



The COVID-19 pandemic has revealed the urgent need for healthcare infrastructure improvement and development. Despite supply chain disruptions and mandated restrictions, healthcare construction is expected to increase by 38 percent and exceed \$9.4 billion between 2020 and 2023, according to a recent New York Building Congress report. To meet rising demand while navigating an uncertain economic landscape, developers and other construction industry participants must proceed quickly, carefully and strategically.

For years, Duane Morris has been recognized for its work in the construction and engineering sector, assisting clients in all legal and regulatory aspects of construction, engineering and related contracting in healthcare. Our attorneys understand the full scope of issues involved in the design, development, financing, performance and management of major healthcare construction and engineering projects. Along with our significant experience in healthcare industry construction, our COVID-19 Strategy Team helps clients address the many challenges the pandemic presents.

## RANGE OF SERVICES

### Litigation and Dispute Resolution

Duane Morris represents healthcare clients in all forms of litigation arising out of construction projects, including protests, claims for changed or unforeseen conditions such as COVID-19-related delays, disruptions, loss of productivity, acceleration, payment disputes, property damage, insurance coverage and allegations of defective design or construction. Whenever possible, we seek to achieve an early and fair resolution of construction disputes through alternative dispute resolution.

### Contract Formation and Performance

Duane Morris develops contracts and documents that expressly allocate the risk, responsibility and rewards for proper performance. We draw on our extensive experience with construction and engineering contracts, from customized forms that address pandemic-related issues, to standard industry and government forms, such as contracts of the American Institute of Architects (AIA), ConsensusDOCS, the Engineers Joint Contracts Documents Committee (EJCDC) and the Construction Management Association of America (CMAA), to develop the most appropriate contract forms for any project or task.

### Government Contracts and Bid Protests

Duane Morris provides a full range of services in connection with government contracting at the local, state and federal levels, and with international agencies. Our attorneys have litigated precedent-setting cases involving procurement laws and the awards process, and have written extensively on competitive bidding and related subjects.

### Public-Private Partnership (P3) Projects

Duane Morris offers the extensive legal experience needed to complete sophisticated, highly structured domestic and international project financings and project development in the healthcare sector. Our lawyers have been active in project finance, project development and adaptive reuse transactions for decades, representing public-private partnerships, private owners and governmental entities.

### Finance

Our attorneys develop traditional project finance models as well as a full array of project finance vehicles, off-balance sheet and limited recourse financing, leveraged lease and other structured equipment financing, industrial revenue bond financing and build-own-operate/build-own-transfer (BOO/BOT) structures.

### Real Estate

Duane Morris represents a wide range of land developers and property owners in multiple jurisdictions at the local, state and federal levels. Our real estate development and land use attorneys have extensive experience with site assemblage and acquisition, planning, zoning, subdivisions, use permits, environmental issues and construction contracts. Duane Morris attorneys coordinate all of the disciplines involved in land development, from federal and state environmental and coastal regulation, climate change, air and water quality, discharge permits, water supply, endangered species and critical habitats to vested rights, development agreements, exactions and affordable housing and redevelopment.

### Labor and Employment

Duane Morris regularly counsels clients on compliance with federal, state and local employment laws and the numerous executive orders and regulations related to COVID-19. Our goal is to increase workplace efficiency and safety while preventing potentially disruptive litigation. We regularly assist clients with health and safety regulations of federal, state and municipal agencies to protect individuals and property in the workplace.

### Tax

Our Construction and Engineering attorneys work closely with our tax lawyers to structure and effectuate complex transactions from a tax perspective to better fit our clients' business objectives. We seek to minimize our clients' tax exposure and maximize tax-savings throughout a construction project.

## EXAMPLES OF OUR WORK

### Contract Formation and Performance

- ▶ Construction counsel to **NORTHWELL HEALTH** in connection with ongoing construction projects, including preparation of a custom suite of contract documents.
- ▶ Drafted and negotiated contracts for a nonprofit stem cell research foundation in connection with the design and construction of its new 40,000-square-foot research institute in Manhattan, one of the largest laboratories in the world devoted exclusively to stem cell research.
- ▶ Drafted a suite of design and construction contracts for **NORTHWESTERN MEMORIAL HOSPITAL** to use on an ongoing basis for its new construction, renovation, rehabilitation, refresh and major projects.
- ▶ Drafted and negotiated design and construction contracts for a new medical school dormitory for one of the nation's top-ranked medical and graduate schools.
- ▶ Drafted and negotiated a construction contract with **CHRISTIANA HOSPITAL** for the construction of its new children's hospital.
- ▶ Drafted and negotiated construction contracts with the **UNIVERSITY OF PITTSBURGH MEDICAL CENTER**.
- ▶ Drafted multiple construction agreements for a multi-year, multiproject campus improvement plan for **SINAI HEALTH SYSTEM**.

### Litigation

- ▶ Litigated a \$15 million claim against one of the nation's top medical schools by the excavation and foundation contractor for the construction of a new 10-story building as a hub for the distinguished neuroscience researchers.
- ▶ Negotiated and litigated construction defect claims with **CAPITAL HEALTH**.
- ▶ Represented **SINAI HEALTH SYSTEM** in claims related to payment disputes, mechanics liens, changed conditions, regulatory requirements and defective construction in negotiations, mediation, arbitration and litigation.
- ▶ Advised a global design firm in negotiating an architectural services agreement to design **UCLA's** new award-winning research and teaching hospital and represented the design firm in subsequent litigation involving claims arising from the design and construction of this billion dollar project.
- ▶ Represented **NORTHWESTERN MEMORIAL HOSPITAL** in insurance claims under builder's risk, owner controlled insurance program, owner protective policies and project policies for problems arising from a combination of design errors and omissions, construction defects, faulty materials and adverse weather in administrative claims procedures, negotiations, mediations and arbitrations.
- ▶ Represented a retirement care community in insurance claims, negotiations, mediation, arbitration and litigation of claims arising from design errors and omissions, construction defects and delays in the construction of new facilities.
- ▶ Assisted one of the nation's most research-intensive medical centers with the termination and replacement of its contractor that was performing work associated with a sophisticated computerized cage management system for the medical research lab.
- ▶ Litigated a claim against our client's contractor regarding final costs for the construction of a new building at one of the nation's top medical schools.

- ▶ Advised a local authority client in relation to significant structural defects arising in the construction of a new care home facility in the UK. Inspections immediately prior to practical completion revealed major structural weaknesses in the building. Advised the client on all aspects of the two-year remedial works program as well as its ability to recover its losses over and above its right to LADs. The dispute was ultimately resolved by way of a substantial payout from the contractor.
- ▶ Advised a leading international contractor in relation to a project for the renovation of a major UK hospital. Disputes arose due to alleged defects in the external cladding and window systems that ultimately resulted in all of the windows being replaced. We prepared claims against our client's specialist subcontractor, and then successfully adjudicated the dispute to obtain a favorable award for our client.

## OFFICE LOCATIONS & REACH



### UNITED STATES

Atlanta      Los Angeles  
Austin      Miami  
Baltimore      New York  
Boca Raton      Newark  
Boston      Philadelphia  
Cherry Hill      Pittsburgh  
Chicago      San Diego  
Dallas      San Francisco  
Houston      Silicon Valley  
Lake Tahoe      Washington, D.C.  
Las Vegas      Wilmington

### INTERNATIONAL

Hanoi      Myanmar  
Ho Chi Minh City      Shanghai  
London      Singapore

- ▶ Also satellite offices, including Bangor and Portland, Maine; and Seattle, Washington
- ▶ Alliances in Mexico and Sri Lanka
- ▶ Leadership position with international network of independent law firms

## FOR MORE INFORMATION, PLEASE CONTACT:

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