CAPTURING VALUE IN SOLAR RENEWABLE ENERGY TAX BENEFITS FOR ARCHITECTURAL FIRMS

DESIGNING PUBLICLY OWNED ENERGY EFFICIENT BUILDING SYSTEMS
Our business plan for 2011 is to continue our quality of services to our members by providing Continuing Education programs, staying ahead of Legislative & Government issues, offering Special Events and Tours. We are also looking into our organization providing additional value and benefits to our members.

One of our initiatives this year is to involve all members to be more connected to their community leadership and advocate for fundamental improvements for a more economically viable, environmentally sustainable and “Livable Community”. Our current state of concerns: NJ is currently the highest out-migration state in the country, and we have the highest property tax in the country. In this hard economic time, businesses are moving out of NJ to states that have adopted friendly business incentives.

It’s time for ALNNJ members to call upon our local officials and state representatives for a “Reality Check” as part of our Advocacy Initiatives: Advocacy – to raise public awareness of our profession and that “we do care” with the following messages:

We the architects will work with our community leaders for a more “Livable Community” based on the 10 principles defined by AIA.

We the architects will collaborate with planners, zoning officers, local authorities to improve the process of development approvals to create a business friendly environment that benefit the community and create economic growth, as part of our State Mega Issue on zoning.

We the architects will encourage home owners, schools, hospitals and commercial owners, to improve and retrofit their buildings to conserve energy, reduce their carbon footprint and preserve buildings with historical value to develop a more “sustainable environment” for our future, as part of AIA 2030 Challenge.

In February, for the “AIA GRASSROOTS”, our ALNNJ representatives have met with our Senators and Congressmen to present AIA’s blueprint to “Rebuild and Renew”. The ALNNJ is in the process of organizing information materials for you to meet with your local community leadership. We all need to participate for a stronger organization and a rewarding career.

Ben P. Lee, AIA
AIA-ALNNJ President
Capturing the Value in Solar Renewable Energy Projects

By Thomas Porrovecchio

With budget dollars harder to find for energy and facility upgrades, solar power projects are offering new ways to cover and reduce costs. While it is unlikely with current technology that solar power will replace fossil fuel as our largest source for electricity, solar power is a crucial component of renewable energy production. An important and evolving concept in building and community design is to decentralize power production so each building achieves zero-net energy consumption, and solar power is the most adaptable solution in achieving this goal. The Federal government and many states are finding creative ways to encourage public and private investment in solar power projects. The resulting incentives have allowed solar installation companies and their investors to develop profitable business models in selling these projects to property owners. The extent to which these projects pass on value, opportunities and risks to property owners vary greatly, so it is important to understand the negotiable aspects and structure of the deal. Continue reading for tools to make more informed decisions as a property owner considering a solar power project.

The use of solar photovoltaic (Solar PV) systems has been growing throughout the world as a clean and renewable source of electricity. In 2009 Solar PV accounted for almost 16 percent of new electric power capacity additions in Europe, and the United States added an estimated 470 megawatts (MW). In October 2010 an 80MW solar farm, the world’s largest operating photovoltaic facility, came online in Ontario, Canada. It will power 12,800 homes.

Development of the U.S. Solar PV industry has been driven by a variety of incentive programs provided by various levels of government and private utilities. In addition to Federal tax incentives, states and public and private utilities also offer rebates and renewable energy credits that offset the capital costs, encourage financing and, in a growing number of transactions, reduce the property owner’s initial capital outlay to zero. Unused surface area can now help lower energy cost and, in turn, reduce carbon emissions. Typically, systems are installed on roofs, parking area canopies or ground mounted in open areas. Infrastructure conditions, such as of the roof and electrical distribution system equipment, will impact the true cost and value of a Solar PV project on any property. However, the expense of required upgrades can be priced into the project costs.

1. Incentives

To encourage investment in renewable energy, the Federal government allows a 30 percent tax credit of equipment cost that uses solar energy to generate electricity. Unused credits can be carried forward for up to 20 years for commercial property owners and up until 2016 for residential. If construction begins before the end of 2011, in lieu of a tax credit, commercial taxpayers can receive a grant in the same amount from the U.S. Treasury Department.

An additional tax incentive is the accelerated depreciation under the Modified Accelerated Cost-Recovery System (MACRS). Under MACRS, businesses may recover investments in solar technology (as well as other renewable energy technologies) through depreciation deductions over a five-year period. Solar facilities put into service during 2010 are eligible for 50 percent depreciation in the first year.

A number of states have legislated a Renewable Portfolio Standard (RPS) – a regulation that requires increased energy production from renewable energy sources. An RPS creates a market demand within a particular state or region for tradable renewable energy credits that can be sold for cash. Solar Renewable Energy Credits (SRECs) are credits existing in states that specifically require solar energy to make up part of the portfolio. A Solar PV system generates a SREC by producing a MW of electricity. Property owners can sell their SRECs through spot market sales or long-term sales contracts, dramatically shortening their investment recovery period. Although RPS’s vary between states, New Jersey has experienced successful growth in its SREC market, thus making it a favorable location for solar power projects. The state has achieved 200 MWs of solar capacity with more than 6,800 projects.

2. The Power Purchase Agreement

Public, private and non-profit entities unable to take advantage of Federal tax incentives, either because they do not pay taxes or do not produce enough income, can partner with a third party solar company and still gain the benefits of energy cost savings and stabilization of rate escalation with zero capital investment or payout obligation. By leasing the part of the property that will be used for the Solar PV system (such as the unused roof space), the solar provider will own the Solar PV system – and the tax benefits and SRECs – and sell the electrical output to the property owner. The property owner will gain substantial savings on their energy costs (not only by price per kilowatt but, more importantly, by reduction in escalation over a 15 to 20 year term) and the satisfaction of replacing a portion of the energy they consume with clean solar power. This arrangement is governed by a Power Purchase Agreement (PPA).

Conceptually, the PPA is a simple agreement. However, its terms (which are full of technical and electrical jargon) reflect the economics of a sophisticated SREC marketplace and transfer risks that require specialized expertise to understand and to negotiate. Unfortunately, by the time the property owner selects a solar provider and receives the proposed PPA, much of the potential value will have been given away and unnecessary risks unwittingly assumed. Why is this?

Solar providers each have their own form PPA that is carefully drafted to ensure the uncertainty and risk is shifted onto the property owner who is rarely in a position to assess and shoulder these risks. Even with the aid of an experienced attorney, it is a difficult task to negotiate each
these provisions back to neutral terms because they start out so unfavorably to the property owner. What is left is a PPA that locks in the owner while allowing the solar provider numerous outs to walk away if the deal no longer seems attractive enough to move forward. Although these terms are generally driven by criteria established by the solar provider’s investors and financiers, they often have more flexibility than their form PPA will indicate. How can an owner maximize the value received through a solar project? The answer is simple — shop around. However, it is important to be in the right store, with the right shopping list.

3. Competitive Selection for Solar Providers
As the owner, the first step should be to engage an independent advisor to act as representative and to help develop a term sheet — a shopping list — that reflects the specific needs and characteristics of one’s own property. This term sheet is used to draft a request for proposal (RFP) that will be distributed only to pre-qualified solar providers. The owner’s representative will know the capabilities of the players in the marketplace by their prior deal experience. Inviting to propose only pre-qualified solar providers, known to have the capacity and skill-sets to deliver, will save time and money, and ensure reliability during the operational life of the project. The owner gains several advantages with this approach:

Transparency. The financial model that describes the transaction economics are rarely disclosed by a solar provider. However, pertinent information can be requested in the RFP to support a bid proposal. With this information in the open, it becomes possible to structure a deal that is unique to the owner’s specific needs, as the comparison pricing for different timelines and buy-out option pricing will be clearly described. The disclosure of a financial model will also support the owner’s assessment of the solar provider’s ability to perform its obligations throughout the project’s life.

Financing Opportunities. The individual term sheet may include facility upgrades that can be financed through the project. In addition to minimizing the energy escalation cost at a stable rate, in lieu of taking the full discount on the price per kilowatt, the energy cost savings can be used to upgrade aging infrastructure, such as electrical equipment or roofs. The independent advisor’s fees can also be priced into the project cost.

Shared Value. With disclosure of a financial model that illustrates the value of the project through the life of the PPA, it may be possible to articulate a way to share in windfall SREC values in the event of an upward movement in spot market pricing.

A Clear Approach. RFP responses should also establish an approach to the sequence of activities to be included in the PPA, which should be understood in advance of a commitment to proceed. Good practice is for the PPA to establish the milestones anticipated along with a delivery schedule.

4. PPA Pitfalls
There are a number of traps and pitfalls to avoid during a PPA negotiation. Some issues to be aware of include the following:

Environmental Attributes. Solar energy will reduce the property owner’s carbon emissions and displace electricity generated with fossil fuel. This alone creates potentially valuable environmental attributes such as SRECs, green tags, carbon credits and other grants or subsidies under current or future private or governmental programs. Whether these attributes will accrue to the property owner or the solar provider is an important negotiating point. Although the recent collapse of the Chicago Climate Exchange has decimated U.S. carbon credit values, the owner should retain those attributes that are not used in the project’s financial model. Of course, the solar provider seeks to maximize ownership of various environmental attributes under its standard form PPA. In some cases, this may be necessary for the solar provider to then assign these rights in connection with certain renewable energy loan programs. However, unreasonably broad provisions may even include rights under demand response and other energy programs with the local utility. Understanding how the project will be financed is crucial to negotiating the right balance of benefits between owner and solar installer — another important reason to require the financial model in your RFP. For example, in a project financed by SRECs, if the value should dramatically increase during the contract term, this windfall should be shared between both parties.

Revenue Grade Meter. A solar power system display panel should provide, among other things, the amounts of money saved, electricity generated and carbon emissions avoided. Many systems use an Internet connection combined with software to monitor data related to production. However, for purposes of validating energy billing information, a Solar PV system revenue grade meter is appropriate.

This meter is separate from the net meter provided by the utility.

Warranties. The age and condition of the roof and electrical equipment should be considered before installing the Solar PV system. Upgrading or repairing these items during the term of a PPA, which is usually between 15 to 20 years, is more costly and difficult. Additionally, some roof warranties and insurance policies may be voided by installation of a Solar PV system if certain prerequisite approvals and precautions are not taken. The solar provider should be responsible for identifying proper warranty documents and obtaining certification from the manufacturer saying the project will not disturb the warranty. The solar provider should also be obligated and prepared to indemnify the owner in case of equipment damage or if any warranties are voided.

Levels of Productions. It is important to ensure the solar provider properly maintains the Solar PV system so it performs within acceptable production range. Promised reductions in energy costs will not be realized if the condition of the Solar PV system is allowed to deteriorate over the operational life of the PPA. To protect the owner, there should be some minimum threshold level of energy production.

Likewise, it is important to make sure the Solar PV system is appropriately sized so it does not consistently generate more power than the property consumes over a 12-month period. When the property needs power, the electricity will be drawn from the solar panels and the remaining need will be drawn from the utility. When the property needs less power than is produced by the solar panels, the excess electricity will be sold onto the grid at the retail rate. This will create a revenue stream that will offset energy costs and can often be seen on the utility bill. However, although every state is different, generally after 12 months as a net producer, the utility could apply a wholesale rate that may collapse the financial model supporting the project.

5. The Future is Bright
Solar power projects are full of opportunities to lower operating costs and finance facility and infrastructure upgrades. When structured correctly, these projects are a win-win for all parties. In this difficult economic climate, it’s time to get creative with financial resources, so feel free to tighten up the purse strings and clean up the roof instead.

THE COST OF A WATT
Cost estimate for a roof or ground mount system is $4.50 to $5.00 per watt (e.g., for a 200 KW system the rough cost would be $900,000 to $1 million).

Parking lot canopy systems are more costly due to the stanchion installation. Cost estimates range from $6.50 to $7.00 per watt (for a 200 KW canopy system the rough cost would be $1.3 million to $1.4 million). However, this option allows for a much larger Solar PV project, which solar providers will compete harder to win.

HOW THE SREC MATH WORKS
A SREC is equivalent to one megawatt-hour (MWh) of energy production per year. For a small 200KW Solar PV system that is operational for only 6 hours a day, 200 days a year, it could generate 240 SRECs per year (a conservative estimate). To calculate the number of megawatts generated per year in this example, multiply 200 (for the number of kilowatts generated per hour) times 6 (for six hours of sunlight per day) times 200 (assuming the system will be operational for 200 days per year) and then divide by 1000 (the number of kilowatts in a single megawatt). This equals 240 megawatt-hours per year. The values of SRECS in New Jersey fluctuate but have peaked at $688 this year. Assuming an average price of $350, the system would generate an income stream of $84,000 per year (New Jersey has a projection limit of 15 years, which would contribute to the recovery of the capital investment).

TYPICAL SOLAR PV PROJECT MILESTONES
1. Letter commitment for financing issued to the solar provider.
2. Procurement of bonding, warranty or grant backing up the installation and operation of the Solar PV system.
3. Local utility approval of non-residential net meter application.
4. Site preparation, assessment of roof condition and inter-connecting infrastructure (including net meter and distribution panel installation).
5. Solar panel support rack installation 10 percent complete, prior to installation of first solar panel string.
6. 50 percent solar panel installation.
7. Installation of inverter(s) and any required transformers.
8. 100 percent solar panel installation.
9. Connection of solar panels through inverters to distribution panel with revenue grade meter (separate from federal utility net meter).
10. Completion of local utility safety and connection inspection test.
11. Ethernet interconnection for remote access to system performance information.
12. System operational and online confirmation.
In 2005, the Energy Policy Act added $179D to the Internal Revenue Code which creates a tax deduction, in the maximum amount of $1.80 per square foot, for the cost of newly installed energy efficient commercial building property. In addition to this tax benefit to taxable owners of energy efficient property, a similar incentive was created for architectural and engineering firms that design and specify energy efficient property for government-owned projects. A government owner may allocate the $179D tax deductions to the designer of the energy efficient property. This tax deduction allocation provides significant financial incentives for the architects and engineers of public projects that qualify.

Section 179D allows a deduction to a taxpayer for part or all of the cost of “energy efficient commercial building property” that the taxpayer places in service in 2006 through 2013. Energy efficient commercial building property is depreciable property installed on or in a building within the scope of ASHRAE Standard 90.1-2001 and located in the U.S. The property must be installed as part of the interior lighting systems, the heating, cooling, ventilation, and hot water systems, or the building envelope, and certified as being installed as part of a plan designed to reduce the total annual energy and power costs for the interior lighting, heating, cooling, ventilation, and hot water systems of the building by 50% or more in comparison to a “reference building” that meets the minimum requirements of ASHRAE Standard 90.1-2001. A building must be a structure that is wholly or partially enclosed within exterior walls, or within exterior and party walls, and a roof, affording shelter to persons, animals, or property, and is not a single-family house, a multi-family structure of three stories or fewer above grade, or a manufactured house.

The maximum deduction for any building for any tax year is the excess (if any) of the product of $1.80, and the square footage of the building, over the aggregate amount of the deduction under Code Sec. 179D(a) for the building for all earlier tax years. Energy efficient commercial building property may be “partially qualifying commercial building property” allowing for each separate building system a deduction of $0.60 per square foot of the building if the system is installed as part of a plan designed to reduce the total annual energy and power costs by certain energy-savings targets below the 50% reduction benchmark.

In the case of energy efficient commercial building property (or partially qualifying commercial building property) that is installed on or in property owned by a Federal, State, or local government or a political subdivision thereof, the owner of the property may allocate the $179D deduction to the person primarily responsible for designing the property (the designer). Therefore, for purposes of taking the energy efficient commercial building property deduction the designer is treated as the taxpayer and may take the deduction for the taxable year the property was placed in service. For property placed in service in years prior to the current year, the designer may file an amended return to receive a refund based on the newly allocated deduction. For designers in states with state income tax laws conforming to $179D, a corresponding state income tax deduction may be taken, increasing the value of the tax benefit. The transfer of the deduction from a government owner to a designer is not treated as income to the designer.

Governmental owners must reduce the basis of the energy efficient property for the amount of the $179D deduction allocated and taken by the designer. Non-governmental tax-exempt owners, such as private universities, are not permitted to allocate the $179D deduction to their designers.

In 2006, former President George W. Bush signed into law the Small Business Jobs Act of 2010, which created an additional 10% deduction for small business owners in the immediate write-off for the purchase of energy efficient commercial building property. The new tax law allows small businesses to immediately claim a 10% deduction for the purchase of energy efficient commercial building property. The deduction is effective through 2022.

In addition to the current Section 179D deduction, projects that qualify for the Energy Star designation under the Energy Star Program may receive a deduction of up to $0.50 per square foot of building space.

The American Recovery and Reinvestment Act of 2009 and the Recovery Act created an additional 25% tax credit for energy efficient commercial buildings. Pursuant to the American Recovery and Reinvestment Act of 2009 and the Recovery Act, a commercial energy efficiency tax credit was made available for the energy consumption of electric power consumption of certain commercial buildings, which was initially developed by Joseph Porrovecchio of Carbon-Key.


In the state of New Jersey, the New Jersey Board of Public Utilities, in cooperation with the state’s Department of Environmental Protection, has announced a proposal to redesign an existing tax incentive, to make commercial buildings more energy efficient.

On February 3, 2011, President Obama announced a proposal to redesign an existing tax incentive, to make commercial buildings more energy efficient.

Code $179D(d)(4) Tax Deduction Allocations: Tax benefits for architectural and engineering firms designing publicly owned energy efficient building systems.

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“On February 3, 2011, President Obama announced a proposal to redesign an existing tax incentive, to make commercial buildings more energy efficient.”

A designer is a person that creates the technical specifications for installation of energy efficient commercial building property. A designer may include, for example, an architect, engineer, contractor, environmental consultant or energy services provider who creates the technical specifications for a new building or an addition to an existing building that incorporates energy efficient commercial building property. A person that merely installs, repairs, or maintains the property is not a designer.

If more than one designer is responsible for creating the technical specifications for installation of energy efficient commercial building property on or in a government-owned building, the owner of the building shall (1) determine which designer is primarily responsible and allocate the full deduction to that designer, or (2) at the owner’s discretion, allocate the deduction among several designers.

On February 3, 2011, President Obama announced a proposal to redesign an existing tax incentive, the Code Section 179D deduction, to make commercial buildings more energy efficient. The proposal calls for changing the section 179D deduction for retrofitting commercial buildings to a more valuable tax credit and tying the tax credit amount to measurable improvements in a building’s energy efficiency. The President proposed such tax credit expenditure could be paid for by ending tax benefits for the oil and gas industry.
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Grassroots bullet points:

- 2011 AIA Federal Issues Agenda
- Making Credit Available for Commercial building Projects
- Eliminate Costly Paperwork Burdens on Small Businesses
- Jumpstart the Market for Building Retrofits as an Engine of Economic Growth
- Enact Comprehensive Transportation Reform Now

When architects work, the nation builds. Architects are the leading edge of a design and construction industry that accounts for one in nine dollars of Gross Domestic Product.

AIA’s four-step plan for Rebuilding Main Street:

One: Unfreeze Credit, Create Jobs
Thousands of needed construction projects that would employ millions of Americans are on hold because credit is frozen. Congress should support efforts to reign in regulatory overkill in the wake of the banking crisis by passing legislation which unleashes the market for sounder, more straightforward financing alternatives and help prevent large numbers of commercial foreclosures and free up credit to help small business get back to work.

Two: Remove Regulatory Burdens that Hold Small Business Back
Small architecture firms and sole practitioners know all too well the burdens of high tax rates and burdensome paperwork. In 2010, the AIA helped defeat a plan to increase payroll taxes on thousands of small architecture firms that organize as S corporations. Now Congress needs to pass the Small Business Paperwork Mandate Elimination Act, which would repeal the expensive and unneeded new Form 1099 paperwork requirement slipped into the health care reform bill.

Three: Jumpstart the Market for Building Retrofits as an Engine of Economic Growth
Across the country, building owners, state and local governments and school districts want to lower energy bills by retrofitting their buildings, but lack the financing to do it. By increasing incentives for efficient building designs and renovations, Congress can create jobs while securing our energy independence. Congress should increase the Energy Efficient Commercial Building Tax Deduction from the current $1.80/sf to $3.00/sf.

Four: Pass a Transportation Bill to Get our Communities Moving Again
Crumbling infrastructure and rising congestion have crippled our nation’s competitiveness, reduced safety, and increased greenhouse gas emissions. Architects have a long record of providing solutions that get our communities moving again. Congress needs to enact transportation reform legislation that gives people real choices in how they move.

http://www.aia.org/advocacy/getinvolved/aias078773

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The interactive workshop focused on advancing rainmaking skills, developing client relationships, and improving skills for closing the business deal.

ALNNJ President Ben P. Lee addressing the members at The Brick House in Wyckoff, NJ

The speaker for the evening was Rochelle Carrington from Sandler Training.

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As service providers in this highly competitive marketplace we must embrace the current adversity and be inspired to greater innovation.

Architects and contractors alike have experienced unparalleled downward pricing pressure in recent years. The industry landscape appears to be changing drastically and there is a sense that the commoditization of our services is here to stay. As service providers in this highly competitive marketplace we must embrace the current adversity and be inspired to greater innovation. Our success hinges on our ability to effectively communicate to our clients that the complexities of the design and construction processes are not always best left in the hands of the lowest bidder. Now more than ever we must emphasize the value of good planning, quality design and strong leadership.

– Jim Heuer
President

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Pages by B. K. Docien

Addressing the members at

The Quarterly Newsletter of the Architects League of Northern New Jersey

Leagueline 2Q 2011

The Quarterly Newsletter of the Architects League of Northern New Jersey
The Installation Dinner was held at the Cali School of Music at Montclair State University where we were welcomed with Marimba music during the cocktail hour. The award ceremony in the new auditorium included awarding of the new Past President’s pin, presentation of Trustee Awards to Ruth Bussacco and Paul Bryan, and the distinguished service Vegliante Award to 2009 ALNNJ Past President, Frank Cunha.

The Vegliante Award received by Frank Cunha, III is the highest honor bestowed on a League member for their distinguished service, achievements and accomplishments during the preceding year.

Trustee Awards to Ruth Bussacco and Paul Bryan in recognition of their outstanding contributions to the League and the profession in the past year.

Past President’s Award to Joyce Raspa.

The new Past President’s pin awarded to the attending Past President’s: Ben Lee, Scott Lune, Frank Cunha, Al Zaccone, Martin Santini, Anthony Iovino, Stacey Ruhle Klesch, Kim Vierheilig and Joyce Raspa.
The League is pleased to announce their newest members:

- Monica Arjani, AIA
- Sangmok Kim, AIA
- Arthur F. Margiotta, AIA
- John J. Pandolfino, AIA
- Jelena Stosic, Associate AIA
- Matthew E. Bilow, Associate AIA

New Allied Members:

- Joseph DiPompeo, Structural Workshop LLC
- James Nissen, GAF Materials Corporation
- Sergio Rodrigues, Talk of the Town
- Kevin Sommons, KSI Professional Engineers LLC
- Keith Cottrell, Electronics Design Group
- Robert Schimenti, Electronics Design Group

The League welcomes you and looks forward to your involvement and participation. Please make a point of introducing yourself at the next dinner meeting or event.

**New Members**

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