



OLYMPUS
INSURANCE

Essential Insurance & Risk Provisions in Contracts

BRIAN CHILD, CLCS, CIC
ACCOUNT EXECUTIVE
OLYMPUS INSURANCE

UTAH MUNICIPAL CLERKS ASSOCIATION
ANNUAL CONFERENCE
SEPTEMBER 28, 2017

What can
go wrong?





Sewage floods basements of about 10 homes in West Valley City





Feds seek \$1.6M from contractor for fighting 2012 Alpine fire



HUNTINGTON BEACH CONTRACTOR HITS WATER MAIN, FLOODING STREET



Gas line in explosion was marked



NATURAL GAS EXPLOSION INVESTIGATION

58°

f ksdktv

5:00

@ksdkwrig

ELECTION DAY DEBACLE

TRACKING STORMS

MODOT WORKER KILLED



Suits Filed After Deadly CT Fire Continue

STAMFORD — The father of the three girls killed in the Shippan fire in 2011 has agreed to settle with two contractors for their role in their deaths, leaving the city of Stamford as the sole remaining defendant in the wrongful-death suit.



City, contractor and grader driver named in \$2M suit over pedestrian's death downtown



PROVO — A lighting technician who mistakenly set a 300-watt light fixture on a wooden speaker box in the attic caused the fire that destroyed the [Provo Tabernacle](#) last December



The blaze caused an estimated \$15 million in damage.



Contract / Project Risk Management Steps

Step 1
Identify
Scope

Step 2
Contractor
Selection

Step 3
Insurance
Requirements

Step 4
Oversight



What type of
contract will we
enter in to?



Step 1 – Identify Scope

Project / Contract Examples

Construct new building

Janitorial service

Road resurfacing

Road striping

Sewer line replacement / extension

Special Events

Storm water line replacement

Street light maintenance

Water line replacement / extension

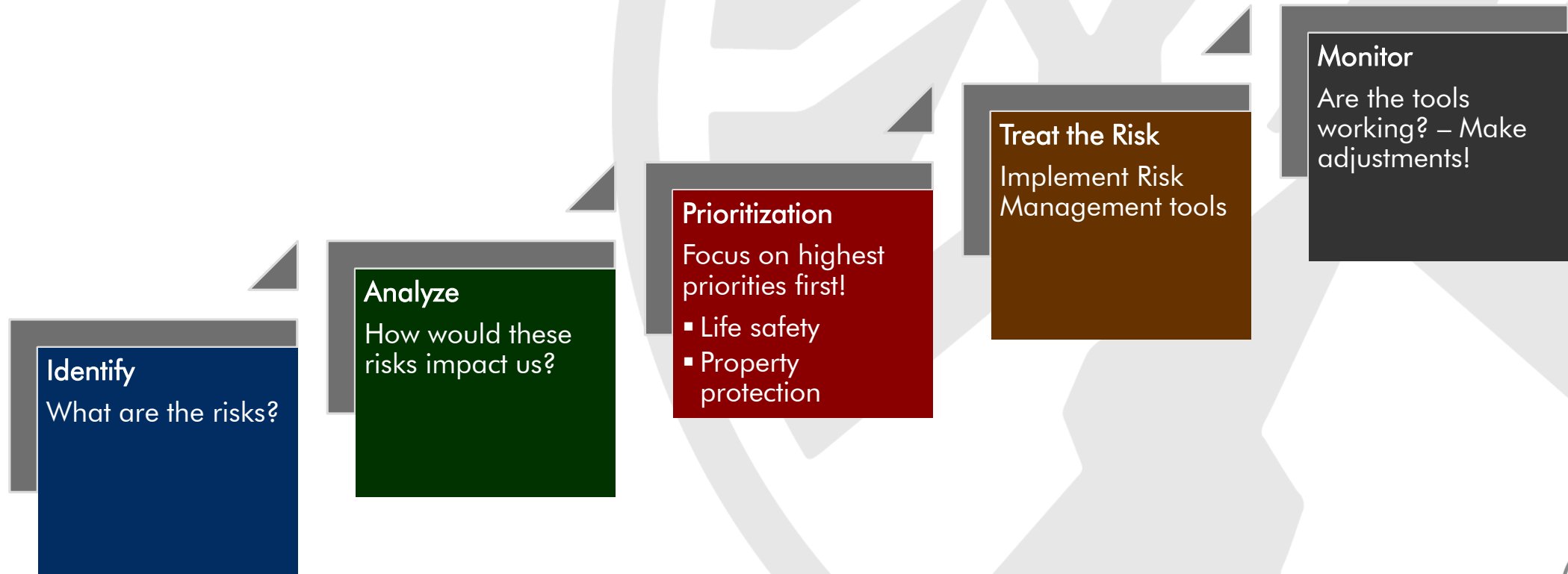
Water well maintenance

Window washing



Step 1 – Identify Scope

Project Risk Assessment



Step 1 – Identify Scope

Project Risk Assessment

Location – Where the project occurring?

- Rural
- Urban
- Secured site
- Open to public

Duration – How long will the project take?

- Short term
- Multi-year
 - Change in seasons, impact of weather, etc.



Step 1 – Identify Scope

Employee & citizen safety

- Work performed near the public or employees?

- Appropriate signage?



- Designated vehicle & pedestrian traffic routes?



Step 1 – Identify Scope

Project Risk Assessment

Property protection

- Will work impact existing buildings, facilities, infrastructure
- Demolition of adjacent structures
- Exposure to elements
- Hot work
- Sprinkler impairment
- Flammable liquids or gasses



Step 1 – Identify Scope

Emergency Planning

SITUATIONS

Heavy rain event - Flooding

Gas leak

Wildfire

PLANNING STEPS

Access to emergency funds?

Back-up equipment available?

Equipment re-fueling available



Step 2 – Contractor Selection

Experience with
similar
projects?

Claims
experience

E-mod

OSHA citations

BLS incidence
rates

Safety program

Training
documentation

Inspection logs



Step 2 – Contractor Selection

Experience with similar projects?

- E.g. Sewer line replacement with bypass pumping



Step 2 – Contractor Selection

Claim experience?

- General liability
 - Caused bodily injury
 - Damaged property
- Automobile liability
- Workers' compensation



Step 2 – Contractor Selection

Workers' Compensation NCCI Experience Modifier (E-mod)?

Workers Compensation and Employers Liability Insurance Policy

SCHEDULE OF OPERATIONS

Name of Insured Name of Insurer: WORKERS COMPENSATION FUND Policy Number: Policy Period: 01/01/2016 To 01/01/2017 at 12:01 a.m.				
Classifications	Code No.	Premium Basis Total Estimated Annual Remuneration	Rates Per \$100 of Remuneration	Estimated Annual Premium
STATE: UT				
SEWAGE DISPOSAL PLANT OPERATIONS & DRIVERS	7580	2,382,269	2.63	\$62,653.67
CLERICAL OFFICE EMPLOYEES	8810	267,219	.15	\$400.83
MANUAL PREMIUM				\$63,054.50
EMPLOYERS LIABILITY	9812	1000/1000/1000	1.10%	\$693.60
EXPERIENCE MODIFICATION	9898		.65	-\$22,311.83
SCHEDULE RATING (CR)	9887		.90	-\$4,143.63
TOTAL STANDARD PREMIUM				\$37,292.64
PREMIUM SIZE DISCOUNT	0063		9.44%	-\$3,520.43
TERRORISM	9740	2,649,488	.01	\$264.95
CATASTROPHE-OTHER THAN CERTIFIED ACTS OF TERRORISM	9741	2,649,488	.01	\$264.95
ESTIMATED ANNUAL PREMIUM				\$34,302.11
Total Due For:	UT			\$34,302.11



Step 2 – Contractor Selection

OSHA citations?

THE NATIONAL LAW REVIEW

September 14, 2016

OSHA Deems Fatal Beam Collapse Accident Was Preventable

OSHA released a report indicating that the incident occurring at the job site was “preventable.” A spokesman for OSHA, Scott Allen said that “every incident such as this is preventable if all OSHA standards and regulations are followed.” As a part of the initial investigation, OSHA had revealed that the construction site’s general contractor that employed the deceased worker had previously received **nine** citations from the safety administration since 2006, involving more than \$6400 in penalties for various violations.



Step 2 – Contractor Selection

BLS incidence rates?

Industry ²	NAICS code ³	Total recordable cases
Support activities for oil and gas operations	213112	1.6
Construction		3.6
Construction	23	3.6
Construction of buildings	236	3.3
Residential building construction	2361	4.1
Nonresidential building construction	2362	2.7
Heavy and civil engineering construction	237	3.0
Utility system construction	2371	2.6
Water and sewer line and related structures construction	23711	3.5
Oil and gas pipeline and related structures construction	23712	1.8
Power and communication line and related structures construction	23713	2.4
Land subdivision	2372	2.1
Highway, street, and bridge construction	2373	3.8
Other heavy and civil engineering construction	2379	3.1
Specialty trade contractors	238	3.8
Foundation, structure, and building exterior contractors	2381	4.6
Poured concrete foundation and structure contractors	23811	4.6
Structural steel and precast concrete contractors	23812	5.2
Framing contractors	23813	5.5
Masonry contractors	23814	3.2
Glass and glazing contractors	23815	4.4
Roofing contractors	23816	5.3
Siding contractors	23817	5.9
Other foundation, structure, and building exterior contractors	23819	—
Building equipment contractors	2382	3.6
Electrical contractors and other wiring installation contractors	23821	3.0
Plumbing, heating, and air-conditioning contractors	23822	4.1
Other building equipment contractors	23829	3.6
Building finishing contractors	2383	4.2
Drywall and insulation contractors	23831	4.7
Painting and wall covering contractors	23832	3.7
Flooring contractors	23833	2.5
Tile and terrazzo contractors	23834	3.9
Finish carpentry contractors	23835	4.7
Other building finishing contractors	23839	—
Other specialty trade contractors	2389	3.2
Site preparation contractors	23891	2.8
All other specialty trade contractors	23899	3.6



Step 2 – Contractor Selection

Safety Program

- Trench safety – Trench Box, Railing
- Fall protection – Scaffolding, Ladders
- PPE
- Exposed Rebar
- Combustibles
- Distractions – Cell Phone Use

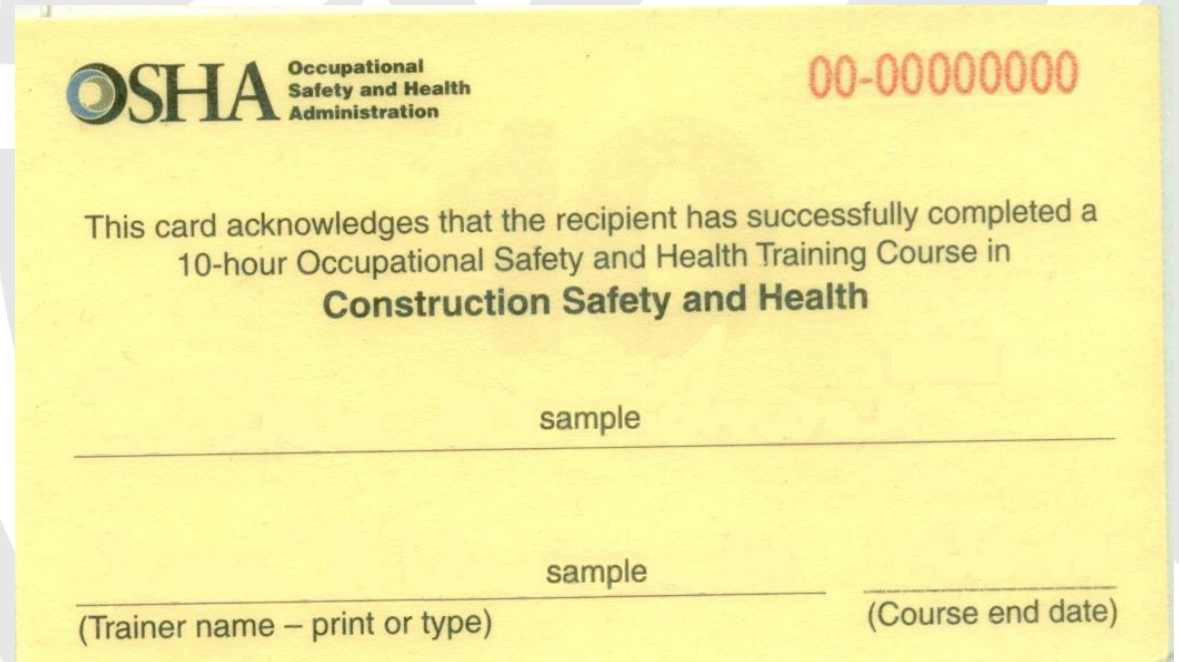
Culture of safety and risk awareness

Agree to comply with all OSHA regulations



Step 2 – Contractor Selection

Training documentation



OSHA Occupational Safety and Health Administration

00-00000000

This card acknowledges that the recipient has successfully completed a
10-hour Occupational Safety and Health Training Course in
Construction Safety and Health

sample

sample

(Trainer name – print or type) (Course end date)



Step 2 – Contractor Selection

Vehicle / equipment inspection logs

Brake Failure on Truck Might Have Led to Crash That Killed LAPD Officer

Form ODA0008
(Rev. 12/2008)
Ohio Department of Aging

PRE-TRIP VEHICLE INSPECTION

Print Form

VEHICLE ID		LAST SIX DIGITS OF VIN		MAKE & MODEL					
EACH DRIVER* SHALL CONDUCT AN INSPECTION ON THE FOLLOWING ITEMS BEFORE PROVIDING THE FIRST SERVICE OF THE DAY									
Week Of: MM DD YYYY		SUN	MON	TUES	WED	THURS	FRI	SAT	
ODOMETER READING									
INSPECTION ITEMS		Yes	No	Yes	No	Yes	No	Yes	No
EXTERIOR									
Ground under vehicle free of leaked fluids?									
Auto body free of new damage?									
Clean windows and mirrors?									
Windshield wipers/washers appear OK?									
TIRES APPEAR OK?									
Properly inflated?									
Free of visible damage?									
UNDER THE HOOD									
Adequate clean oil?									
Hoses appear OK? (e.g., no cracks, leaks)									
Belt appear OK? (e.g., no fraying)									
Adequate windshield washer fluid?									
ITEMS STORED IN VEHICLE?									
Current, valid insurance ID card?									
Current, valid vehicle registration?									
Bike/helmet kit?									
First-aid kit?									
Seatbelt cutter?									
Horns or reflective triangles?									
Fire extinguisher?									
Blanket? (winter only)									
SEAT BELTS									
Seats hazard-free (tears, loose armrests)?									
Floor free of hazards?									
Clean interior?									
Mirrors adjusted properly?									
Doors operate from inside and outside?									
Door locks?									
Gauges? (e.g., oil, fuel, temp.)									
Fuel level adequate?									
No warning lights (e.g., check brakes) lit?									
2-way communication device? (e.g., radio)									
Horn?									
Backup alarm (if equipped)?									
Brakes?									
Heater, defroster, and AC?									
Each headlight (high & low beam)?									
Each tail light and marker light?									
Each brake light?									
Each turn signal?									
Each backup light?									
Hazard lights (front and rear)?									
License plate light?									
Interior lights?									
Operate through complete cycle?									
Properly secured to vehicle?									
Proper number of restraints?									
Free of physical damage or leaking fluid?									
Free of dirt, mud, gravel, salt, etc.?									
Lack need for repair?									
If equipped WHEELCHAIR LIFT and RAMP APPEAR OK?									
The driver shall use a second person to inspect lights that halene cannot inspect (e.g., brake lights and back-up light)									
DRIVER		PRINT NAME							
		SIGNATURE							

*No two drivers should use the same form. If two drivers use the same vehicle for the service, each driver should complete a separate form.

Form ODA0008 (Rev. 12/2008)



Step 3 - Insurance Requirements



Step 3 – Insurance Requirements

POLICIES

General liability

Automobile liability

Excess liability

Workers' compensation / Employers liability

Environmental liability

Builders' risk

Technology Errors & Omissions

ENDORSEMENTS / MISC.

Additional Insured

- Ongoing operations
- Completed operations

Waiver of subrogation

Primary & non-contributory

Loss payee

WC – Excluded owners & officers



Step 3 – Insurance Requirements

General Liability

Bodily injury

Property damage

Personal injury

Advertising injury

Completed operations

- Construction defects



THIS ENDORSEMENT CHANGES THE POLICY. PLEASE READ IT CAREFULLY.

EXCLUSION – PYROTECHNICIANS/FIREWORKS

This endorsement modifies insurance provided under the following:

COMMERCIAL GENERAL LIABILITY COVERAGE PART

This insurance does not apply to “bodily Injury”, “property damage”, “personal and advertising injury” or medical expense arising out of the ownership, maintenance, handling, storage, distribution, sale or use of fireworks, flash-powder, or explosive compositions.



Jury awards \$4.75 million in Vienna fireworks accident



THIS ENDORSEMENT CHANGES THE POLICY. PLEASE READ IT CAREFULLY.

ADDITIONAL INSURED EXCLUSION - PRODUCTS-COMPLETED OPERATIONS

This endorsement modifies insurance provided under the following:

COMMERCIAL GENERAL LIABILITY COVERAGE PART.

SCHEDULE

Name of Person or Organization (Additional Insured):

(If no entry appears above, information required to complete this endorsement will be shown in the Declarations as applicable to this endorsement.)

- A. Under **SECTION I - COVERAGES, COVERAGE A. BODILY INJURY AND PROPERTY DAMAGE LIABILITY, 2. Exclusions**, the following exclusion is added:

2. Exclusions

This insurance does not apply to:

The Additional Insured for the "products-completed operations hazard".

- B. Under **SECTION II - WHO IS AN INSURED**, the following is added:

The person or organization shown in the above Schedule is an Additional Insured, but only with respect to liability arising out of "your work" for that insured by or for you.

- C. Under **SECTION III - LIMITS OF INSURANCE**, the following is added:

The limits of liability for the Additional Insured are those specified in the written contract or agreement between the insured and the owner, lessee or contractor, not to exceed the limits provided in this policy. These limits are inclusive of and not in addition to the limits of insurance shown in the Declarations.

- D. Under **SECTION IV - COMMERCIAL GENERAL LIABILITY CONDITIONS, 4. Other Insurance**, the following is added:

This insurance is primary for the person or organization shown in the Schedule, but only with respect to liability arising out of "your work" for that person or organization by or for you. Other insurance available to the person or organization shown in the Schedule will apply as excess insurance and not contribute as primary insurance to the insurance provided by this endorsement.



Miami Dade College wins \$33 million settlement over collapsed parking garage



SUBSIDENCE EXCLUSION

In consideration of the premium charged, it is hereby understood and agreed that this policy shall not apply to “Ultimate Net Loss” for any loss, cost and/or expense arising out of, resulting from, caused by, or in anyway contributed to the following:

1. The depletion or exhaustion of underground resources;
2. Subsidence;
3. Floor or mud flow;
4. Earthquake, volcanic eruption or other tectonic processes; or
5. Settling, sinking, slipping, falling away, caving in shifting, eroding, tilting or any movement of land or earth.



Step 3 – Insurance Requirements

Automobile Liability

Bodily or property damage arising from the use of a vehicle.



Step 3 – Insurance Requirements

Excess Liability

Extends General Liability and Automobile Liability.

Can extend Employers Liability, if scheduled.

Generally doesn't extend Environmental Liability.

Does not apply to Builders' Risk, or other 'first party' coverages.



Step 3 – Insurance Requirements

Workers' Compensation / Employers Liability

Responds to injuries from contractor employees.

If we fail to verify workers' compensation coverage, the injured contractor employee may make claim on our workers' compensation program.



Step 3 – Insurance Requirements

Environmental Liability

Responds to claims arising out of environmental impairment, or resulting from exposure to 'pollutants'.

- Pool chemicals
- Sewer system back-up
- Soil contamination
- Storm water contamination
- Water system contamination
- Water treatment chemicals

'Dirty water' causes illness in Cedar Hills neighborhood



THIS ENDORSEMENT CHANGES THE POLICY. PLEASE READ IT CAREFULLY.

TOTAL POLLUTION EXCLUSION ENDORSEMENT

This endorsement modifies insurance provided under the following:

OWNERS AND CONTRACTORS PROTECTIVE LIABILITY COVERAGE PART

SECTION 1 - COVERAGES, BODILY INJURY AND PROPERTY DAMAGE LIABILITY, 2. Exclusions, j. is replaced by the following:

- j.**
- (1)** “Bodily injury” or “property damage” which would not have occurred in whole or part but for the actual, alleged or threatened discharge, dispersal, seepage, migration, release or escape of pollutants at any time.
 - (2)** Any loss, cost or expense arising out of any:
 - (a)** Request, demand or order that any insured or others test for, monitor, clean up, remove, contain, treat, detoxify or neutralize, or in any way respond to, or assess the effects of pollutants; or
 - (b)** Claim or suit by or on behalf of a governmental authority for damages because of testing for, monitoring, cleaning up, removing, containing, treating, detoxifying or neutralizing, or in any way responding to, or assessing the effects of pollutants.

Pollutants means any solid, liquid, gaseous, or thermal irritant or contaminant including smoke, vapor, soot, fumes, acids, alkalis, chemicals and waste. Waste includes materials to be recycled, reconditioned or reclaimed.

All other policy terms and conditions apply.



Step 3 – Insurance Requirements

Builders' Risk

Protects assets while in the course of construction.
Carefully evaluate supplemental limits:

- Property in-transit
- Property in storage
- Earth movement
- Flood



Step 3 – Insurance Requirements

Professional Liability

Architects & engineers

Attorneys

Information technology consultants & providers –
including software developers

Investment advisors

Management consultants



Step 3 – Insurance Requirements

Verify Compliance

EVIDENCE OF COVERAGE

Contract only

Certificate of insurance

Endorsements

Complete policy

Certified copies of policy

VERIFICATION TIMELINE

When contract signed

Policy renewal – During project

When work completed, prior to final payment

Policy renewal – During warranty period

Records retention

- 3 years – Property damage
- 4 years – Personal injury
- 10 years – Construction defects



Step 3 – Insurance Requirements

Sample Certificate

If questions arise regarding certificate, call insurance carrier

Name should match legal name of entity we are contracting with

Verify insurance carrier is AM Best rated, > A X

Ensure additional insured and waiver of subrogation boxes are checked

Ensure entire project falls within policy period, if it does not, obtain a certificate prior to policy expiration – during the project.

Must have 'Any Auto' checked on automobile liability

Excluded officers or owners on WC...

Most additional insured endorsements only grant 'AI' status if there is a written contract.

ACORD
WEST060 OP ID: BD
DATE (MM/DD/YYYY) 09/14/2016

CERTIFICATE OF LIABILITY INSURANCE

THIS CERTIFICATE IS ISSUED AS A MATTER OF INFORMATION ONLY AND CONFERS NO RIGHTS UPON THE CERTIFICATE HOLDER. THIS CERTIFICATE DOES NOT AFFIRMATIVELY OR NEGATIVELY AMEND, EXTEND OR ALTER THE COVERAGE AFFORDED BY THE POLICIES BELOW. THIS CERTIFICATE OF INSURANCE DOES NOT CONSTITUTE A CONTRACT BETWEEN THE ISSUING INSURER AND THE CERTIFICATE HOLDER.

IMPORTANT: If the certificate holder is an ADDITIONAL INSURED, the policy(ies) must be endorsed. If SUBROGATION IS WAIVED, subject to the terms and conditions of the policy, certain policies may require an endorsement. A statement on this certificate does not confer rights to the certificate holder in lieu of such endorsement(s).

PRODUCER Olympus Insurance Agency PO Box 65608 Salt Lake City, UT 84165-0608 B. Darrell Child	CONTACT NAME: PHONE: FAX: E-MAIL: ADDRESS:
---	---

INSURED XYZ Contractor	INSURER(S) AFFORDING COVERAGE INSURER A: Travelers Insurance Company INSURER B: INSURER C: INSURER D: INSURER E: INSURER F:
---------------------------	---

COVERAGE	CERTIFICATE NUMBER:	REVISION NUMBER:																																																																																																
THIS IS TO CERTIFY THAT THE POLICIES OF INSURANCE LISTED BELOW HAVE BEEN ISSUED TO THE INSURED NAMED ABOVE FOR THE POLICY PERIOD INDICATED. NOTWITHSTANDING ANY REQUIREMENT, TERM OR CONDITION OF ANY CONTRACT OR OTHER DOCUMENT WITH RESPECT TO WHICH THIS CERTIFICATE MAY BE ISSUED OR MAY PERTAIN, THE INSURANCE AFFORDED BY THE POLICIES DESCRIBED HEREIN IS SUBJECT TO ALL THE TERMS, EXCLUSIONS AND CONDITIONS OF SUCH POLICIES. LIMITS SHOWN MAY HAVE BEEN REDUCED BY PAID CLAIMS.																																																																																																		
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A	Environmental Liability																																																																																																	
				123456789	07/01/2016	07/01/2017	Occ. \$ 5,000,000 Agg. \$ 5,000,000																																																																																											

DESCRIPTION OF OPERATIONS / LOCATIONS / VEHICLES (ACORD 101, Additional Remarks Schedule, may be attached if more space is needed)

Certificate Holder named as Additional Insured, per written contract

CERTIFICATE HOLDER City of West Jordan Jared Smith Risk Manager 8000 Redwood Road West Jordan, UT 84088	CITY/OFW	CANCELLATION SHOULD ANY OF THE ABOVE DESCRIBED POLICIES BE CANCELLED BEFORE THE EXPIRATION DATE THEREOF, NOTICE WILL BE DELIVERED IN ACCORDANCE WITH THE POLICY PROVISIONS. AUTHORIZED REPRESENTATIVE B. Darrell Child
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Step 4 - Oversight

How will we monitor compliance with the requirements outlined in our contract?

- Contractor safety
- Citizen safety
- Employee safety
- Property protection
- Insurance requirements



Step 4 - Oversight

Do we have the authority to stop work for unsafe conditions?

- Zero tolerance

Sewer facility employee falls more than 50 feet to his death

SLATERVILLE, Weber County — A man was killed Thursday morning after reportedly falling 50 to 60 feet off some scaffolding.

Emergency crews responded about 8:30 a.m. to the Central Weber Sewer Facility, 2594 W. Pioneer Road, on a report of an industrial accident.



Conclusion

Contracted work is essential to maintain existing infrastructure and to construct new facilities. Having a safe and reliable contractor enhances the ability of your organization to meet the critical needs of citizens – whether they be roads, waterlines or playgrounds.

An unsafe contractor, can cause injuries to citizens, employees, and an organizations reputation.



Questions?

