

Andrew T. Braff

SENIOR COUNSEL

Energy and Climate
Solutions

Seattle

abraff@wsgr.com
206-883-2567



FOCUS AREAS

Climate and Clean
Technologies

Energy and Climate
Solutions

Environmental, Social, and
Governance

EXPERIENCE

Andrew Braff is senior counsel in the Seattle office of Wilson Sonsini Goodrich & Rosati, where his practice focuses on infrastructure and energy project development, project finance, and other commercial transactions. Andy's work primarily involves assisting developers of solar, biomass, biofuels, biogas, geothermal, wind, CHP, renewable chemical, carbon capture and sequestration/utilization (CCS/CCUS), and energy storage projects, as well as zero emission vehicle infrastructure, manufacturing facilities, and datacenters. His experience includes advising on, negotiating, and drafting complex construction and commercial documentation, including: engineering, procurement, and construction (EPC) agreements; build-transfer agreements; supply and offtake agreements; contract manufacturing agreements; equipment purchase and sale agreements; operation and maintenance (O&M) agreements; and real property sale and lease agreements. Andy's practice also includes advising on joint ventures, acquisitions (asset and equity), federal government contracts, and assisting clients in securing non-dilutive government financing for project development, including through the U.S. Department of Energy's and Department of Agriculture's Loan Guarantee Programs.

Andy previously served as an extern for Justice Mary E. Fairhurst of the Washington State Supreme Court, and as an advisor to California State Assemblyman, Mark Wyland, and Congressman George R. Nethercutt, Jr.

CREDENTIALS

Education

- J.D., University of Washington School of Law, 2006
- B.A., Whitman College, 2000
Magna Cum Laude, Phi Beta Kappa

Associations and Memberships

- Member, Washington State Bar Association
- Member, President's Advisory Board, Whitman College

Admissions

- State Bar of Washington

MATTERS

Representative Matters

- Represented an asset management company in negotiating a balance of plant agreement for the construction of a 300 MWac solar plus 140MW/560MWh storage project in connection with the client's acquisition of the project at full notice-to-proceed, including structuring and advising on

arrangements to shift risks associated with the BOP Agreement structure and the supply of major equipment by the owner to others in order to facilitate tax equity and debt financing.

- Drafted and negotiated construction agreement on behalf of the owner of a 100MWac solar plus 50MW/200MWh integrated storage project in California.
- Advising licensee of new, innovative carbon capture technology in the development of first-of-their-kind, IRC 45Q-eligible projects being co-located with major industrial facilities that will capture, utilize, and geologically sequester CO₂ while providing zero-emission power and steam to its host customers.
- Represented joint venture in drafting and negotiating its first engineering, procurement and construction agreement for the development of a build-to-suit cryptocurrency mining data center in Texas to be leased to the joint venture's long-term lessee. Separately, the joint venture is supplying energy to the data center under a long-term energy services agreement.
- Advising a developer of distributed, modular, cryptocurrency data centers to be directly interconnected to C&I-scale solar + storage energy projects in negotiating an easily replicable form of engineering, procurement and construction agreement for the associated solar + storage energy projects.
- Represented a global energy technology and infrastructure company in its entry into a joint venture to offer and rapidly deploy on-site energy-as-a-service solutions to commercial and industrial customers, including solar, solar plus storage, stand-alone storage, combined heat and power, and central utility plants, as well as microgrid solutions. Structured, drafted and negotiated a flexible form of EPC contract for use in connection with the aforementioned project types in order to avoid significant re-negotiation, resulting in transaction cost savings and increased market competitiveness, as well as for use in connection with the initial contribution of a portfolio of development-stage projects to the JV at closing.
- Represented oil major in its entry into a joint venture with a leading developer of renewable natural gas (RNG) projects across the United States having ultra-low carbon intensity (CI) scores under California's Low Carbon Fuel Standard (LCFS) and that generate D3 Renewable Identification Numbers under the Federal Renewable Fuel Standard (RFS). The client will purchase all RNG produced from these projects and market the volumes for use in vehicles operating on compressed natural gas in the California market. Relatedly, advised the client in connection with structuring a strategic relationship with a compressed natural gas fueling company and the creation of a vehicle incentive program in order to accelerate the adoption of CNG-fueled trucks and increase the market demand for RNG volumes.
- Advised an overseas investment fund with respect to commercial and project documentation in its acquisition of a 50% interest in a ~290 MW portfolio of behind-the-fence generation assets located at two steel mills in Indiana, including three waste-to-power plants and a gas-fired CHP plant. The projects significantly reduce the steel plants' GHG emissions as compared to producing steam with grid power and generate environmental attributes equivalent to a 530+MW solar facility and 370+MW wind facility while providing reliable baseload energy to the mills.
- Represented an asset management company in developing an innovative master EPC contract form that the company has used to efficiently acquire at full notice to proceed, and to construct portfolios of development-stage commercial and industrial solar projects, including the largest behind-the-meter project in the United States at the time.
- Represent a developer of residential solar projects in commercial and project development transactions, including numerous long-term supply agreements for the procurement of PV modules, inverters, racking, and batteries.
- Advise a project company in corporate, debt financing, construction, O&M, and commercial matters involving a \$1 billion solar thermal electric generating facility.
- Represent a solar project developer in its ITC Safe Harbor procurement of PV modules and step-up transformers for a portfolio of utility-scale solar projects and advise on engineering, procurement and construction matters relating to those projects.
- Represented an industrial biotechnology chemical company with proprietary technology for the production of sustainable chemicals from renewable resources, in connection with its first commercial-scale facility in Malaysia.
- Represented a company with a proprietary process to convert CO₂ into valuable commodities in its \$80 million sale-leaseback financing for its first commercial project in Texas.
- Represent a combined heat and power (CHP) project investor and developer on multiple projects in New York and other states.
- Represented a utility in connection with various natural gas purchase, sale, and exchange agreements, as well as a build-transfer agreement involving subsea transmission facilities associated with an offshore wind project.
- Represented a multibillion-dollar private company in its sale of a development-stage, utility-scale solar PV project being developed on BLM lands.
- Represented developer in its negotiation of an EPC agreement with a public utility for the development of a 14MW fuel cell generating facility.

- Represented a construction contractor in its negotiation of EPC agreements and subcontracts for the development of multiple substations.
- Advised a lender in connection with its financing of multiple advanced biofuels projects receiving U.S. Department of Agriculture (USDA) loan guarantees under Section 9003 of the Farm Bill.
- Represented the developer of a manufacturing facility receiving a Title XVII loan guarantee in its negotiation of construction, raw material procurement, product sales, and O&M agreements.
- Advised multiple geothermal project developers regarding geothermal leases, surface leases, unit agreements, and joint development agreements.

Pro Bono Matters

- Andy advises the Algae Biomass Organization, a 501(c)(6) trade association promoting the development of viable technologies and commercial markets for renewable and sustainable products derived from algae, and the Algae Foundation, a 501(c)(3) organization encouraging the use of algae as a fundamental source of energy, nutrition, products, and ecological services through education, charitable efforts, and scholarships, including in connection with its leadership of the Algae Technology Education Consortium (ATEC), an initiative funded by the U.S. Department of Energy and the National Renewable Energy Laboratory to create and implement workforce development curriculum at colleges and universities nationally.

INSIGHTS

Select Speaking Engagements

- "Anatomy of an Engineering, Procurement and Construction Agreement and its Role in Project Finance," Wilson Sonsini Goodrich & Rosati webinar series, June 25, 2019
- "PV Project Performance Guarantees – Commercial, Legal and Technical Considerations," Hot Issues in PV Performance and Solar Project Finance webinar series, Wilson Sonsini Goodrich & Rosati, October 31, 2012
- "Algal Biofuels and Federal Policy: RFS2 and Other Policy Issues," presentation at the Fourth Annual EBI Biofuels Law and Regulation Conference, University of Illinois at Urbana-Champaign, April 25, 2012
- "Strategies for Ensuring Module Quality Prior to Installation," Hot Issues in PV Performance and Solar Project Finance webinar series, Wilson Sonsini Goodrich & Rosati, April 11, 2012
- "Geothermal Leasing Essentials and the Anatomy of a Geothermal Lease," presentation at Geothermal Resource Council's 33rd Annual Meeting, Reno, NV, October 2, 2009
- "Geothermal Site Acquisition and Early Development: Key Legal Issues and Emerging Strategies," Geothermal Energy Conference and Expo, Reno, NV, October 6, 2008 (Co-author with Peter Mostow)
- "Algae: The Next Biofuel? Recent Developments and the Financial Landscape," presentation at the Renewable Energy Finance and Investment Summit, Scottsdale, AZ, May 20, 2008
- "Biofuels from Algae," testimony before a Joint Session of the House Technology, Energy and Communications Committee and the Senate Water, Energy and Telecommunications Committee, Olympia, WA, February 21, 2008
- "The Federal Renewable Fuel Standard ("RFS") Program: Operational Highlights and Outlook," presentation at 2007 Biofuels Workshop and Trade Show—Western Region, Portland, OR, October 10, 2007