewater Solar PSC Order, page 37; Porchlight Solar PSC Order, page 27, require fencing with a specified size of bottom openings, or one opening every 100 feet, in specified fence areas or around all arrays to allow small wildlife movement as recommended by DNR staff.*
17. *Vista Sands Solar PSC Order, page 53.*
18. *Whitewater Solar PSC Order, page 33.*
19. *Key findings from an October 2025 survey by Center for Land Use Education of counties and towns with large solar projects (≥100 MW) approved by the Wisconsin Public Service Commission.*

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