

## Construction

The attorneys in Winstead's Construction Practice Group have the experience to advise and represent clients on any construction-related issue. Successful projects require careful planning and skilled execution. Whether you are an owner, developer, contractor, governmental entity, or financial institution, we understand your business and your construction concerns. We can advise on strategies to allocate risk in your project contracts, and protect and advocate your position in disputes. We are your teammates every step of the way. We want you to succeed and we do our best to make it happen.

### Transaction Experience

Regardless of the type of project, our construction attorneys have extensive experience in drafting and negotiating the various contracts involved in the construction process. We understand the importance of defining rights, responsibilities, and expectations up front to reduce risk during and after completion of your project. Because we understand your business and the construction industry, we recognize potential problems and address them in your contracts to minimize potential disputes later in the project. Sometimes, issues can arise after the initial contracts are signed that require the parties to modify those agreements. We work with you to identify potential problems, reach workable solutions, and document legal resolutions throughout the project.

### Legal Services Include:

- Pre-construction Risk Transfer Strategies
- Contract Negotiation and Structuring
- Financing and Related Issues
- Permitting and Development Issues
- Contract Review and Drafting
- Insurance/Risk Management
- Bonding Issues
- Compliance with Procurement Requirements Imposed by Law
- Project Management Advice
- Green Building Planning

### Dispute Experience

Disputes can arise at any time in the construction process. Regardless of the type of problem or dispute, we have the experience and resources to assist. We will help you analyze and investigate the problem and find efficient and effective solutions to resolve it. If the problem cannot be resolved without a legal proceeding, our construction attorneys have significant experience in handling complex construction disputes in litigation and arbitration in state and federal forums across the nation. We have the experience and ability to manage the increasingly large volume of electronic information typically involved in a large construction dispute, and the advocacy skills to effectively use and present it.

### Dispute Resolution Legal Services Include:

- Contract and Payment Disputes
- Construction and Design Defects
- Bond and Lien Claims
- Mechanic's and Materialmen's Liens
- Change Orders and Extra Work Claims
- Delay, Acceleration and Lost Productivity Claims
- Completion and Warranty Issues
- Liquidated Damages Issues

- Construction Accident and Tort Claims
- Environmental Issues
- Intellectual Property Disputes
- Construction Insurance Issues
- Contract Termination Issues
- Sovereign Immunity Issues related to Governmental Entities

Our group's representative experience includes a variety of industries, including commercial/industrial, residential, higher education, healthcare, sports, energy (onshore and offshore), governmental and transportation.

## Representative Experience

### Real Estate: Multifamily, Office, Retail

- Long-term representation of real estate developer as construction counsel in its multi-family construction portfolio including drafting design and construction contracts and general counseling on construction law issues for its projects.
- Represent real estate developer in the negotiation of construction contracts for assets in its portfolio including industrial, retail, student housing, and senior housing projects throughout the United States.
- Representation of owner of a large apartment complex in pursuing damages for multimillion dollar repairs related to construction defects and water infiltration.
- Represented joint venture and its development entity in drafting and negotiating the construction contract for a multi-faceted Project including two office buildings, a multi-level, above-grade, pre-cast parking garage and site improvements. The construction group also worked with client to mitigate COVID-19 issues impacting the finalization of the contract and construction commencement.
- Draft and negotiate HUD Contract for construction of garden-style multifamily project in Frisco, Texas on behalf of project owner and provide counsel on project related delays, lien, and termination issues in subsequent litigation with contractor and surety.
- Represent general contractor in the preparation and negotiation of contracts for the construction of for-rent single home residential communities.
- Represent developer in preparation and negotiation of design and construction contracts for new AAA commercial office building in the Dallas area.
- Represent financial institution in the preparation and negotiation of design and construction contracts for its new national headquarters building in Arkansas.
- Represented developer in drafting and negotiating design and construction contracts for a mixed-use project with various components, including multi-family and office space, with construction costs in excess of \$100 million.
- Represented developer in successful resolution of a multi-million dollar dispute involving trespass, nuisance and violations of Texas Water Code relating to property conditions in subdivision development.
- Represent lender in the review of design and construction contracts for a 350,000 square foot, build-to-suit warehouse facility/parking areas in a designated opportunity zone area in San Antonio, Texas.
- Represent developer in the preparation and negotiation of design, construction and amenity service contracts for a mixed use development that includes hotel, office and multi-family projects in the Dallas/Fort Worth area.
- Represented real estate development firm in the negotiation of design and construction contracts and development agreements with consumer sales and distribution company tenant for multiple distribution center sites in major metropolitan areas in the United States.
- Advise aerospace manufacturer over several year period in connection with design and construction contracts and insurance complexities arising out of corporate campus construction program.
- Long-term representation of real estate developer as construction counsel for its planned community, including the drafting and negotiation of design and construction contracts for multifamily, for-sale condominiums, office and retail projects, as well as general construction issue counseling.

## Condominium: Residential and Mixed Use

- Represent developer in drafting and negotiating design, consulting, and construction contracts for a mixed-use development in Houston, Texas, consisting of a mid-rise office building and high rise tower with residential condominium units, high-end multi-family rental units, hotel, and separate ballroom with underground parking, retail, and other amenities.
- Preparation and negotiation of architect agreement for mixed-use, high rise condominium.
- Counsel condominium association with regard to a loss event that occurred during a construction project and negotiate with the necessary parties to protect the interests of the association.
- Advise developer on design and construction contracts for a 66-story mixed-use retail, office, and multi-family residential tower condominium project. Resolve ongoing COVID-19 construction issues arising from governmental work stoppage notice.
- Prepare design and construction contract templates for use with ongoing design and construction needs in connection with developer's commercial office building portfolio.
- Represent developer in preparing and negotiating construction contract and related agreements/advice for \$40 million condominium project in uptown Dallas.
- Advise developer with respect to potential construction defect claims both pre- and post-turnover of condominium association including application of Texas Condominium Act § 82.119.
- Represent developer in negotiation of \$76 million construction contract for mixed used, mid-rise luxury hotel and residential condominiums on highly-acclaimed waterfront project in Austin, Texas.
- Represent condominium developer in successful resolution of post-construction dispute with general contractor related to delays, liquidated damages, cost overruns, and liens for first of its kind, luxury high-rise condominium in North Texas.
- Represent real estate developer in preparing design and construction contracts for a mixed-use condominium project in Houston, Texas that includes 323 residential units, retail space and structured parking.

## Industrial

- Counsel large national private equity real estate development firm in the establishment of risk management strategies for design and construction phases of development for deployment nation-wide for its industrial projects.
- Represent EPC contractors of cogeneration and refinery facilities in disputes with developers, project lenders, owners, subcontractors and insurers involving nearly all aspects of design, construction, operation and maintenance of those projects and payment issues, mechanic's liens and termination rights. (Sites located in Texas, Connecticut, New Jersey, California, Nevada, Arkansas, and Louisiana).
- Represent offshore contractor in litigation to obtain payment for \$25 million claim for construction of semi-submersible drilling rig deployed in Gulf of Mexico.
- Represent large contractors and construction managers in claims involving design and construction of power projects, large distribution and commercial facilities, retail buildings and other structures.
- Represent EPC contractor of ethanol facility projects in termination of contracts.
- Assist owner of petrochemical complex in negotiating FEED contract and EPC agreements for design and construction of new high density polyethylene unit.
- Represent large national private equity real estate development firm in the development, design, and construction of more than 100 warehouse and distribution centers across the United States.

## Sports and Hospitality

- Represent \$325 million NFL football stadium franchise in negotiations with public entities, design professionals, and prime contractor for construction of stadium in Houston, Texas.
- Advise NBA franchise on construction contracts for \$115 million basketball arena.
- Advise architect in negotiation of architect/engineering agreement for \$1.9 billion stadium project.

- Represent private Texas university in preparation and negotiation of a \$100 million football stadium renovation project, including reviewing and negotiating construction contracts and assisting in the preparation of the suite agreements.
- Assist NFL franchise with regard to design and construction of the retractable roof football stadium.
- Reviewed the terms of hundreds of complex construction contracts for a MLB franchise.
- Provide design and construction counsel to one of the nation's largest churches on adapting former NBA basketball arena for congregational usage.
- Represent developer with the drafting and negotiation of design and construction contracts for a NHL hockey stadium and related infrastructure.
- Represent public university system with regard to negotiation of development contract and drafting and negotiating design and construction contracts for P3 development garage, conference center, and hotel connecting to iconic football stadium on campus.
- Advise city-owned public corporation with respect to for multiple renovation and repair contracts for convention center hotel.
- Represent lender in connection with review and acceptance of construction contracts and advising client on ongoing construction issues for construction of city-owned convention center and construction of adjoining privately owned and operated hotel.

## P3/Universities and Airlines

- Represent Houston university on a complex building transaction for the collaborative research center involving the university and multiple Texas medical center hospital research institutions.
- Advise Houston-based university system to provide suite of construction contract templates and uniform general conditions.
- Represent a Texas state university in a construction defect/design defect suit over a new student housing development.
- Represent a Houston university in a construction defect/design defect suit over a \$35 million student services building.
- Represent a non-profit alumni organization in resolving design and construction issues, including arbitration with the general contractor and design professional.
- Continuing representation of a public college district as chief "outside" counsel for construction-related matters, including drafting design and construction contract forms.
- Representing public university in connection with P3 Project with private developer for design and construction of basketball arena (Big 12).
- Represent state university in multi-party litigation over issues involving defective construction.
- Long term representation of airline in structuring and negotiating design, consulting, construction, and CMR agreements for national construction program involving various public/private transactions to modernize airport terminals, related infrastructure projects, commercial airline hangar projects, and installation of new baggage claim and related systems at airports in Texas, Colorado, California, Arizona, Massachusetts, and Florida.
- Evaluation and augmentation of construction terminology in various airline leases and related agreements to assist airline to clarify terms and conditions in connection with P3 construction programs.
- Represent airline in preparation of design and construction agreements for extended corporate campus construction program.

## Healthcare/Life Sciences

- Represent non-profit pediatric health care system in connection with drafting and negotiating design and construction contracts for construction of new hospital campus in the Dallas metroplex area.
- Draft suite of design/construction contracts for pediatric health care system for use with ongoing expansion/modernization of existing and new medical center campus facilities, including ER and OR buildouts.

- Provide legal advice on various construction contracts, subcontracts and related construction issues to large not-for-profit health care system with a network of acute care hospitals and related healthcare projects throughout the Dallas-Fort Worth area.
- Draft design-build and several CM @ Risk contracts for construction of new campus facilities for public hospital system to include acute care hospital, clinics, logistics center, central utility plant and parking structure.
- Represent owner in preparation of design and construction contracts for use with retirement community with skilled nursing and memory care facilities and luxury townhouses outside Austin, Texas.
- Counsel hospital system in resolution of loss event and coordination of necessary remedial work.
- Construction issue counseling for major Texas healthcare system relating to ongoing construction activities.
- Represent development clients in preparing construction and design contracts for multiple medical office buildings, including projects in Denver, Colorado and Austin, Texas.
- Represent major non-profit hospital system in the preparation of a suite of template design and construction contracts for use with multiple new build and remodel projects in Texas, Louisiana and New Mexico.

With clients' projects taking shape regionally, nationally, and internationally, our attorneys are active participants in leading industry and legal organizations. These organizations include the Construction Law Sections of the American Bar Association and State Bar of Texas and Urban Land Institute.