

AGC CONSTRUCTION SUMMIT 2024

CONTRACTS 401

ADVANCED ISSUES IN CONTRACTS

Mark Becker
Partner, Fabyanske Westra Hart
& Thompson

D 612.359.7620
mbecker@fwhtlaw.com

Kyle Willems
Shareholder, Bassford Remele

D 612.376.1604
kwillems@bassford.com

Connie Armstrong
Deputy General Counsel, Harris
Co.

camstrong@harriscompany.com

Mike Schechter
Labor & Legal— AGC MN

mschechter@agcmn.org

Discussion Points

- What is the issue
- Impact on Risk Assumption(s)
- Value of provision
- How to negotiate



Topics covered as time permits

TOPICS

DELEGATED DESIGN

- Design Assist – Warranties on “work” – Design Build – PL insurance

OCIPs

- Coverage & charging for gaps

LIMITATIONS OF LIABILITY

- Consequential Damages – Liquidated Damages – NDFD – Pay if Paid vs Pay when Paid – Flat caps – percentage of fees – flat dollar

DBE PARTICIPATION PROVISIONS

- S.Ct. case impact – Categorization (small, veteran owned) vs DEI

CM AT RISK

- Pre-con services – Contingencies

LENDER CONSENTS TO ASSIGNMENT

- Lien rights & subordination – protect developer – notice & default provisions – Low change order limits – lender requirements

ATTORNEY’S FEES TO PREVAILING PARTY

- “prevailing” – “reasonable” – Rule 68

ADR

- Cumbersome vs streamline – What works – Initial Decision Maker



BONUS

AGC-MN FORM CONTRACTS

- Wage Theft & ESST Compliance Provisions
- Duty to Defend updates for new law
- Notice for IRA, Davis Bacon, Buy American, etc. laws
- Cannabis safety provision

agcmn.org/construction-resources/contract-forms



Thank you!

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