

# CLIENT NEWS BRIEF

## The Public Private Partnership (P3) Project Delivery Method: What Is It and Is It an Option for Your Project?

Local public agencies have several options when it comes to choosing a delivery method for a construction project. The public-private partnership method, or P3, is one option that is receiving increased attention. P3 involves a long term partnership between a public agency and private entity, where typically the private entity finances, designs, builds, operates, and/or maintains a fee-producing public project. In exchange, the private entity will be repaid over an extended period of time through the fees generated by the public project or as otherwise permitted by statute. This can involve the private entity's lease or ownership of the project for an extended period of time during the repayment period.

In order to utilize the P3 method for a public agency's project, there must be authorizing legislation. The primary P3 law is the California Infrastructure Finance Act (Gov. Code §§ 5956 et seq.), which allows P3 for specific types of fee-producing local government projects through a "competitive negotiation" process. This Act applies to cities, counties, school districts, community college districts, county boards of education, public districts, joint powers authorities, transportation commissions or authorities, and any other public or municipal corporations. The Act covers specified types of projects: irrigation; drainage; energy or power production; water supply, treatment, and distribution; flood control; inland waterways; harbors; municipal improvements; commuter and light rail; highways or bridges; tunnels; airports and runways; purification of water; sewage treatment, disposal, and water recycling; refuse disposal; and structures or buildings, except structures or buildings to be primarily used for sporting or entertainment events.

Other California statutes allow P3 but apply less generally to local public entities. For instance, Government Code section 70371.5 permits public-private partnerships whereby the private entity shares some of the risk of financing, design, construction, or operation of court facilities. Section 143 of the Streets and Highways Code permits CalTrans and regional transportation agencies to partner with private entities for transportation projects.

One notable P3 project that has garnered attention recently is the new city hall, library, park, and port headquarters being built in the City of Long Beach. The City benefited from specific legislation that established its right to utilize the P3 method for these projects. (Gov. Code §§ 5975 et seq.) Since these projects were not fee-producing, existing legislation did not permit use of P3.

A major benefit of the P3 method is the ability to obtain private financing. Additionally, risks and responsibilities of the project design and construction are shifted to the private entity. Of course, the public agency also gives up some control of the project design. Each project is unique and each public agency's needs are different, so the use of P3 should be evaluated on a case-by-case basis. For additional information about other project delivery methods, read the following: [Client News Brief No. 8, February 2015](#) and [Client News Brief No. 71, November 2015](#).

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