

Project Development and M&A



HIGHLIGHTS

■ Developing Projects and Negotiating Commercial Agreements

Our project development team assists sponsors in negotiating—and investors on conducting due diligence related to—the key commercial agreements needed to build a successful project. Our team has significant experience in negotiating and reviewing offtake/power purchase agreements; engineering, procurement, and construction (EPC) contracts; critical equipment supply agreements; warranties and performance guarantees; operations and maintenance agreements; development service agreements; joint venture agreements; interconnection agreements; build transfer agreements; and shared facilities agreements, among many others.

■ Significant Experience in a Vast Array of Sectors

Our team has experience in a wide array of sectors and verticals in the energy, clean technology, and decarbonization space, including solar (residential, commercial and industrial (C&I), and utility scale), wind, battery storage, energy efficiency, carbon capture and sequestration, direct air capture, data centers, electric vehicles (EVs) and EV charging infrastructure, geothermal, transmission, hydrogen, renewable natural gas and fuels, renewable chemicals, smart grid and virtual power plants, nuclear (including SMRs), fusion, waste-to-energy, green building and industrial technology (e.g., green iron, steel, and cement), microgrids, forestry and reforestation, voluntary and regulated carbon and other compliance markets, fuel cells, and hydroelectric power. Each time a new technology comes to the forefront in the energy space, our team is ready to assist.

■ Project M&A

Our team also has extensive experience in project M&A at all stages of a project's life cycle, from early-stage pre-NTP assets to some of the largest operating assets in the country. We are adept at catering the scope of our representation to the needs of our clients based on the size, value, and risk profile of the underlying project.

OVERVIEW

As an integrated part of the Energy and Climate Solutions practice, our project development team has the specialized knowledge and skills needed to help sponsors secure the sites, offtake, construction contracts, and other commercial contracts required to succeed in the energy and clean technology sectors. Our team is also widely regarded for our project M&A experience, helping clients buy and sell assets at all stages of development. In addition, we assist with licensing transactions, strategic joint ventures, and interactions with federal and state governments and international financing institutions.

We help clients develop and construct all types of energy, resources, and infrastructure projects. Our services include advising on permitting, licensing, site control, design, construction, and financing matters, as well as negotiating necessary ancillary agreements for power purchase and other offtake, tolling, operations and maintenance (O&M), transmission, interconnection feedstock, equipment purchase, hedging, equipment supply, and construction. Our projects team is adept at project joint venture arrangements and at buying and disposing of project assets and portfolios.

We bring to each assignment experience in a full range of projects, with a focus on clean energy projects, including solar (residential, C&I, and utility scale), wind, battery storage, energy efficiency, carbon capture and sequestration, data centers, EV and charging infrastructure, geothermal, transmission, hydrogen, renewable natural gas and fuels, smart grid and virtual power plants, nuclear (including SMRs), fusion, waste-to-energy, green building and industrial technology, microgrids, forestry and reforestation, fuel cells,

and hydroelectric power, as well as new-technology manufacturing facilities. Ultimately, we understand that our clients' success requires us to be commercial-minded and pragmatic, with a keen understanding of the terms that are market and financeable, in order to get projects developed, financed, and built.

Representative Transactions

We have negotiated gigawatts of offtake agreements (power purchase agreements, tolls, hedges, REC purchase agreements, etc.) opposite all major utilities (including Southern California Edison, Pacific Gas and Electric Company, San Diego Gas & Electric, Puget Sound Energy, Portland General Electric, PacifiCorp, Nevada Power Company, Entergy, Salt River Project, and Xcel Energy and its subsidiaries, including the Public Service Company of Colorado), numerous California community choice aggregators, major corporate buyers (including Microsoft, Google/Alphabet, Apple, and Meta/Facebook), energy trading houses, and data center developers.

In the project M&A space, we have negotiated membership interest purchase agreements (MIPAs) and asset purchase agreements (APAs) for projects ranging from a \$1.8 billion CapEx, pre-NTP solar plus storage project located in the Western United States to a pre-NTP hydroelectric project in the Mountain West to a 137 MW operational wind project in Washington state.

Our team also has significant experience in structuring, drafting, advising on, and negotiating engineering, design, procurement, and construction contracts in a multitude of energy and industrial verticals and involving projects of various sizes. From creatively architecting platform or master agreements for efficiently developing large portfolios of residential or C&I projects using a variety of energy generation, efficiency, and storage technologies, to crafting agreements for first-of-a-kind pilot, demonstration, and commercial facilities, to complex, capital-intensive, utility-scale energy or large industrial or infrastructure projects, we offer practical, commercially oriented counsel to mitigate the myriad of construction risks and ensure financeability and successful outcomes for our clients. Some examples include:

- Representing a global investment firm's portfolio companies in structuring and negotiating EPC Agreement and Master EPC Agreement forms used in connection with acquiring and/or developing dozens of C&I, community solar, and solar + storage projects in Maine, New York, Maryland, Massachusetts, and Illinois, including advising on IRA (prevailing wage and apprenticeship) compliance.
- Advising an industrial major in structuring, drafting, and negotiating a Master EPC Agreement for use in a joint venture with a global investment and asset management firm to offer comprehensive onsite Energy as a Service (EaaS) solutions for a pipeline of existing customers (including corporate and industrial clients, municipalities, universities, schools, and hospitals) and those sourced by members of the joint venture in the future, with built-in flexibilities for use with projects involving solar, solar + storage, stand-alone storage, CHP, and district heating.
- Representing a major U.S. energy asset management firm in negotiating EPC and balance of plant agreements for construction of multiple utility-scale solar and solar + storage projects in California involving over a gigawatt of energy production and storage capacity.
- Advising a joint venture between a global low carbon and renewable energy infrastructure investment firm and an industrial energy, infrastructure, and water project development firm in the joint venture's development of renewable-powered data center campuses in the United States to provide sustainable and long-term cost advantages with low-cost renewable power and assist data center operators in achieving net-zero targets, including an EPC Agreement for development of a 200+ MW blockchain Data Center complex in Texas, along with ancillary EPC agreements for on-site solar and water conservation measures.
- Representing a developer of a first-of-a-kind, utility-scale cogeneration facility with back-end carbon capture and geologic sequestration on its Front-End Engineering Design (FEED) Study Agreement and ongoing structuring of the EPC Agreement for the project. When complete, the project will supply the near-carbon-free steam requirements of a large industrial customer and sell near-carbon-free electricity to that customer and a hyperscaler offtaker.