



Understanding Public Private Partnership Construction

Seminar Topic: This material explains various arrangements for the emerging concept of “public private partnerships” in the construction of infrastructure facilities formerly considered exclusively public, such as roads, airports and transit terminal facilities, locks and dams, parks, sports, and amusement facilities, and the attendant arrangements for cost and revenue sharing among government agencies and private businesses and the rights and remedies of project participants.

This material is intended to be a guide in general and is not legal advice. If you have any specific question regarding the state of the law in any particular jurisdiction, we recommend that you seek legal guidance relating to your particular fact situation.

The course materials will provide the attendee with the knowledge and tools necessary to identify the current legal trends with respect to these issues. The course materials are designed to provide the attendee with current law, impending issues and future trends that can be applied in practical situations.





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Disclaimer: The views expressed herein are not a legal opinion. Every fact situation is different and the reader is encouraged to seek legal advice for their particular situation.

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About the Author and Presenter

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James G. McConnell concentrates in public and private construction contracting, arbitration and litigation. In his career of over 40 years, he has handled land acquisition, site remediation, zoning, contract drafting, financing, negotiations, arbitrations and lawsuits on major construction projects valued at more than \$19.2 billion. During these years he has represented public and private owners, developers, lenders, contractors, suppliers, and title insurers. He has performed legal work on projects in Illinois, California, Nevada, New York and Texas.

He received his law degree from Northwestern University School of Law in Chicago in 1973. He was admitted to practice in state and federal courts in Illinois in 1973, and he has been a member of the Northern District of Illinois Trial Bar since it was created in 1982. He was admitted to practice before the United States Court of Appeals in Chicago in 1973, and the United States Supreme Court in 1977. He has tried many civil jury cases in state and federal courts in Illinois, and he has been specially admitted as trial counsel in courts in seven other jurisdictions. He has handled numerous appeals, in the Illinois Appellate Court, the Illinois Supreme Court, United States Court of Appeals for the Seventh Circuit, and the United States Supreme Court.

Across his career as a trial lawyer, Mr. McConnell has represented clients in hundreds of cases involving complex construction claims, and other international commercial, financial and insurance issues, including the British Overseas Trade Board, J. C. Decaux, the Consul General of Mexico, the Public Building Commission of Chicago, Blue Cross/Blue Shield, Exelon Corporation, Bethlehem Steel, American Bridge Company, United States Steel, Youngstown Sheet & Tube, and Zenith Radio. He has handled litigation concerning such familiar construction projects as Chicago's Millennium Park, the John Hancock building, and the Sears Tower. He has served as an attorney and as an arbitrator in international construction and insurance claims.

Mr. McConnell is a national and international author and lecturer on public, private and international construction contracting. Most recently, he has been involved in construction negotiations and disputes concerning Millennium Park's mixed public and private funded construction, Kennedy King Community College, Blue Cross/Blue Shield's Vertical Completion, homeland security improvements at the Port of Chicago, the Mexican Consulate in Chicago, the Illinois International Port District, Chicago's Central Police Headquarters, Harborside International Golf Center, Soldier Field, the Midwest Center for Green Technology, the Chicago Center for Children's Advocacy, Bronzeville Military Academy, and Chicago's Deep Tunnel storm runoff and flood control project. He has also handled litigation involving redevelopment of the former Glenview Naval Air Station property, the South Campus development of the University of Illinois at Chicago Circle, and the historic landmark Carson, Pirie, Scott & Company flagship store at State and Madison streets in Chicago.

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Timed Agenda:

Time	Description
00:00:00	Program Start
00:00:20	Introduction
00:01:30	Understanding Public Private Partnership Construction
00:02:57	What Is P3?
00:05:32	P3: Who "Owns" What?
00:11:25	Traditional Payment Security
00:14:00	Subcontractor Payment Protection
00:19:26	P3 Payment Protection Pitfalls
00:32:50	Public Private Partnership for Transportation Act
00:42:24	Statutory Provisions
00:52:35	Statutory Provisions Regarding Payment
01:04:14	Program End

Understanding Public Private Partnership Construction

- How Does It Work?
- What Protection Is Available?
- Where Are The Pitfalls?

What Is P3?

- Public Private Partnership
- Combines Public Funding and Private Investment
- Returns Revenue to Private Investors

P3: Who “Owns” What?

- Private Investor:
 - Owner
 - Lessee
 - Borrower
 - Concessionaire
- Government Investor:
 - Owner
 - Lessee
 - Lender
 - Subsidizer

Traditional Payment Security

- Private Construction
- Mechanics Liens
- Government Construction
- Surety Bonds

Subcontractor Payment Protection

- Private Owner – Mechanics Lien
- Private Lessee – Mechanics Lien

- Private Borrower – Surety Bond
- Private Concessionaire – Surety Bond
- Public Owner – Surety Bond
- Public Lessee – Surety Bond
- Public Lender – Mechanics Lien
- Public Subsidizer – Mechanics Lien

P3 Payment Protection Pitfalls

- Unknown Project Financial Structure
- Unknown Surety Financial Strength
- Unknown P3 Participant Experience
- Unknown Completed Project Market Value

Public Private Partnership for Transportation Act

- Illinois Department of Transportation
- Illinois Toll Highway Authority
- Excludes airports

Statutory Provisions

Statutory Provisions Regarding Payment
