

## Christopher Kane, P.E., J.D.

[chris.kane@ccrmediator.com](mailto:chris.kane@ccrmediator.com); 609-802-6506; Princeton, NJ



### President, P3 Collaborative LLC

#### Education

B.S. United States Military Academy, West Point

J.D., George Washington University Law School, DC

#### Certifications

Registered Professional Engineer Va. (#09595)

Member of the Bar, District of Columbia, Virginia, Pa., NJ

Certified Mediator, Arbitrator and DRB Member

#### Training

AAA Advanced Training in Mediation and Arbitration

Dispute Review Board Member Training DRBF

Harvard Prog. on Negotiation, Negotiation for Sr. Executives

Lincoln Institute of Land Policy, Resolving Land Use Disputes

#### Memberships & Affiliations

American Society of Civil Eng's

American Bar Association

American Arbitration Assoc.

#### Years of Experience

45 Years

Location - Princeton, NJ, Washington DC

### Overview

A registered professional engineer, licensed attorney, educator and arbitrator/mediator with proven leadership in project development, engineering & construction (E&C), environmental, finance and all forms of dispute resolution. Chris has over 45 years of experience in the E&C industry, with special expertise in complex design and construction project delivery. He is President of P3 Collaborative LLC, an interdisciplinary Infrastructure Advisory Firm established in 2009 and a Service-Disabled-Veteran-Owned-Small-Business. He has served as managing project counsel and lead negotiator, and manager of contract administration for all forms of project delivery including construction management at-risk, design-build (DB), progressive DB, Construction Management-, DB-operate & maintain, DB-finance, joint development & public-private-partnerships.

### Experience with Transportation Projects

**Contracting Advisor - AECOM/Oklahoma Turnpike Authority, Gilcrease Expressway, Build Finance P3 Procurement, Tulsa OK (Feb 2019 to October 2020):** Legal and contract advisor to the managing member of successful team for a \$250M greenfield toll road project with Financial Close Feb. 2020, requiring \$125M financing through a private activity bond issuance. Assisted in all aspects of procurement, proposal preparation, engaging advisers, negotiations of project agreement and construction contracts, overseeing financing documents, establishing project entities & governance.

**Alternative Project Delivery Expert, HKA Global, New Jersey Transit Corporation (NJ), Capital Program Manual Revisions, Newark NJ (February 2022 to present):** Primary technical expert in alternative project delivery forms within Federal and State of New Jersey legal framework. Served as senior expert advisor for revising their capital program manual and incorporating the use of alternative project delivery methods (APDM) including PPPs, DBF, DBOM and other approaches. Contract includes existing internal processes; review of laws/regulations and best practices at transit.

**WMATA Metrorail Silver Line Extension, Phase I Design-Build Agreement -** Co-lead negotiator for DTP for \$1.7B Design-Build Contract Amendment to Comprehensive Agreement for first phase of project. Negotiated on open book basis with innovative solutions to critical issues, including liquidated damages provisions, use of allowances for undefined work, savings provisions, dispute resolution and cost escalation provisions.

**Hudson-Bergen Light Rail Transit System, New Jersey –** Worked on \$1.8B Design-Build-Operate-Maintain (DBOM) transit project with New Jersey Transit. Contract included 15-year O&M responsibility including capital asset replacement, fixed pricing, performance and availability requirements. As corporate secretary and general counsel of project company, 21<sup>st</sup> Century Rail Corp., supporting \$500M contract change, operations, and labor.

**Houston METRO Light Rail Program, Texas** – Legal/Contract lead for \$75M innovative Facility Provider Agreement (FPA) for development of \$2B new light rail systems, which closed in a period of 4 months. The FPA outlined framework for project delivery approach. As lead negotiator, coordinated efforts of remediation, finance, design, development, construction and operations teams and worked closely with Metro’s lead negotiators and outside counsel.

**Toll Road P3 Projects, Georgia** – From 2004 through 2008, led two private consortium negotiations teams on two proposals for toll-financed projects in Georgia under the Public Private Initiative Statute: **SR316** 30 mile \$800 million expansion and reconstruction to provide toll financed grade separated intersections and additional capacity lanes and additional safety features; and **Ga400** tolling and expansion project, valued over \$1.6 billion. Successfully led negotiations of the first full set of toll road development agreements Georgia DOT.

**Design-Build P3 Teaming Agreements for Bridges and Highways** - Chief counsel for design member of the design-build team including negotiation of equity membership in construction joint ventures and design pre-proposal and final design agreements for **I-35 MnPass** and **Kosciuszko Bridge Projects**.

**Rail Transit and Highway Design Agreements on P3 Projects** - Chief counsel for design member of the P3 team including negotiation of design pre-proposal and final design agreements for **Denver RTD I-225 Transit P3** and **Waterloo Light Rail Transit P3** in the U.S and in Canada involving a 200 million and \$650 million projects. Led negotiations for approximately \$200 million 2 phase agreements for design services during proposal and final design stages on **I-4 Ultimate Managed Lanes Project** in Florida.

### ***Dispute Resolution Experience***

**Summary** -Since becoming a trained by AAA as a neutral in 1993, Chris has arbitrated and mediated over a hundred cases. His experience as a neutral as well as an advocate includes use of all methods of dispute resolution such as mediation, arbitration, drafting dispute review board provisions , and advisory opinions. Chris’ dispute resolution work includes numerous multi-million dollar, highly technical matters including: claims regarding design and delay issues; contract performance and subsurface claims on energy projects; and design and construction defects on a processing plant design-build contract.

**Arbitrator, Municipal Wastewater Treatment, P3 Operating Contract Dispute** - Arbitrator on a 3-member panel on a multi-million dispute over measurement of total suspended solids and biological oxygen demand for sewage treatment plant operation performance. Innovative process during the hearing included “hot tubbing” of experts with joint presentations and direct cross questioning.

**Arbitration Panel Member** – Served on 3-member Panel in multi-million dollar multi-family residential development project in NJ involving a dispute including delays, permitting issues and a valuation claim between project developer and contractor.

**Gas Field Water Transmission Line Failure** - Mediator of multi-million dollar disputes between gas developer and pipeline contractor of alleged material defects, design errors and construction defects, on construction of a water pipeline supporting a gas drilling field in N.E. U.S. Dispute involved disputing technical experts and through a process resolved several major issues.

**Mediator, Welding Deficiencies, Delay and Contract Termination Claims** – Mediation of a \$7 million complex construction deficiency and contract termination matter, involving welding and piping deficiencies, non-destructive testing and project delays, on a gas compressor station.

**Sierra Pacific Power’s Dispute Resolution Advisor, Clean Coal Technology Combined Cycle Power Plant, NV** - Developed multi-step dispute resolution process on a \$300 million coal gasification, clean coal power project between utility, CM and designer. \$40 million in disputes successfully resolved.

**Mediator** in successful settlement of construction dispute between State of New Jersey and general contractor involving claims on construction contract for a State water treatment plant.

**Orlando Utilities Commission, C.H. Stanton Energy Project, Unit 1 Claim Resolution** - Provided both legal and technical advisory services for the owner in an \$18 million mechanical contractor claim on a coal fired power plant. Helped in structuring a negotiating process which resulted in a settlement after a 12 month process.

**Processing Plant Design and Construction** - Mediator on successful resolution of a \$4 million dispute between food manufacturer and design-builder on changes and performance failures in the finished construction; Disputes involved the quality and potential contamination of insulated coated paneling of the rooms, ventilation capacity of the food hood exhausting system.

**New Jersey Court Referred Mediation from Site Contamination Litigation** - Dispute arose over contaminated gas station sale involving licensed state remediation professional (LSRP) controlled site, following remediation and continuing soil and ground water contamination following the sale of a gas station site in New Jersey by a major oil company to a local developer.

**Mediator, Storm Water Runoff Dispute** - Court mandated mediation of a highly contested storm water run-off dispute involved a residential multi-family development with a storm water management plan and local governmental approvals which caused increased run-off damages to downstream farmers. Participants included insurance companies, residential developer, retained experts and local farmers.

**Advocate in Structured Negotiations, Orlando Energy Project, Claim Resolution** - Provided both legal and technical advisory services for the utility owner in a complex \$18 million delay and inefficiency claim by the mechanical contractor on a coal fired power plant. Assisted in structuring a negotiating process which resulted in a settlement without filing of litigation after a 12 month process.

**Arbitrator on 3-member panel** for a \$2 million multi-family residential development project involving a dispute including a valuation claim between developer and general contractor.

**Arbitrator on 3-member panel** for \$20 million in electrical claims on a \$1B Casino.

**Dispute Review Boards/ Advisory Panels.** The candidate has experience drafting and implementing DRB provisions on several projects beginning in 1993 and has been selected as a panel member. In addition, the following experience as a neutral involved similar dispute resolution processes to DRBs:

**Advisory Opinions, 700 MW Longview Coal Fired Power Plant Contract Dispute, WVA** – As a single member expert advisor, provided 2 non-binding advisory opinions on multi-million dollar claims on site preparation and foundations work involving differing site conditions, subsurface contamination, design defects, and scheduling delays. Used an abbreviated hearing process and rendered two decisions which resolved all disputes.

**Expert Neutral Factfinder, TEC Coal Gasification Combined Cycle Power Project, FLA** - Third party neutral requested to provide project review including design defects, scheduling, owner furnished equipment and labor productivity impacts for construction of a \$250 million “state of the art” coal gasification power project, in Florida.

**P3 Peer Review Board & Finance Dispute Review Board (DRB) Member for Eagle P3 Project, CO.** Selected by the Denver RTD to a 3-member peer review panel of experts to a review of the project contracting documents, procurement approach and risk allocation and made findings on project.

### ***Current Training and Courses Taken Related to Dispute Resolution***

**Dispute Review Board Foundation, DRB Member** received Training and Certification I 2012; Attended and made presentations at Annual Meetings in 2012 and 2018, and at Northeast US Regional Meeting in 2017, and Dec. 2020 DRB Presentation at P3 Government Program.

**American Arbitration Association**, Advanced Arbitration and Mediation Training (1994-2021): Effective Use of Dispute Resolution Boards, 2018; ACE 21 – Impartiality: Do You Know Where Your Biases Are?, 2021; AAA When Experts Come From Different Planets - Tips for Maximizing the Value of Experts, 2018; AAA, Panel Dynamics - Effective Techniques for Panelists, 2014; AAA Construction Arbitrator II Training: Adv. Case Management, 2006; AAA Construction Industry Arbitrator Training, 1997; AAA Advanced Mediator Training, 1996; AAA Basic Arbitrator Training

**Harvard Program on Negotiation**, Cambridge Mass., Negotiation for Senior Executives and How to Deal with Difficult People (2008)

**Lincoln Institute of Land Policy**, Resolving Land Use Disputes (2009)

**School for Conflict Analysis and Resolution at George Mason University**, Assoc. of Conflict Resolution, Section on Environment and Public Policy Training (2018)

**Center for Dispute Settlement**, Washington D.C., Mediation Training (1994)

**U.S Army Corps of Engineers School**, Ft. Belvoir, VA, Construction Management and Advanced Courses.

### ***Affiliations***

**American Society of Civil Engineers**

**Dispute Review Board Foundation**

**U.S. Environmental Protection Agency**: Panel of Disputes Resolution Specialists, 2019-2024

**American Arbitration Association**: Panel of Mediators and Arbitrator, 1994 to Present

**International Institute for Conflict Prevention & Resolution**: Construction & Environmental Panels

**American Bar Association**: Dispute Resolution Section; Forum on Construction; Section on Energy, Environment and Natural Resources

### ***Professional Experience***

**President, P3 Collaborative LLC (4/09 – present)** – Provides consulting services to the infrastructure industry, providing transaction and procurement advise for innovative project delivery. He is also an active neutral working as an arbitrator mediator and standing neutral in dispute resolution,

**AECOM, Corporate Vice President, Head of Integrated Project Delivery, Sr. VP Alternative Delivery, Washington D.C. and Princeton NJ (5/12 to 12/18).**

**Vice President/Director, Project Development, Washington Group International Inc., acquired by URS Corp., Princeton, NJ (11/01 - 4/09)**

**Vice President and General Counsel, Raytheon Infrastructure, Inc., Princeton, NJ (7/99 -11/01)**

**Principal, ER3 Inc., Bethesda, Md. (11/92 – 12/96)**

**Partner, Lyon & McManus (6/87 – 12/96) & Bastianelli, Brown & Kelley (12/96 – 7/99), Washington DC  
Manager of Contract Administration, Power Division/ Vice President Legal Counsel Howard P. Foley Companies (1/81 – 5/87) Alexandria, VA**

**U.S. Army Corps of Engineers 5 years Ft. Lewis, Washington & Ft. Belvoir, Va. *Construction Officer***, achieving rank of *Captain*. Managed military construction, up to 100 personnel and heavy construction equipment on civil construction projects on Federal lands and national and state park.

### ***Publications and Presentations***

**“Life Cycle Collaborative Conflict Management for Public Infrastructure Projects”**, By Kurt Dettman and Chris Kane, ACResolution Magazine, Summer 2013;

- “Optimizing the Use of DRBs on Construction Manager/General Contractor and Design Build Projects”** Dispute Review Board Foundation Forum, By Kurt Dettman and Chris Kane, August 2012;
- “The Potential Use of DRBs on Public Private Partnership Projects”** Dispute Review Board Foundation Forum by Kurt Dettman and Chris Kane May 2011;
- “P3s and DRBs, The A/E’s Perspective”**, presented at Dispute Review Board Foundation Annual Meeting, Charlotte NC, Oct. 2018;
- “Collaborative Use of Technical Experts for Environmental and Construction Dispute Resolution”**, by Chris Kane, pg. 171, Alternatives, CPR/Jossey-Bass, December 2013;
- “Streamlining the Federal Environmental Review Process – The Pros and Cons of FAST-41”**, by Nathan Eady, Christopher Kane, Christian Marsh, & Patrick Veasy, NR&E, Summer 2020;
- “Use of Mediation and Facilitation for The Speed of Need in Implementing Climate Change Resilience and Adaptation”**, ACR Greater NY Region, Annual Conference 2023 June 1, 2023, by Chris Kane and Panel.
- “Dispute Avoidance & Early Resolution for Mega-Projects”** Planned and Developed Material for a Workshop with industry experts on improving project delivery and reducing disputes, Dec. 14, 2021;
- “Environmental Justice in the Commonwealth of Virginia”**, Moderator and Panelist, Sponsored by Virginia State Bar, Environmental Law Section, Oct. 8, 2020;
- “The Future of the Engineering & Construction Industry: Greater Integration and Collaboration,”** Conference Proceedings ABA Forum on Construction Fall Meeting, Wash. DC, September 2013;
- “Alternative Dispute Resolution,”** Co-Author, Chapter 11, New York Construction Law, Aspen Publications, 2003.