

## Practices

# Energy & Renewable Resources

The firm's Energy & Renewable Resources Practice Group was formed in response to the growing demand for onsite energy production, competitive energy procurement, renewable and alternative energy production, energy efficiency and sustainable development practices. The attorneys in this group bring a multi-disciplinary perspective to the task of helping clients navigate the challenges and opportunities presented by environmentally responsible development and cost-effective energy production.

To meet the evolving role of counsel in sustainable building, alternative energy and renewable energy projects, our group is comprised of attorneys who work in all areas integral to these types of projects: energy regulation, utility interconnection, property acquisition, structuring of mixed use developments, Brownfields and other environmental issues, construction, engineering procurement and construction (EPC) contracts, operating and maintenance agreements, power purchase agreements (PPAs), insurance matters, redevelopment, project planning, financing and subsidies, tax issues (including credits, abatements and financial agreements), zoning, land use, approvals, permits and, if necessary, litigation.

Our experience encompasses net-metered and grid supply solar energy installations, offshore wind generation projects, battery storage, bio-mass generation, landfill gas to energy conversion, cogeneration/combined heat & power (CHP) projects, consolidated natural gas (CNG), lateral development of utility infrastructure and a variety of projects incorporating sustainable building initiatives. Our clients include private developers, public corporations, public-private partnerships, redevelopment agencies, investors, alternative and renewable energy developers and financial institutions. We also serve as local counsel to secure all required permitting and approvals for the development and operation of renewable and clean energy projects in New Jersey.

### Solar Energy

Our lawyers possess a comprehensive understanding of the regulatory and complex transactional issues which come into play during the planning, approval, financing, leasing, construction and operation of solar energy installations. Our clients with interests in the solar energy sector

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benefit from our depth of experience in the areas of real estate and environmental law, federal and state energy regulatory law, land use and zoning, corporate and business considerations, project financing and tax-related issues.

We are familiar with the New Jersey Board of Public Utilities (BPU) regulatory requirements governing solar energy projects and the requirements of ensuring eligibility for solar renewable energy certificates (SRECs), transition renewable energy certificates (TRECs) and net-metering. We are also familiar with the requirements associated with offshore wind development and permitting associated with transmission projects. Further, we provide advice regarding interconnection requirements of PJM (the regional transmission organization that coordinates the movement of wholesale electricity throughout New Jersey and numerous other states) for grid-supply projects and the requirements of qualifying facilities (QFs).

The firm's attorneys have assumed a key role as advisors in the development and implementation of numerous solar projects on behalf of a diverse range of clients, including developers, property owners and landlords, transportation and warehousing entities, construction firms, county and municipal governments, school districts, municipal utilities and parking authorities. Our attorneys have been involved in some of the largest solar energy projects in New Jersey. We have also represented the interests of a number of solar design and installation firms developing grid-supply and net-metered solar projects.

We counsel clients on the complete range of issues which must be addressed by parties who install, own, operate or receive power from a solar energy system. We draft and negotiate the requisite agreements and leases relating to solar installations that protect our client's business interests. We coordinate and oversee the process of obtaining project financing through a variety of sources, and counsel clients on the appropriate use of insurance to address potential risks associated with solar development. We also serve as local counsel for national law firms involved in large New Jersey energy projects.

Our comprehensive experience encompasses the preparation and negotiation of EPC agreements and related warranties; PPAs; system maintenance and operations agreements; roof replacement contracts; rooftop leases; access agreements; interconnection agreements; SREC sales and brokerage agreements; and power performance guarantees. We oversee and coordinate project financing through real estate debt financing; financing through utility company loan programs and federal/state incentives and grants; land use applications, site plan approvals and permitting; environmental compliance and due diligence; negotiations with mortgage lenders on issues related to mortgage liens; the sale of real estate holdings for the development of solar farms; "manuscripted" insurance policies to address potential business interruption and losses; and issues related to the sale and valuation of SRECs.

### **Representative Matter:**

The firm played a key role throughout the planning, financing and construction phases of one of the country's largest roof-mounted solar energy installations with our representation of Avidan Energy Solutions in its development of a 4.26 megawatt solar energy system in Edison, New Jersey. Our team negotiated an EPC agreement, handled the review and negotiation of related warranties and agreements

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covering roof contracting and system services and maintenance, and coordinated real estate debt and project financing with both traditional and utility company lenders for the project. Representation also included oversight of an application for federal grant money, advising on the sale of SRECs and implementation of a PPA. The completed rooftop solar array, which covers 650,000 square feet and draws power from approximately 18,000 photovoltaic solar panels, was designed to generate enough solar power to meet approximately 50 percent of the facility's one million kilowatt hour monthly energy needs, effectively reducing the building's carbon footprint by half and significantly reducing tenants' operating expenses by bringing down energy costs.

### **Cogeneration / Combined Heat & Power (CHP) / Financial Incentive Programs**

Our lawyers have the general technical background required to guide clients through the development of cogeneration/CHP facilities. We have the capability to advise on the benefits of CHP from a variety of perspectives, including power independence, cost savings and environmental responsibility. We also have a strong level of familiarity with energy and environmental remediation financial incentive programs, such as the New Jersey Economic Development Authority (NJEDA) Brownfields remediation and Economic Recovery and Growth (ERG) grant programs, and the New Jersey Board of Public Utility's Office of Clean Energy CHP incentive program, as well as federal technical support through the EPA's Combined Heat and Power Partnership.

### **Representative Matter:**

The firm assisted Montclair State University in the evaluation of environmental issues and associated environmental contract provisions related to the development of a new 5.4 megawatt cogeneration facility and the cessation of existing cogeneration operations on the University's campus in Montclair, New Jersey. This included evaluation of requirements under the New Jersey Industrial Site Recovery Act (ISRA) as applied to cogeneration.

### **Sustainable / Green Building**

When representing clients involved in sustainable development initiatives, our group places a particular focus on assisting with cost-benefit evaluations. Within New Jersey's regulatory and redevelopment environment, these undertakings are often complex and inclusive of significant cost and legal implications. Our legal services include the drafting and negotiation of construction and architectural contracts to incorporate green building provisions, securing local land use approvals and other requisite permits, addressing insurance issues, and identifying applicable financing options and grant opportunities. In those instances where a project has failed to meet the objectives, our group is available to provide guidance and/or dispute resolution strategies for resolving any pre- or post-project issues that may arise. In short, the group provides a full menu of services to any individual or entity involved in a sustainable building project.

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### **Representative Matter:**

In our role as legal counsel to the Morristown Parking Authority, the firm played a significant role as legal advisors on the high-profile Epstein's Redevelopment Project in Morristown, New Jersey. The elements of this project included construction of a LEED certified parking garage and office building, which achieved a gold rating. Notable sustainable features of the office building include solar power, geothermal wells, light shelves, raised floor HVAC distribution, high performance energy efficient building envelope and a green roof. Our involvement included interfacing with design professionals regarding LEED certification and green design issues, participation in the LEED certification process, oversight of the preparation of grant applications, negotiation of leases with tenant contributions for "green" items, preparation of guaranteed maximum price construction contracts and conformance with Redevelopment Plan requirements.