

# Edmund V. Caplicki III

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Evan Caplicki guides public agencies through all stages of innovative infrastructure project development – from delivery option selection through procurement and contracting, to contract administration and claims resolution.

In helping lay the foundation for some of the largest transportation projects in the U.S., Evan provides clients extra depth through his extensive construction expertise. He holds a certificate in Construction Management in addition to his law degree, and represented owners, contractors and subcontractors in public and private building projects during his career. Before joining Nossaman, he worked at several well-respected construction litigation firms.

Evan is also very active in the Design-Build Institute of America, having chaired the Legal and Legislative Committee, and co-chaired several of the group's transportation conferences and teaching courses on contracts and risk management.

## EXPERIENCE

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**California High-Speed Rail Authority.** Key member of the legal team advising on key elements of the high-speed train system connecting the state's major urban centers. Among many assignments, we advise on the procurement of track and systems using a performance-based design-build-maintain method and administration of the design-build civil contracts. We also helped draft procurement and contract documents and oversaw the award of a nearly \$1 billion design-build contract for the first section. We also assisted organizational conflicts of interest and federal and state environmental permitting.

**State of California Legislature – State Capitol Building Annex.** Leader of the legal team advising the Joint Rules Committee of the State of California, through the Legislative Counsel's Bureau, with respect to two significant State Capitol Building projects. One project is the demolition and replacement of the Capitol's 66-year-old Annex. The project is a \$500 million undertaking and is being delivered through a construction manager at risk contract. The new Annex will bring modern design features, better accessibility, more efficient energy use, and increased safety to the Capitol. Our services include drafting the procurement and contract documents for both the architect and the construction manager at risk. We are also advising on a new Visitors/Welcome Center to be added to the West Wing of the Capitol. That project will create an enclosed underground queuing and events areas, security screening points and a visitor center with two exhibit halls, an orientation room, a docents lounge, and office space. The \$40 million project is being delivered through a progressive design-build contract. We are drafting the procurement and contract documents for the project.

**Orange County Transportation Authority – I-405 Improvement Project.** Key member of the legal team engaged to advise on a project to add a general purpose lane and an express toll lane in each direction, as well as the conversion of an existing HOV lane in each direction, between SR 73 and I-605 in Orange County, California. The project, the largest highway upgrade in Southern California, will relieve pressure on one of the state's most congested corridors. In November 2016, the Authority awarded a \$1.2 billion design-build contract to a consortium led by OHL USA Inc. and Astaldi Construction Corp. Construction on the project, estimated to cost \$1.9 billion overall, began in 2018. Evan's role includes coordinating the legal and technical aspects of the procurement and contract documents.

**Indiana Finance Authority – I-69 Major Moves 2020 Expansion Project.** Key member of the legal team that advised on the state's first best value design-build project to upgrade sections of the I-69 in Hamilton and Madison counties. The \$85 million project involves adding a third travel lane northbound and southbound, a southbound auxiliary lane, interchange improvements, bridge widening and structural enhancements. Evan served as the project manager for the legal team, assisting with structuring the procurement, preparing the procurement and contract documents, coordinating the legal and technical aspects of the documents and facilitating the procurement process and evaluations.

**Bernalillo County, New Mexico – Public Safety Training Facility.** Leader of the team advising Bernalillo County on the procurement of a developer to design, develop, construct and maintain a new Public Safety Training Academy. The \$30 million training academy will house both the Bernalillo County Sheriff Office and its Fire and Rescue Department. Combined, the academy is estimated to be 37,500 square feet, with an additional 3,200 square foot apparatus bay and a five-story training tower.

**San Bernardino County Transportation Authority – I-10 Corridor Contract 1.** Key member of the legal team advising on development, procurement and financing of a project to add tolled express lanes along a portion of the heavily traveled I-10 in San Bernardino County. The \$600 million upgrade will feature 10 miles of managed lanes, with two tolled express lanes in each direction. The project used separate procurements for a design-build contractor, launched in December 2016 with the contract awarded in August 2018, and a toll services provider, initiated in January 2017 with the contract awarded in June 2018. Evan's responsibilities include structuring the procurements, drafting the design-build procurement and contract documents, risk analysis, advising on federal and state requirements, facilitating proposal evaluations and administering the contracts.

**Texas Department of Transportation – I-35E Managed Lanes.** Leader of the legal team that advised on the 2012 procurement of a project to relieve traffic congestion along a 28-mile interstate corridor in Dallas and Denton counties. Nossaman helped negotiate a \$1.4 billion DBM contract with an Archer Western/Granite/LANE Construction Company joint venture. The project includes managed and general-purpose lanes, bridges and collector-distributor roads. Evan advised the agency on the procurement and commercial structure of the transaction, led the drafting of the procurement and contract documents and facilitated the procurement and evaluations.

**Indiana Finance Authority – East End Crossing (Lewis and Clark Bridge).** Key member of the legal team that advised on the first bridge procured via an availability payment public-private partnership transaction in the U.S. The 8.5-mile Lewis and Clark Bridge, is a key piece of the \$2.3 billion Ohio River Bridges Project, which provides safer, more reliable travel between Kentucky and Indiana. The project opened in December 2016 and won more than a dozen industry awards.

**Indiana Department of Transportation – Sherman Minton Corridor Project.** Key member of the legal team that advised on a \$100 million design-build project that involves rehabilitating the I-64 Sherman Minton Bridge, as well as the associated Indiana and Kentucky approach bridges. The long-term repairs, along with normal preventive maintenance, will add up to 30 years of service life to the bridge. An RFQ was issued in December 2019, an RFP in June 2020 and the DB contract was awarded in March 2021. Evan's responsibilities included structuring the procurement, drafting the design-build procurement and contract documents, risk analysis, advising on federal and state requirements, and facilitating proposal evaluations and commercial close.

**Central Puget Sound Regional Transit Authority – South-Link Extension.** Leader of the legal team that advised the transit agency on a 1.6-mile light rail segment to run south from Washington's Sea-Tac Airport on an elevated guideway. The project includes an Angle Lake Station at South 200th Street, passenger platforms with covered waiting areas, a transfer area for bus connections, passenger pickup and drop-off areas and vanpool parking. Evan helped develop procurement strategy and documents for a \$169 million design-build contract with PCL Civil Constructors in 2012. The segment opened in September 2016, four years earlier than envisioned under the agency's previous plan.

**Santa Clara Valley Transportation Authority – BART Silicon Valley Berryessa Extension.** Key member of the legal team serving as special design-build counsel on the first phase of a \$2.3 billion Bay Area Rapid Transit system extension into the Silicon Valley. The project includes 10.2 miles of heavy rail infrastructure and two stations. Evan assisted in structuring the design-build procurement and drafting the procurement and contract documents for a \$722 million 2011 agreement with a Skanska/Shimmick/Herzog joint venture. The team also assisted VTA in contract administration and negotiation of arrangements for BART to provide train cars as well as operations and maintenance services for the new line. The rail infrastructure project opened in June 2020.

**California Department of Transportation – Presidio Parkway.** Key member of the legal team that advised on a \$1.1 billion project to rebuild a spectacular natural gateway linking the Golden Gate Bridge with the City of San Francisco. The parkway, which traverses an environmentally sensitive national park and a national historic landmark district, was the first procurement under California's P3 law and the third highway improvement developed under an availability payment P3 in the U.S.. Financing for the project, awarded to a Hochtief/Meridiam joint venture, included \$45.6 million in equity, \$166.6 million in senior bank loans and a \$150 million TIFIA loan. Evan focused his efforts on the procurement side of the transaction, managing the process through selection of a preferred proposer.

**Utah Department of Transportation – I-15 CORE.** Key member of the legal team that advised on procurement of an award-winning \$1.1 billion design-build project to alleviate severe traffic in the Salt Lake City area. The project added two travel lanes in each direction, and rebuilt or replaced 63 bridges and 10 freeway interchanges. Construction on the project began in April 2010 and ended in December 2012, two years ahead of schedule.

**San Francisco Bay Area Water Emergency Transportation Authority – Water Transportation System.** Key member of the legal team that served as general counsel to this statutory regional water transit authority tasked with coordinating publicly operated ferry services. Nossaman's work included negotiating agreements between the agency and public operators of ferry services that led to the transfer of vessels, facilities and equipment to WETA. The Firm also negotiated and drafted procurement documents for the construction of new ferry vessels and the first new ferry terminal in the Bay Area in more than 50 years. Evan was actively involved in procurement and contracting for the ferries and facilities.

**Bernalillo County, New Mexico – Public Safety Training Academy Project.** Member of the legal team that advised on the procurement of a developer to design, develop, construct and maintain a new Public Safety Training Academy. Combined, the academy is estimated to be 37,500 square feet, with an additional 3,200 square foot apparatus bay and a five-story fire-training tower. The majority of project costs for the roughly \$50 million project are to be repaid by the County through rent payments over the course of a 30-year lease of the new facility.

**University of California, San Diego, Scripps Oceanography Institute – Vessel Retrofit.** Evan advised the client with respect to state and federal prevailing wage requirements applicable to a major vessel retrofit.

## INSIGHTS

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### SPEAKING ENGAGEMENTS

Speaker, "Practitioner's Forum," Design-Build Institute of America's 2021 Design-Build Conference & Expo, Denver, CO, 11.01.2021 – 11.03.2021

Speaker, "Taming Utility Risk: We All Have a Part to Play," Design-Build Institute of America's 2021 Design-Build for Transportation & Aviation Conference, 04.22.2021

Panelist, "Practitioners Forum," Design-Build Institute of America's 2021 Design-Build for Transportation & Aviation Conference, 04.21.2021

Speaker, "Construction Claims: Lessons from the Field for Public Owners," Nossaman Webinar, 03.11.2021

Instructor, "Design-Build Contracts and Risk Management," Design-Build Institute of America, United States, 2007 - Present

Panelist, "Risk Allocation – Mitigation," Transportation Research Board's 58th Annual Workshop on Transportation Law, Cleveland, OH, 07.23.2019

Presenter, "Warranties: Ensuring Performance After Project Completion," Design-Build Institute of America Design-Build in Transportation Conference, Minneapolis, MN, 03.28.2017

Panelist, "P3 Market Trends," National Council for Public-Private Partnerships P3Connect 2016, Chicago, IL, 06.28.2016

Speaker, "Using Availability Payments for Social and Transportation Infrastructure Projects," Design-Build Institute of America Design-Build Conference & Expo, Denver, CO, 11.03.2015

Panelist, "Balancing RFP Requirements Wants and Needs," Design-Build Institute of America Design-Build in Transportation Conference, San Antonio, TX, 03.10.2015

Panelist, "Alternative Delivery Panel," American Council of Engineering Companies California Annual Conference, Palm Springs, CA, 04.08.2014

Moderator, "Availability Payment P3s: Owner, Equity and Design-Builder Perspectives," Design-Build Institute of America Design-Build in Transportation Conference, Orlando, FL, 03.19.2013

Panelist, "Lessons Learned Forum," Design-Build Institute of America Design-Build in Transportation Conference, Phoenix, AZ, 04.27.2012

Speaker, "Design-Build Procurement Workshop," American Public Works Association-Sacramento Chapter, Sacramento, CA, 11.04.2011

Panelist, "Lessons Learned Forum," Design-Build Institute of America Design-Build in Transportation Conference, Kansas City, MO, 03.28.2011

Speaker, "Innovative Financing for Design-Build Transportation Projects - Non-Toll Financing Alternatives," Design-Build Institute of America Design-Build in Transportation Conference, Dallas, TX, 04.22.2010

Speaker, "Design-Build for Public Entities," County Counsels' Association of California Public Works and Contracts Spring Study Section Conference, San Diego, CA, 05.29.2009

## **HONORS & RECOGNITIONS**

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Industry Professional Leadership Award, Design-Build Institute of America – Design-Build in Transportation Leadership Awards, 2016

## **COMMUNITY & PROFESSIONAL**

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Design-Build Institute of America: Chair of Legal and Legislative Committee, Member of Transportation Markets Committee, Co-Chair of 2012 and 2014 Design-Build in Transportation conferences, Co-Chair of 2013 Design-Build Conference and Expo, Instructor of Contracts and Risk Management course

State Bar of California

Washington State Bar Association

American Correctional Association

## **PRACTICES**

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Infrastructure

Construction Law, Claims & Litigation

Dispute Resolution

Legislation & Policy

Procurement & Contracting

Project Financing

Regulatory & Compliance Matters

## INDUSTRIES

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Transportation

## EDUCATION

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Willamette University College of Law, J.D., 1995, Production Editor, *Willamette Bulletin of International Law and Policy*, 1994-1995

University of Washington, Certificate Program in Construction Management, 1998

University of Colorado at Boulder, B.A., 1992

## ADMISSIONS

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California

Colorado

Texas

Washington