

# ALTERNATIVE PROJECT DELIVERY

## DRIVING EFFICIENCY AND PROJECT MOMENTUM

New thinking can address our nation's increasingly urgent and complex infrastructure needs. Alternative project delivery strategies for high-stakes developments require careful planning and proper allocation of risk. The first step is to know the project; the second is to know all the alternative project delivery options. All alternative project delivery (APD) methods spring from a willingness to set aside concept and specification to contracting for performance. All present creative approaches, based upon the particulars of a project, resulting in a more collaborative, efficient, and often faster project delivery. In many cases, APD can make projects possible that otherwise might not be.

The attorneys in Ballard Spahr's Infrastructure Group understand all of these delivery methods, but more deeply, understand when and how to use them. We have taken these steps with our clients many times. We can help.

We have experience navigating the varied and complex legal issues that arise during the negotiation and implementation of all APD deliveries, however denominated: from design-build to progressive forms (progressive design-build in several formulations, construction manager/general contractor, CMAR, CMC, IPD/alliance contracting, BOT, even energy forms of EPC/EPCM) to conventional, progressive, and pre-development forms of public-private partnership (P3), including those that delegate the responsibility to finance the project.

Our team brings together attorneys from various legal disciplines to tap their experience and skills to advance and to complete projects. We draw on our core strengths in procurement, contracting, and public finance to help clients on every side of the transaction—project owners (public and private), developers, lenders/investors, contractors, and other stakeholders—to form strong, project-focused partnerships with one another. Our clients range from federal, state, and local governments to domestic and international businesses across industries—from transportation/transit to energy to social infrastructure/real estate, such as hospitals and schools.

Representing all sides affords us perspective to spot and resolve actual issues, know when they are real, beat a path to resolving them ultimately to the end of pragmatic, market delivery of projects that matter. And because we are part of a national, multi-practice firm, we are backed by a talented team of attorneys with all the requisite skills—tax, environmental law, dispute-related, among others—to close these complicated deals.

## REPRESENTATIVE CLIENTS AND TRANSACTIONS

**Indiana Finance Authority/Indiana Department of Transportation (INDOT).** Ballard Spahr served as alternative delivery counsel to INDOT preparing their P3, design-build (refresh), progressive design-build, and CM/GC programmatic procurement and transaction documents. Ballard Spahr also served as owner's counsel on the first procurement and implementation of each of these project delivery types. Ballard Spahr attorneys have supported INDOT on legacy "best value" design-build agreements as well as INDOT's first two Availability Payment P3 projects.

**Virginia Department of Transportation (VDOT).** Ballard Spahr has served as P3 counsel to VDOT in connection with each P3 revenue risk toll deal on Washington D.C.'s infamous beltway and extensions Southward (high occupancy toll (HOT) lanes) on I-95 and on I-495, the bi-state replacement and development of toll lane facilities in Virginia and Maryland, as well as I-95 and I-395 extensions and transactions of associated feeder routes). A Ballard Spahr attorney negotiated "coal synergy" design-build applications for VDOT under federal participation of the Appalachian Regional Commission.

**Georgia Department of Transportation (GDOT).** We served as P3 counsel to GDOT, leading negotiations and drafting all of the procurement and project documents, in connection with both the implementation of all of GDOT's DBF projects—the I-285/I-20 East and West Interchange Projects and the I-285/SR-400 Project. Ballard Spahr also represented GDOT in programmatic document development of its design-build program, including its first implementations.

**Major Bridges Program (Pennsylvania Department of Transportation).** Ballard Spahr served as P3 counsel to the Pennsylvania Department of Transportation in connection with the Major Bridges Program, which consisted of the progressive P3 delivery of six major bridges throughout the Commonwealth, the fastest transportation P3 in American history.

**Nebraska Department of Transportation (NDOT).** Ballard Spahr assisted NDOT with its implementation of Nebraska's progressive contracting authority. Ballard Spahr has also served as counsel on P3 implementation under new authorities and supported NDOT on its first ever design-build agreement.

**Rhode Island Public Transit Authority (RIPTA).** Ballard Spahr was engaged by the P3 developer to serve as P3 counsel in connection with the joint development of a new, modern transit center in Downtown Providence. The project is a pre-development P3, intended for two DBFOM projects (*i.e.*, a mixed-use development that will include an enclosed intermodal transit center and Rhode Island Public Transit Authority administrative offices, as well as an adjacent mixed-use transit-oriented development (TOD)).

**Green Line Extension Light Rail Transit (Massachusetts).** A Ballard Spahr attorney advised the Massachusetts Bay Transportation Authority on its \$2-3 billion design-build five-mile extensions of the Green Line light rail service in Greater Boston.

## **ADDITIONAL BALLARD SPAHR P3 AND ALTERNATIVE DELIVERY PROJECTS**

### ***SOCIAL INFRASTRUCTURE***

- City of Annapolis City Dock Project (progressive design-build)
- City of Riviera Beach (design-build (GMP); design-build (fixed-price))
- Philadelphia Phillies and the Philadelphia Authority for Industrial Development (Citizens Bank Park) (design-build)
- City of Elkton Sportsfield (P3)

### ***TRANSIT/RAIL***

- Amtrak 30th Street Station (Availability Payment P3)
- Chicago Union Station Redevelopment Project (Amtrak) (P3)
- Purple Line Light Rail Project (Maryland DOT) (Availability Payment P3)

### ***BRIDGES/ROADS***

- Montgomery County, Maryland Rapid Bus Transit Along Route 355 (progressive design-build)
- Tappan Zee Bridge (design-build)
- U.S. 36 Managed Lanes – Phase 1 and Phase 2 (Colorado Department of Transportation) (P3 revenue risk)

### ***ENERGY/UTILITIES***

- New Jersey Transit Microgrid (progressive P3)

## **CONTACTS**

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