**Construction Law Practice; Project delivery planning exercise**

You are a junior attorney working for an experienced business lawyer (Partner) in a firm whose clients sometimes get involved with new construction. Partner recently listened to a webinar in which a well-known construction lawyer advocated the practice of conducting a preliminary meeting with a client about to start a construction project to help the client select the most appropriate project delivery system. Partner wants your help in convincing a client to hire the law firm to plan and conduct such a session. This will be the first time that Partner has tried this idea.

For class, be prepared to meet with Partner and a small group of other lawyers in the firm to develop an outline for a project delivery planning meeting for 4 different clients who are contemplating new construction. I’ll play the role of Partner. A few details of the project of particular concern to you are set out below. As you prepare, be sure to consider (a) who will be the stakeholders making up the audience for the meeting (e.g., a board of directors, key managers and operations employees, principal investors and professional project managers) and (b) what additional information you will want to have about the client and the project.

This exercise will be our focus for at least two class sessions. In the first session, the entire class will discuss all the projects and explore some possibilities. During that session (and any additional session), I will assign each of you to a specific group to address one of the projects in greater detail with Partner and for the benefit of the entire class. For the second session, you may prepare individually or with one or more of the other students assigned to the same project.

**Project 1**: A new food processing plant to be built in a largely rural community for a client that has several other similar, but much older, plants throughout the country. A key feature of the new plant is the introduction of a new generation of processing equipment. The technology involved promises spectacular improvements in productivity, but it is largely untested because it is so new. The client needs to complete the plant in nine months to be able to deliver on major orders for a national big box retailer.

**Project 2**: A 70,000 square foot commercial office building to be built in an established office park in a suburb of a mid-sized city. The client, a large national developer, has pre-leased about 70% of the building to an insurance company for its new headquarters. That tenant has the right under its lease to approve all the final plans for the base building, and the tenant’s architect will prepare the plans for the tenant finish work, which is to be done as part of the overall construction project under a generous tenant finish allowance being provided by the developer as part of the lease deal. The client’s pro forma (projections based on estimated costs of the project and anticipated revenue from the project) indicates that conditions in the local space market are strong and that leases to additional tenants to bring occupancy up to 95% should be feasible by the time the building is completed in about 18 months. The client wants to recoup its investment quickly by selling the project shortly after rents at that level of occupancy are stabilized.

**Project 3**: A museum of modern art to be built in the central business district of a large city for a nonprofit foundation funded by the multi-billion-dollar estate of a wealthy art collector who recently died. The museum is to serve as the collector’s legacy to the art world and is expected to be an important tourist attraction for the central business district. The city has committed to issue bonds to finance a parking garage over which the museum will be built; the bond debt is to be paid out of the anticipated parking revenue. The land and the garage will be owned by the city until the bonds are retired, at which time the city will transfer title to the foundation as permitted under a state economic development program.

**Project 4:** A new 6-lane bridge being planned by a State Department of Roads over a river in the middle of the state. The new bridge will greatly improve access between two cities in the state that currently are connected only by alternative routes that cross the river many miles either to the north or to the south of the planned location of the new bridge. The state legislature has not yet approved funding for construction, but it did provide funding for the project’s design. Preliminary engineering plans have been completed, and it is now time to decide whether it is feasible to move forward with the project. Officials at the Department of Roads have promoted the new bridge project for years, but the terrain at the site is rugged, and it is unclear whether there will be sufficient support among legislators for such an expensive project. There has been considerable discussion of the possibility of funding part or all the costs by collecting tolls for crossing the bridge. Financial projections indicate that a toll bridge would pay for itself over a 15-year period and eventually could generate revenue for other roads projects, but tolls won’t provide funds in advance to pay for the construction costs.

**Notes on reading assignments**

[Unless assigned readings already covered in the course are sufficient for the purpose, consider supplemental assignments as background for this exercise. E.g., selected sections from Chapter 6 (Project Delivery Methods and Contract Pricing Arrangements), Bruner & O’Connor Construction Law, available on Westlaw or Leonard M. Kessler, Advantages and Disadvantages of the Primary Construction Project Delivery Methods, available on Lexis+.]