

Public-Private Partnerships in Higher Education

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The Summer/Fall 2016 edition of *Colorado Construction & Design* featured many exciting projects in the education sector. As evident by the project descriptions, many school districts and higher education institutions in Colorado have been able to rely on traditional project delivery systems to complete the design and construction of their facilities.

But higher education institutions are continually faced with deferred maintenance, tuition pressures, and budget concerns. Many higher education institutions cannot always rely on debt capacity, budget surpluses, public capital investment, or reserves to maintain and expand their assets under traditional project delivery systems. Due to these realities, the higher education sector is increasingly turning to innovative public-private-partnerships (“P3s”) for its project development needs.

Under a P3, the public institution enters into agreements with private sector entities that allow the delivery of a service or facility for public use. The skills and assets of public and private sectors are shared to deliver that service or facility. Typically, a private sector consortium made up of a designer, general contractor, maintenance company, and equity investors forms a special purpose entity to develop, design, build, maintain, and operate the facility for the contractual period. The private sector also assumes substantial financial, technical, and operational risk in the project.

When properly structured and utilized, P3s offer many advantages to public institutions. Some of these advantages include:

- **Access to private capital**, which is important through all phases of the project, but can be particularly beneficial early in a project to cover the costs associated with feasibility studies, predevelopment activities, and architectural services necessary to turn a concept into reality. The public sector often turns to P3s because it cannot afford to invest in necessary projects through traditional public procurement.
- **Access to specialized expertise.** The public sector’s ability to tap into private sector technology, innovation, and operational efficiency can lead to better public services or facilities for public consumption.
- **Accelerated project development.** The private sector can be incentivized to deliver projects on time and within budget.
- **Sharing of the risks and rewards.** The public institution can transfer fiscal risks associated with providing services or facilities to the private sector. In exchange, a revenue stream from the project flows to the private sector throughout the contracted period. (For instance, the typical horizontal P3 project is a toll road, and a typical vertical P3 project is a building. The private entity designs, builds, operates, and maintains the facility for the contractual term, and collects the money flowing from the projects through tolls or lease payments.)
- **Deferral and spreading of payments.** The public sector defers payments until the construction is complete and then spreads them out over the length of the contractual term.

Student housing offers a clear choice for the revenue stream necessary to make higher education P3 projects viable for both sectors. Increased competition for students, coupled with decreased

capital project funding has prompted higher education institutions to look beyond relying on residence hall revenue streams for P3 models.

For instance, on August 16, 2016, the Regents of the University of California reached commercial and financial close on a \$1.3 billion project, involving the design, construction, financing, operation, and maintenance of a mix of academic, residential, student life, and recreational facilities (the “UC Merced 2020 Project”). 790,000 assigned square feet of facilities will be delivered in phases by 2020, practically doubling the physical capacity of the campus necessary to accommodate projected enrollment growth.

The UC Merced 2020 Project is the first higher education availability payment P3 project awarded in the United States, and will likely serve as a template for future higher education projects across the country. An availability payment is a payment for performance achieved (irrespective of demand or user concession fees). Availability payments are triggered by the availability of a facility. The facility must be open, functioning, unobstructed, and allow for full use by the public. The private sector (lenders and equity investors) finance the construction of availability payment projects based solely on the expectation of repayment through successful earning of the future availability payments spread over the contractual term. The UC Merced 2020 Project has a 39-year term.

Other notable higher education P3 projects include The Ohio State University’s energy P3, the University of Utah’s solar panel P3, and Kansas University’s Central District mixed-use project consisting of a science building, student housing, a student union, a dining hall, and a utility plant and parking.

P3 projects are becoming more and more common in the higher education sector. By teaming with the private sector, the public institutions can free up funds for other academic purposes and increase their ability to pursue and realize their academic mission. P3 projects in the higher education sector, as in other sectors, are seemingly limited only by the imagination. So long as the public institution jumps in with both eyes open, P3 projects in the higher education sector can be very rewarding.