

Darin M. Lowder



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Darin Lowder is a partner and business lawyer with Foley & Lardner LLP. He is a member of the firm's Finance Practice and the Energy Industry Team. Darin focuses his practice on energy, project finance, project development, and related tax and public financing. He works to assist clients to efficiently address unique challenges in developing and financing renewable, alternative and conventional energy projects. Darin has focused on incorporating risk mitigants such as the growing energy-related insurance products and public-private partnerships (P3) as part of the ownership and financing structures evolving in this space.

Darin has unique experience representing lenders, other financing parties, and sponsors in innovative financing structures for P3 energy project financings, private placements, and bank and non-bank lending facilities. He has assisted clients with utility-scale, residential and commercial & industrial solar power projects (including for community solar power projects incorporating energy storage components), and large-scale wind projects in addition to his familiarity with other energy project technologies including offshore wind development, LNG terminals, combined heat and power/district heating & cooling projects, biomass and biofuel projects, and other energy and alternative energy technologies.

Darin has negotiated innovative energy output and investment tax credit insurance policies for solar power projects, helped to finance numerous community solar and other distributed generation portfolios, and managed diligence efforts, financing negotiations, and documentation for large utility scale renewable and conventional fuel projects. He also regularly represents lenders in other significant non-recourse project finance transactions.

He speaks regularly on project financing, structuring renewable energy transactions, negotiating power purchase agreements, and related community solar issues. In the past two years, he has assisted clients on projects totaling over 5,000 MW (5 gigawatts) worth more than \$3.2 billion.

Representative Experience*

- Represented leading national lender in series of three community solar construction, term and tax equity bridge loan financings for portfolios primarily in Massachusetts, which included SREC II and SMART program revenues, as well as battery storage
- Represented lead lender in syndicated construction, tax equity bridge loan and term debt facility for 180 MW of utility scale solar projects in Virginia and North Carolina, utilizing corporate power purchase agreement offtakers
- Represented lead lender in syndicated construction and term debt financing for \$100 million cold storage project in Idaho with a leading national food producer as key customer
- Represent agent bank in private activity bond-financed utility-scale solar project for \$150 million financing of 100 MW solar power project in Mississippi
- Represent a publicly traded energy project developer in the negotiation of the acquisition, long-term services agreements with, and \$105 million term debt private placement financing of combined heat and power and district heating & cooling assets with a private university as host customer
- Represented agent bank in \$230 million debt financing of LNG terminal facility
- Represented lead lender in syndicated construction and revolving debt facility for the construction of a modular prefabricated affordable housing manufacturing facility
- Represented agent bank on \$60 million safe harbor equipment loan financing
- Represented project developer in first tax equity financing of community solar portfolio in the U.S., totaling over 15 MW of solar PV projects
- Represented agent bank in \$660 million financing of a 550 MW wind project portfolio
- Represented a publicly traded energy project developer in the non-recourse bank financing of a 70 MW solar PV generation project
- Represented a solar project developer negotiating with a local utility for a 75 MW solar power project in Puerto Rico
- Represented a Fortune 500 solar developer in financing a 27 MW solar power project
- Assisted Salt Lake County in developing a first-of-its-kind public-private partnership financing structure to develop the largest solar generation project in the State of Utah at the time
- Represented a lender in takeout financing for the 137 MW Alta Wind X project, a \$300 million project
- Represented the City of Philadelphia in developing and financing a combined heat & power biogas facility
- Provided technical tax and financing assistance under the U.S. Department of Energy's technical assistance program for energy efficiency and conservation block grant recipients
- Advised a bridge lender to a 5 MW agricultural biogas project in Pennsylvania regarding 1603 Grant eligibility issues and tradable water quality credits
- Represented western public housing authority in the negotiation and development of a rooftop solar project incorporating private use Qualified Energy Conservation Bonds
- Advised a public housing authority in allocation of energy-efficient commercial property deduction

for energy efficiency improvements

* Certain representations undertaken prior to joining Foley & Lardner LLP

Education

Darin received his law degree from George Mason University School of Law (J.D., 2006). He also received his master's degree from Stanford University (M.A., 1994) and his bachelor's degree from Brigham Young University (B.A., 1993).

Recognition

Darin was previously recognized by The District of Columbia Court of Appeals and Superior Court of the District of Columbia to the Capital Pro Bono Honor Roll.

Admissions

Darin is admitted to practice in Virginia as well as Washington, D.C.

Selected Publications and Presentations

- Speaker, "Structuring Virtual Power Purchase Agreements: Transaction Risks, Regulatory Considerations," *Stafford webinar* (November 2019)
- Panelist, "Solar Securitization: Leveraging Alternative Financing Without Jeopardizing Existing Investor Tax Breaks," *Stafford webinar* (June 2020)
- Panelist, "Renewable Energy Projects: Negotiating Power Purchase Agreements," *Stafford webinar* (April 2020)
- Co-Author, "Coronavirus Impact on Construction of Energy Projects," *Renewable Energy Outlook, Foley & Lardner LLP blog* (April 2020)
- Moderator, "Impacts of COVID-19 on the Renewable Energy Industry – Recent Legislation and Effects on the Supply Chain and Construction," *Foley & Lardner LLP webinar* (April 2020)
- Co-Author, "Massachusetts DOER Announces COVID-19 SMART Program Extension; Releases Proposed Emergency Regulations for Public Comment," *Renewable Energy Outlook, Foley & Lardner LLP blog* (April 2020)
- Co-Author, "Highlights of Foley's Community Solar Webinar," *Renewable Energy Outlook, Foley & Lardner LLP blog* (February 2020)
- Speaker, "Structuring Virtual Power Purchase Agreements: Transaction Risks, Regulatory Considerations," *Stafford webinar* (November 2019)
- Speaker, "Financing Community Solar – A Growing Market," *Foley & Lardner LLP webinar* (October 2019)
- Moderator, "Maximizing Solar Tax Credits – Navigating the Start of Construction Rules (Part II)," *Foley & Lardner LLP webinar* (October 2019)
- Co-Author, "Upcoming Webinar: Maximizing Solar Tax Credits – Navigating the Start of

- Construction Rules (Part 1),” *Renewable Energy Outlook, Foley & Lardner LLP blog* (September 2019)
- Co-Author, “Solar Construction Costs Continue Historic Decline, Providing Cushion Against Trade Disputes,” *Renewable Energy Outlook, Foley & Lardner LLP blog* (September 2019)
 - Moderator, “Maximizing Solar Tax Credits – Navigating the Start of Construction Rules (Part I),” *Foley & Lardner LLP webinar* (September 2019)
 - Moderator, “North Carolina Implementation of HB589,” *Southeast Renewable Energy Summit* (November 7, 2018)
 - Moderator, “Virginia Renewables Update,” *Southeast Renewable Energy Summit* (November 7, 2018)
 - Moderator, “Structuring Virtual Power Purchase Agreements: Limiting Transaction Risks, Regulatory Considerations,” *Strafford webinar* (September 6, 2018)
 - Moderator, “Coalition for Community Solar Access” (July 18, 2018)
 - Speaker, “Renewable Energy Projects: Negotiating Power Purchase Agreements,” *webinar* (February 8, 2018)
 - Speaker, “Renewable Energy Project Financing: Legal Strategies for Structuring the Deal,” *Strafford webinar* (May 30, 2017)
 - Moderator, “Project Development Update,” *Novogradac & Company LLP, 2017 Financing Renewable Energy Tax Credits* (May 2017)
 - Chairman, “Solar Market Outlook and Business Development Landscape,” *Solar Power Finance & Investment Summit* (March 2017)
 - Faculty member, “Renewable Energy Projects: Negotiating Power Purchase Agreements Structuring Terms To Meet State and Federal Renewable Power Standards,” *Strafford webinar* (February 2017)
 - Moderator, “Financing Community Solar Projects,” *Infocast Community Solar* (October 2016)
 - Moderator, “The Post YieldCo Transaction Landscape,” *Novogradac & Company LLP, Tax Credit Industry Events* (April 2016)
 - Panelist, “Structuring Hybrid Deal Financings to Attract Institutional and Long-Term Investors,” *Infocast Energy Project Finance Tutorial*, (December 9, 2015)
 - Moderator, “Community Solar – A New Market Segment,” *Infocast Distributed Solar Summit 2015*, (November 16-18, 2015)
 - Moderator, “Federal and State Regulations in Support of Microgrid Adoption,” *Infocast Commercial & Government Microgrids Summit*, (October 2015)
 - Speaker, “Developing and Financing Microgrids,” *Association of Energy Services Professionals (AESP) Online Conference* (October 2015)
 - Chairman, “Solar Executive Briefing: Solar Regulatory and Solar Markets Outlook,” *Solar Power Finance and Investment Summit* (March 2015)