

ORANGE COUNTY REGISTER

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+ ON THE LAW

Within the last ten to fifteen years, the United States has experienced a significant shift in the delivery of infrastructure projects towards public-private partnerships, also known as "P3." The dire need to upgrade the nation's infrastructure, coupled with the lack of available public funding and inefficiencies in traditional project delivery methods, have led builders, private investors and public agencies in the United States to increasingly utilize P3 concepts in connection with infrastructure projects. Public and private entities have looked to the substantial success of P3 projects in Canada and Europe over the last twenty years as evidence of the benefits of the P3 system.

The P3 system has resulted in substantial benefits to public entities, the private sector, and the public at large. Public entities have embraced P3 because it has allowed for greater flexibility in project funding and

P3 projects typically involve a long-term partnership between a public entity and a private developer whereby the private developer designs, builds, finances, operates and maintains an income-producing public improvement. These projects are usually built on public land and financed largely or entirely through private sector sources. P3 concepts have been applied to the construction of both "traditional" public infrastructure such as transportation and "social infrastructure" such as healthcare, corrections, education, and public amenities.

utilization of private sector efficiencies and know-how. The private sector has embraced P3 because it has created new investment opportunities and, particularly for builders, a more effective bidding process and greater control over

construction projects. Finally, the public at large has benefited through the increased availability of well-funded and expertly-built and operated public works projects.

These benefits have resulted in substantial interest and discussion regarding P3 projects among public entities and the private sector, including builders, lenders, private equity, developers and consultants. Moreover, in recent years legislators, including those in California, have recognized the growing popularity of P3 projects by enacting legislation to facilitate the utilization of the P3 method for infrastructure projects. Given recent trends and the demonstrated success of P3 projects both here and abroad, the use of P3 for public infrastructure projects is likely to continue to increase in the future.

Familiarity with the legislative, financial and contractual aspects of the process is key to any public or private entity wishing to avail itself of P3's many benefits. With its prominent Construction Law and Finance Practice Groups, and its unparalleled Government Law expertise and reputation, Rutan & Tucker maintains its position at the cutting edge of P3 development.



Steve Nichols has over 30 years of experience as a construction and commercial law and litigation specialist, and is co-chair of Rutan's Construction Law Group. He represents prime and specialty contractors, manufacturers and suppliers, institutional and private owners, developers, builders, design professionals, lenders, insurers, distributors, and others in business and construction law matters. Steve has assisted clients in negotiating and drafting a wide array of construction and commercial agreements, and has extensive experience and an impeccable record as a courtroom trial lawyer, including matters involving large infrastructure projects, transit and highway projects, commercial structures, power plant construction and financing arrangements, public facility development and construction, manufacturing and other facilities. Steve is also the firm's Managing Partner and can be reached at 714.641.3448 or snichols@rutan.com.



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BRIEFLY

Bank of America takes \$4 billion litigation hit

Bank of America said Wednesday its second-quarter earnings were hit by higher litigation expenses.

The bank earned \$2 billion in the second quarter after payments to preferred shareholders, compared with \$3.6 billion in the same period a year earlier, a decline of 43 percent. Revenue fell 4 percent to \$21.9 billion from \$22.9 billion.

Per share, the bank's earnings worked out to 19 cents, compared with 32 cents a year ago.

The bank's litigation costs of \$4 billion crimped earnings by 22 cents a share. The bank said that "substantially all" of the litigation expenses incurred in the second quarter of the year were related to existing mortgage issues that have been previously disclosed.

Fed survey sees improvement

The economy kept expanding in all regions of the country in June and early July, helped by strength in consumer spending, a Federal Reserve survey released Wednesday indicates.

All 12 of the Fed's regions reported growth with five - New York, Chicago, Minneapolis, Dallas and San Francisco - characterizing growth as "moderate" while the others reported "modest" growth. Boston and Richmond, Va., reported that growth came in at a slightly slower pace than the previous reporting period.

The Fed's survey, known as the Beige Book, will be used by central bank officials when they next meet July 29-30 to review interest rate policies.



STEVEN SENNE, THE ASSOCIATED PRESS

A customer leaves a Pizza Hut in Boston. Overseas results boosted quarterly profits of parent Yum Brands.

EBay strong on PayPal growth

EBay said that its second-quarter net income rose 6 percent, as strong growth from its PayPal payments business offset lower-than-expected revenue tied to a global password reset after a cyberattack.

PayPal, which eBay bought for \$1.3 billion in late 2002, gained 4 million new active registered accounts to end the quarter up 15 percent to 152 million.

The business is growing faster than the company's e-commerce site: Payments revenue rose 20 percent to \$1.95 billion, about 45 percent of total revenue. Meanwhile, its core marketplace revenue rose 9 percent to \$2.17 billion.

Curb of offshore deals sought

The Obama administration called for immediate congressional action to stop U.S. companies from using cross-border mergers to escape the country's tax system.

In a letter calling for a "new sense of economic patriotism," Treasury Secretary Jacob Lew said Congress should pass tax changes retroactive to May.

Companies are planning for foreign mergers that

would allow them to move overseas and reduce their tax rates. The trend appears to have accelerated in recent months, as Congress has come up short in an effort to pass a comprehensive tax-code rewrite that would address corporate concerns and make the U.S. system more business-friendly.

Yum Brands profit climbs 19%

Yum Brands reported a 19 percent increase in second-quarter profits, boosted by rebounding business at KFC in China, where worries about food safety have eased.

The company, which operates Irvine-based Taco Bell and Pizza Hut, said sales at established locations in China surged 15 percent. In late 2012, a TV report said some of KFC's suppliers were giving chickens unapproved levels of antibiotics. That fueled fears over food safety, and sales plunged. A few months later, fears over avian flu upended the recovery.

Back in the U.S., KFC and Pizza Hut continued to face sluggish sales. KFC reported that sales at established restaurants were down 2 percent; it was 4 percent at Pizza Hut. At Taco Bell, sales at established restaurants rose 2 percent.

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INSIDE THIS SUNDAY'S PAPER

OUTDOOR LIVING

Feel inspired by one of Orange County's most spectacular outdoor living spaces in the July issue of OCHOME. Browse the latest products that can help spruce up your outdoor living spaces with vertical gardens, stunning decks and the latest in outdoor swings.

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