From the beginning, this book was intended to be a resource. It was designed to sit on a desk, not a shelf. The genesis of the book evolved out of a planning meeting attended by myself, John Heisse, Doug Oles, Bob Beaumont, Carina Ohara, and John Spangler. We wanted to publish something so unique that we could proudly say nothing like it was in the market. In addition, we wanted to create something that was essential to the construction lawyer’s practice. After the obligatory “Call me Ishmael” banter, one of us said: “What about a book that collects in one place the array of construction contracts that are vital to many construction projects, but yet are so rare that we don’t have forms in our files to start from? How about if we identify the important ancillary construction contracts and generate a set of forms for all of them?” Someone else suggested: “Once we assemble a comprehensive list of the essential ancillary construction agreements, let’s identify those construction lawyers from across the United States who specialize in each area, and who can revise and update the forms to make them the most current and useable in today’s construction market.” Then we all agreed that we would ask these practitioners to each author a chapter on their agreement or agreements, discussing the key components of the contracts, the risks and benefits attendant to each, and practical practice pointers that construction lawyers should consider whenever negotiating one of these ancillary contracts.

Once we’d concluded that we had pulled together a great idea for a contract documents book, we still wanted more; we wondered what we could do to turn the book into an interactive form file, so that it was more useful than any other current construction contract book. We didn’t all say it at once, but now that’s our story and we’re sticking to it. In a resounding chorus we said: “Let’s publish the book with all the contracts in digital media, so that the reader can actually pull the form up on his or her computer and begin to edit it to conform to the specific project that he or she is working on!”

That is the resource that you are holding in your hand. This book and the CD containing the digital media are all you need for producing, editing, printing, and negotiating the essential array of ancillary construction contracts. From Pre-bid Agreements, including Teaming Arrangements, Confidentiality & Non-Disclosure Accords, Licensing Agreements, Alliance and Mentoring Agreements; to Financing Agreements; to Pre-Construction and Program Management Agreements; to Pre-Construction Agreements; to Surety Related
Agreements including, Take-over and Completion Contracts, Subcontractor Ratification Agreements, Tender, Financing and Assignments from Principal to Surety Accords; to Project Site Agreements, including Temporary Use Agreements, License Agreements, Offsite Storage Agreements, Drainage Easement Agreements, Marshalling and Staging Agreements, Air Space Rights Agreements and Reciprocal Easement Agreements; to Lien Release Agreements, including, Statutory and Non-Statutory Lien Waiver and Release Agreements, Joint Check Accords, Accord and Satisfaction Agreements; to Equipment Procurement Agreements for Buyers and Sellers; to Dispute Resolution Agreements, including Pass-Through Agreements, Joint Defense and Joint Prosecution Agreements, Stand Still Agreements and Forum Selection Accords; to Project Labor Agreements. This resource contains what you’ll need to start and conclude the drafting process for all these contracts. Consider this the form file of ancillary construction contracts to which you never before had access. All of them are now a point and click away.

Obviously, this book could not have found its way to you without an enormous effort from all the authors and the editors, whose biographies are collected beginning at page xi. We owe a tremendous measure of gratitude to all of them. While cognizant of the risk of singling out a few from the many who brought this idea out of the ground and nurtured it to its full digital potential, we would nonetheless be remiss if we didn’t make special mention of Carina Ohara’s special contribution. In addition to being the primary source of the initial list of ancillary contracts, she also produced many of the initial sets of forms for many of the most unique contract documents. In addition, John Spangler and Mike Tarullo’s editorial and shepherding efforts were instrumental in bringing this resource to market. Many thanks to all!

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