



**WHAT YOU NEED TO KNOW AND DO
BEFORE YOU SIGN A SUBCONTRACT**

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- I. The Subcontract
 - A. Merger Clause
 - 1. Excludes all prior negotiations from subcontract
 - 2. Exceptions
 - B. Incorporation Clause
 - 1. Terms incorporated by reference are binding on the parties
 - 2. Conflict clause
 - C. Scope of Work
 - 1. Directly impacts ability to seek compensation for extra work
 - D. Site Conditions
 - 1. Directly impacts ability to seek compensation for extra work
 - E. "Pay When Paid" Clause
 - F. Delay Damages
 - G. Changes Orders
 - H. Indemnification Clause
 - 1. The *Kotecki* Cap
 - 2. Modification of Indemnification Clauses
 - I. Waiver of Subrogation
 - J. Miscellaneous Subcontract Clauses
 - 1. Back Charges
 - 2. Notice Provisions
 - 3. Arbitration
 - 4. Liquidated Damages
 - 5. Amendments
 - 6. Attorney's Fees
 - 7. "No Lien" Clauses
- II. Payment Terms
 - A. Progress Payments
 - B. Lien Waivers
 - C. Retention
 - D. Overtime
 - E. Joint-Check Agreement
- III. Field Documentation
 - A. Change Orders
 - B. Extra Claims