

Public-Private Partnerships

Overview

As critical infrastructure continues to age and the funding traditionally used to pay for related projects fails to keep pace with the need, governmental bodies are showing greater interest in public private partnerships (P3s), using them to fund, build, and operate initiatives such as toll roads, tunnels and bridges, light and high-speed rail service, hospitals, airports, libraries, universities, courthouses, public schools, utilities, and internet infrastructure. Many states are passing legislation to facilitate P3 projects.

Carlton Fields has long represented numerous public and private sector clients, assisting with the planning, staging, phasing, development, design, construction, maintenance and operation of complex P3 projects. We work with project participants including owners, developers, contractors, architects, and subcontractors to protect and implement our clients' expectations and goals. Our representation involves the full range of P3 issues, including:

- Public procurement assistance and counseling
- Teaming and joint venture agreements
- Nondisclosure agreements
- Development and concession agreement review, preparation, and negotiation
- Development, design, and construction planning
- Legislative assistance
- Due diligence of all project factors
- Financing, including TIFIA and private activity bonds
- Environmental review, permitting, and clearance
- Project documentation of all types, including O&M and EPC agreements
- Performance-related issues, including claim and dispute avoidance and resolution, during design, construction, technology deployment, and operations

Our Team

Our P3 team includes attorneys experienced in the areas of real estate, construction, design, procurement, insurance, business transactions, taxation, entity formation, corporate governance, project financing, land use, zoning and environmental permitting, administrative law and regulatory issues, and operation and maintenance. Many of our attorneys are board certified as specialists in their areas of expertise, including: construction law; city, county and local government law; state and federal administrative law; real estate law; and tax law.

Several of our attorneys previously held positions at government agencies such as the Florida Department of Environmental Protection, Florida Department of Transportation, and Department of Community Affairs. Prior to practicing law, one of our shareholders spent 10 years as a construction engineer, with responsibilities that included construction management, project economic analysis, engineering design, and cost estimating. Another of our attorneys, a former legislative staff member, was involved in the drafting of Florida's P3 legislation.

Experience

- Represented a consortium of U.S. and non-U.S. construction companies in their bid to become the concessionaire to construct, operate, and maintain the \$1.5 billion Port of Miami Tunnel.
- Represented the construction contractor in a consortium of U.S. and non-U.S. companies that was retained to design and construct certain new and renovation improvements to, and then operate and maintain, the San Juan International Airport.
- Represented the construction manager at risk and the design-builder on over three dozen arenas, stadiums, and ballparks for professional sports franchises, both within and outside the United States.
- Represented a consortium of non-U.S. companies in their bid to become the concessionaire to provide express lanes for Interstate 595 in Broward County, Florida.
- Represented a consortium of U.S. and non-U.S. companies in their bid to become the concessionaire to lease, operate, and maintain Alligator Alley.

- Represented a consortium in its bid to become the concessionaire to make additions to the SR 83 Choctawhatchee Bay Bridge and Relief Bridge project in Walton County, Florida.
- Represented Société Nationale des Chemins de Fer Français (SNCF), the French national railroad company, in its efforts to become the operator of the Florida high-speed rail system.
- Represented developers of CityPlace in West Palm Beach, one of the first urban mixed-use street front retail, residential, and entertainment development projects of its kind in the United States. CityPlace is a model for similar developments across the country.
- Special counsel to the city and county of Denver in P3 developments in Denver, in connection with the leasing of the Winter Park Ski Resort.
- General counsel to New Elitch Gardens in the development of an urban amusement park (now a Six Flags park) in Denver on a previously inaccessible brownfields site.

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Related Capabilities

RELATED INDUSTRIES

- Banking, Commercial, and Consumer Finance
- Construction
- Real Estate

RELATED PRACTICES

- Business Transactions
- Development
- Corporate Law and Governance
- Environmental, Land Use & Development Approvals and Litigation
- Environmental Regulation & Litigation
- Government Law & Consulting
- Tax