

Brandon J. Davis

Partner | Los Angeles

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Brandon Davis guides public agency clients through all elements of the procurement, construction contract drafting and contract implementation processes for alternative delivery projects in the United States, including large design-build and public-private partnership (P3) projects. His experience ranges from first-of-a-kind highway, bridge and tunnel projects to high-speed trains, commuter rail and people movers. This experience includes complex transportation-related structures, such as major rental-car facilities, toll service centers and administrative office structures.

He offers clients a unique perspective on successfully applying alternative delivery methods for projects because he has helped create state design-build and P3 programs – including passage of enabling legislation – in California, Arizona, Florida, Illinois, Nevada and Utah. This experience includes representing the Florida Department of Transportation on the procurement and successful implementation of the first two availability payment P3 transactions in the U.S., and both the California Department of Transportation and the City of Los Angeles on their first P3 transactions.

Brandon's expertise includes advising many of the Firm's clients on federal aid compliance issues for major transportation projects.

EXPERIENCE

City of Los Angeles, Los Angeles World Airports – Automated People Mover (APM). Key member of the legal team advising on a \$4.9 billion APM train system to ease access in and out of the Los Angeles International Airport. When completed it will also connect travelers to a light rail, intermodal transportation facility and a rental car center. Now under construction, it is the first APM system procured through an availability payment public-private partnership delivery model and earned several national and international awards. In addition to advising on the Request for Qualification and Request for Proposal processes, Brandon's services included advising LAWA prior to the procurement on its innovative project delivery authority, the process for selecting the ideal project delivery method for this and other related projects in its \$10B Landside Access Modernization Program, and the process for prequalifying APM operating system providers. Brandon continues to advise LAWA on various contract implementation issues, including ongoing claims.

City of Los Angeles, Los Angeles World Airports – Consolidated Rent-A-Car Facility (ConRAC). Key member of the legal team advising on the ConRAC project at the Los Angeles International Airport (LAX). The facility will relocate and centralize car rental facilities away from the Central Terminal Area and provide direct access to major freeways. The \$2 billion project is being procured through an availability payment public-private partnership delivery model. The project captured many honors. Brandon was day-to-day lead on the project through the procurement process, and his services included drafting and negotiating the availability payment P3 contract.

Austin Bergstrom International Airport – Capital Improvement Program. Co-leader of the legal team advising the airport in developing plans and strategies for the procurement, delivery, financing, operation and maintenance of the projects included in the airport's approximately \$4 billion capital improvement plan. This work has included a detailed analysis of the airport's legal authority to utilize various delivery methodologies and funding mechanisms, and other strategic program delivery advice.

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. Brandon's services include advising on the procurement of trainsets, procurement planning and use of alternative contracting methods.

Port of Long Beach – International Gateway / Gerald Desmond Bridge Replacement. Key member of the legal team that advised on the development of a new 1.5-mile cable-stayed bridge to serve one of the world's largest and busiest container ports. We assisted with the \$957.5 million procurement and with contract administration, including claims resolution and project acceptance. We also negotiated agreements for property acquisitions and utility relocations, as well as agreements for transfer of property to the State of California. We are currently negotiating an agreement with the State concerning reimbursement of operation and maintenance costs. The project opened to traffic in 2020.

Puerto Rico Highways and Transportation Authority – Electronic Toll Collection System/Customer Service Center. Leader of the Nossaman team that advised the Authority on its procurement of a new toll services provider for the various toll roads and toll bridges owned by the Authority. The resulting contract will address development, installation, integration, testing and maintenance of the back office toll processing system and all customer interface and payment services. Representation included coordination / negotiation with the concessionaire that is responsible for operating the Authority's two most traveled toll roads. Nossaman's contract terminated on Dec. 31, 2019, just ahead of the Authority's receipt of proposals.

Illinois Department of Transportation – Alternative Project Delivery Programs. Key member of the legal team helping the Department develop an alternative project delivery program, with a focus on the use of the design-build, construction manager/general contractor and P3 delivery methods. Brandon's services have included helping draft enabling legislation, meeting with industry representatives to address concerns regarding innovative project delivery, development of training manuals and assisting the agency in selecting potential projects for innovative delivery, including meeting with potential proposer teams regarding proposed projects.

Florida Department of Transportation – I-595 Corridor Improvements. Key member of the legal team that advised on procurement and delivery of this \$1.8 billion public-private partnership aimed at alleviating congestion on the main east-west traffic corridor in Fort Lauderdale. We advised on procurement and contract documents and the financing structure, and addressed issues that arose throughout design and construction. The project, the first U.S. transportation project with an availability payment scheme, won numerous honors. Brandon played an integral role in the procurement and contract drafting processes for this groundbreaking project and advised the Department on contract implementation issues during the design and construction phases.

Florida Department of Transportation – PortMiami Tunnel. Key member of the legal team that advised on procurement, financing and delivery of the public-private partnership, which greatly reduced traffic in the Miami region. The \$800 million availability payment project, which opened in August 2014, included construction of twin 42-foot tunnels under Biscayne Bay, linking Port facilities on Dodge Island, MacArthur Causeway and I-395. The project, which captured many honors, is open and currently in operation. Brandon assisted with risk allocation and drafting procurement and contract documents and advised the Department on contract administration issues during the design and construction phases.

Arizona Department of Transportation – Flagstaff Facilities. Co-leader of the legal team that advised on an innovative project to replace the transportation agency's Flagstaff DMV and maintenance facilities. In the Department's first public-private partnership project, ADOT solicited proposals to relocate and consolidate its offices to reduce agency costs in exchange for its existing property available for commercial development. The agency entered into a pre-development agreement with a developer in 2013 and implementation agreement in 2020, completing the transaction.

Bernalillo County, New Mexico – Public Safety Training Academy Project. Leader 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.

California Department of Transportation (Caltrans) – Public-Private Partnerships Program. Member of the legal team that represented Caltrans on its statewide innovative contracting program, including its procurement of the Presidio Parkway Project. Brandon assisted the agency with policy issues, development of procedures and methodologies for implementation of the contracting program and analysis of legislative matters.

INSIGHTS

SPEAKING ENGAGEMENTS

Speaker, "How Do I Design a P3? Best Practices in Deal Structuring and Contract Management," 2022 P3 Airport Summit, San Diego, CA, 08.12.2022

Moderator, "Price Certainty in an Uncertain World: Industry Concerns with Fixed-Price Contracting for APM Projects," American Society of Civil Engineers' (ASCE) International Conference on Transportation & Development, Seattle, WA, 06.02.2022

Speaker, "Morning Plenary - For Whom the Road Tolls: Outlook for New Managed Lane P3s Under IIJA," 2022 Public-Private Partnership Conference & Expo, Dallas, TX, 03.14.2022 – 03.16.2022

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

Moderator, "The Role of Alternative Delivery in the Face of Our Most Pressing Challenges," 2020 P3 Airport Summit, 09.23.2020

Speaker, "A Path to Transit and Transportation Project Success in the Wake of the Pandemic: A Panel Discussion Among Legal Professionals," Nossaman Webinar, 06.03.2020

Speaker, "Addressing Existing Employment Under Airport P3s," P3C Media's 2019 Public Private Partnership Airport Summit, San Diego, CA, 07.23.2019

Moderator, "Upcoming Project Showcase: Austin-Bergstrom and Los Angeles International Airport Capital Improvements," P3C Media's 2019 Public Private Partnership Airport Summit, San Diego, CA, 07.23.2019

Moderator, "Solving the Puzzle: Effective Project Delivery Selection Processes," P3C Media's 2019 Public Private Partnership Airport Summit, San Diego, CA, 07.22.2019

Speaker, "Development, Design & Construction – 'Delivering our Future' – a P3 Panel," LAX Coastal Chamber of Commerce, Los Angeles, CA, 03.27.2019

Moderator, "Looking to the Future – The Role of Lifecycle Cost Efficiencies in P3 Projects," P3C Media's P3 Airport Summit, San Diego, CA, 07.23.2018

Speaker, "Packaging P3 Procurements for Complex Projects," Transportation Research Board's 97th Annual Meeting, Washington, DC, 01.08.2018

Speaker, "Legal Issues for Airport P3s – The LAX Experience," Airports Council International – North America, Annual Conference, Legal Affairs Committee Workshop, Fort Worth, TX, 09.16.2017

Speaker, "Legal Issues for Airport P3s and Designing Dispute Systems for Alternative Project Delivery," Transportation Research Board 56th Annual Workshop on Transportation Law, Salt Lake City, UT, 07.31.2017

Moderator, "Effective Industry Engagement During the Procurement Process," P3C Media's P3 Airport Summit, San Diego, CA, 07.23.2017

Speaker, "Role of Legal Counsel in Availability Payment DBFOM Projects," Airports Council International – North America, Spring Legal Seminar, Portland, OR, 05.04.2016

Speaker, "Leveraging Public-Private Partnerships for Project Development: Deal Structures and Documentation," Strafford, Webinar, 03.24.2016

Speaker, "Agreements for P3 Projects," The Seminar Group, Public/Private Construction Partnerships, Agreements for P3 Projects Panel, Miami, FL, 03.12.2014

Speaker, "Basic Characteristics of P3 Project Delivery and Payment Mechanisms," Construction Management Association of America, Southern California Chapter, Public-Private Partnerships Panel, Long Beach, CA, 09.19.2013

PUBLICATIONS

Author, "Legal and Contractual Issues in Lump-Sum Design-Build Implementation on Large-Scale Airport Projects," *Journal of Legal Affairs and Dispute Resolution in Engineering and Construction*, 02.01.2020

Author, "Legal Issues Related to Large-Scale Airport Construction Projects," *Transportation Research Board of the National Academies, Airport Cooperative Research Program Legal Research Digest*, 02.01.2020

Co-Author, "Lessons Learned from Progressive Design-Build Implementation on Airport Projects," *Journal of Legal Affairs and Dispute Resolution in Engineering and Construction*, 11.01.2019

Author, "Florida's Forward Thinking," *World Highways*, 10.2014

Author, "Effect of Public-Private Partnerships and Nontraditional Procurement Processes on Highway Planning, Environmental Review, and Collaborative Decision Making," *Transportation Research Board of the National Academies, Strategic Highway Research Program*, 2013

Author, "Getting the 'Best Value' from Best Value Procurements," *Design-Build Institute of America Integration Quarterly*, Spring 2012

HONORS & RECOGNITIONS

Listed, Finance – Project Finance – Advice to Sponsors, *The Legal 500 United States*, 2021-2022

Outstanding Young Lawyer, J. Reuben Clark Law Society, Los Angeles Chapter, 2017

Selected to the Southern California Rising Stars list for 2009-2017

Selected as a Project Finance Rising Star by *Law360*, 2014 and 2016 (one of only five attorneys nationally to receive this honor)

"40 under 40," *Daily Journal*, 2016

PRACTICES

Infrastructure

Procurement & Contracting

Dispute Resolution

Legislation & Policy

Project Financing

Regulatory & Compliance Matters

INDUSTRIES

Transportation

EDUCATION

University of California, Los Angeles School of Law, J.D., 2004

University of California, Davis, B.A., 2001, Phi Beta Kappa, *with highest honors*

LANGUAGES

Spanish

ADMISSIONS

California