



**Contractual Risk Transfer: Insurance Issues  
with Contractors, Vendors and Suppliers**

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## Some Subjects We Will Cover

- Contractual protections
  1. Indemnity
  2. Insurance requirements
- Typical contractor and vendor insurance requirements
- Insurance certificates – how to read them and ask the right questions
- Common issues encountered along the way: “I can’t get that much coverage!”
  - Case studies
- Discussion and questions

### 3 Lawyers & a Broker Walk into a Bar

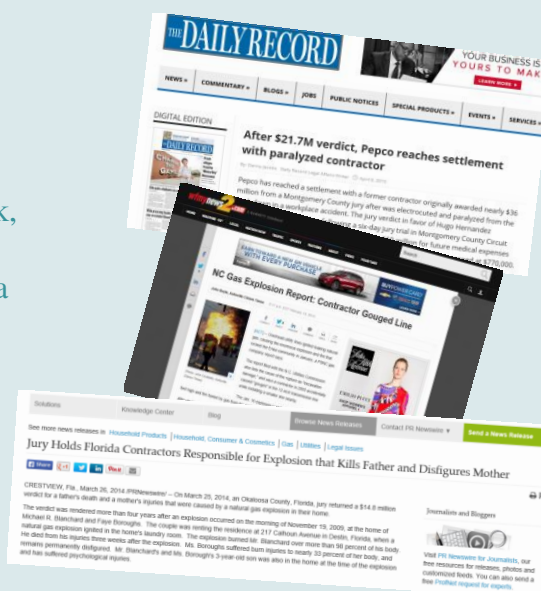
The information presented herein is intended to be general in nature. Any thoughts, ideas or suggestions contained herein are strictly educational in nature, and should not be considered as legal advice or recommendations for specific business applications, as all businesses have unique characteristics which should be fully evaluated before implementing any of the ideas or strategies discussed herein. The presenters recommend that utilities fully assess their specific risk management needs and objectives when considering the extent that these techniques are appropriate for their companies, and incorporate the involvement of risk / insurance, legal, procurement and operations teams as appropriate when designing and implementing risk management strategies.

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### Overview

The party with greater control of the risk is in a better position to avoid risk, and should be responsible for the financial burden if a loss occurs.



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## Why Is It Important to Include Contractual and Financial Protections?

- Everybody wants to do business with a utility

### BUT

- Not everybody has sophisticated safety or risk control capabilities
- Not everybody has the financial capability to fulfill their responsibilities in the event of injuries or damages that may occur as a result of their actions
- A utility is the classic “deep pocket,” and must protect itself and stakeholders from liability for loss caused by others

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## Managing Risk in Activities of Others

- When engaging outside parties for goods and services, a utility must expect and intend that contractors and vendors will apply prudent and safe practices to protect persons and property from injuries and damages
- Because of this, the utility must ensure that its contractors and vendors are financially responsible if those entities' operations cause loss to the utility, its employees or to the general public

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## Managing Risk in Activities of Others

- A complete understanding and trust in the contractor's financial condition (balance sheet, liquidity, creditworthiness, tangible net worth, etc.) is one way to determine financial responsibility to pay for injuries and damages. In many situations a vendor's financial condition is not easily ascertained or is not sufficient, so adequate insurance is the most common form of independent verification of financial responsibility to pay losses.

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## How Does the Utility Protect Itself?

### First, through contractual protections in agreements

- **Indemnity & Limitation of Liability clauses:** The portion of the contract or agreement defining how one party will protect the other. This part of the contract describes what the contractor / vendor must do to protect the company if the utility is faced with liability arising out of the contractor's operations and activities.

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## How Does the Utility Protect Itself?

### Second, through financial responsibility of counterparty

- **Insurance requirements:** Portion of the contract or agreement stipulating the minimum types and amounts of insurance that must be maintained by the contractor or vendor in order to evidence a measure of financial responsibility for losses and legal liability. It is an independent verification of financial assets available to fund losses arising out of the contractor's operations and activities.

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## "Belt & Suspenders" Protection

- The Indemnity Clause spells out the contractor's or vendor's contractual responsibility to protect the utility against liability and claims arising out of contractor's or vendor's products, services or activities
- The Insurance Requirements are intended to assure there is some form of independent financial capability to respond to contractor's or vendor's liabilities & its responsibility to protect the utility
- While the two provisions are complementary, they also need to operate somewhat independently from one another

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### Example: Indemnity Clause (intermediate form)

- Contractor agrees to fully indemnify, defend and hold UTILITY harmless from and against any and all claims, liability, loss, damage, injuries, suits, actions, proceedings, judgments or expenses, including attorney's fees' arising from Contractor's performance of the Agreement, and the actions of Contractor's employees, affiliates, subcontractors, agents or anyone acting through any of them. Contractor's indemnity obligation specifically includes, but is not limited to, claims which may be brought by Contractor's employees. Contractor shall indemnify UTILITY whether such liability or loss is caused or alleged to be caused jointly or concurrently by both or either party, except such indemnity shall not extend to liability or loss arising from the sole negligence of UTILITY.

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### Example: Indemnity Clause (intermediate form)

- It is expressly understood and agreed that the foregoing undertaking of the (Contractor / Consultant / Vendor) to indemnify Gas Company and its affiliated companies, their agents, servants, and employees includes the obligation to indemnify and hold harmless such parties from any and all claims resulting from injury to any employee of the (Contractor / Consultant / Vendor) which injury is in any manner related to the (Project / Services / Products) and the fact that (Contractor / Consultant / Vendor) provides Workers' Compensation to any such injured employee shall not relieve (Contractor / Consultant / Vendor) of this contractual undertaking.

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## Three General Types of Indemnity

- **Limited Form:** Party A will indemnify Party B only for liability arising from Party A's actual negligence. Often the basis for mutual indemnification;
- **Intermediate Form:** Party A will indemnify Party B for all liability associated with Party A's activities, except for liability arising out of Party B's sole negligence;
- **Broad Form:** Party A will indemnify Party B for all liability associated with Party A's activities, regardless of – and including – the negligence of Party B

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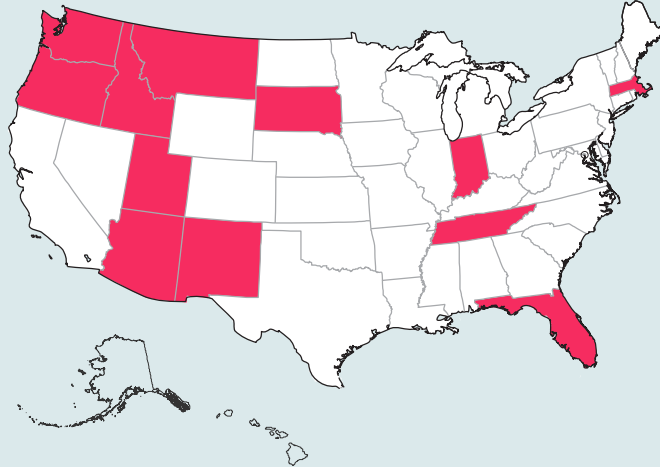
## Five Different Ways Indemnification Can Operate

1. **Owner takes all liability**  
(*Broad Form favoring Contractor*)
2. **Owner takes all liability except for sole fault of the Contractor**  
(*Intermediate Form favoring Contractor*)
3. **Comparative Fault**  
(*Limited / Mutual Form*)
4. **Contractor takes all liability except for sole fault of Owner**  
(*Intermediate Form favoring Owner*)
5. **Contractor takes all liability**  
(*Broad Form favoring Owner*)

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### States With Anti-Indemnity Statutes and No Exceptions

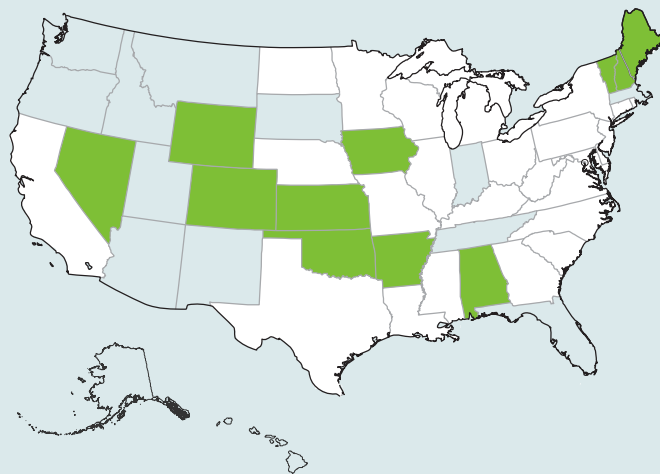


Arizona  
Florida  
Idaho  
Indiana  
Massachusetts  
Montana  
New Mexico  
Oregon  
South Dakota  
Tennessee  
Utah  
Washington

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### States With No Anti-Indemnity Statutes Voiding Hold Harmless Provisions



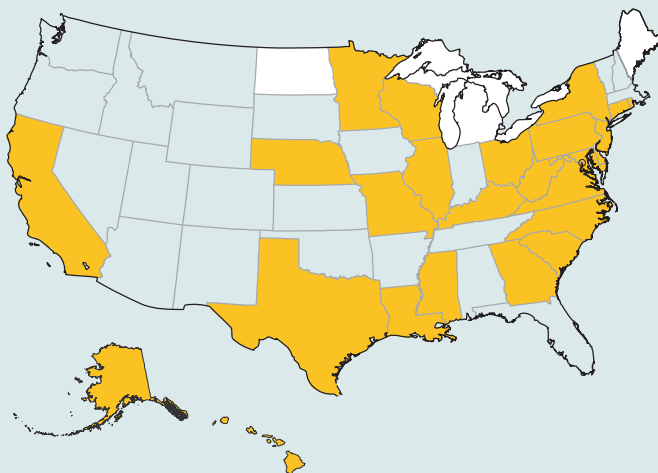
Alabama  
Arkansas  
Colorado  
Iowa  
Kansas  
Maine  
Nevada  
New Hampshire  
Oklahoma  
Vermont  
Wyoming

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## States Where Sole Or Partial Is Void, Except When Insurance Applies



Alaska	Nebraska
California	New Jersey
Connecticut	New York
Delaware	North Carolina
Georgia	Ohio
Hawaii	Pennsylvania
Illinois	Rhode Island
Kentucky	South Carolina
Louisiana	Texas
Maryland	Virginia
Minnesota	West Virginia
Mississippi	Wisconsin
Missouri	

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## Types of Insurance Often Required by Contract

- **Commercial General Liability** – coverage for bodily injury and property damage to third parties arising out of operations, premises and products
- **Auto Liability** – coverage for bodily injury and property damage to 3rd parties arising out of use of motor vehicles
- **Workers' Compensation** – coverage for medical costs and wage replacement arising out of injuries or disease to employees + Employers Liability – stop-gap coverage for employee injuries not otherwise covered by Workers' Compensation

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## Types of Insurance Often Required by Contract

- **Excess Liability** – additional limits above primary limits of required general liability, auto liability and employers liability coverages
- **Professional Liability** – coverage for financial loss to third parties arising out of negligent errors or omissions in providing professional advice or services (e.g. design, engineering, etc.)
- **Pollution Liability** – coverage for environmental spills and cleanup to land and water
- **Cyber Liability** – coverage for loss and expense due to breach of private data / information

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## Typical Contractor / Vendor Insurance Requirements



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## Additional Insured Status

- Additional insured status is not granted by contract alone; must have an endorsement to the contractor's insurance policies to confer status
- Aligns the contractor's insurance coverage with the obligation to protect the utility against liability arising out of the contractor's operations and activities performed on behalf of the utility
- Allows the utility direct and immediate access to and defense by the insurer and insurance policy(ies) that the contractor maintains for the protection of both the contractor and the utility
- Keeps both the contractor and the utility "on the same side of the table" vs. assuming an adversarial position against one another. The utility has the same rights and protections as the contractor.
- Reinforces the intent of a Waiver of Subrogation – an insurer cannot attempt to force recovery from one of its own Insureds

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## Additional Insured vs. Indemnification

### Additional Insured

- Transfers the risk to insurer with financial means
- Defense coverage
- Insurer bound by duties of good faith and fair dealing

### Indemnification

- Contractor may not have financial means to pay for the loss
- No defense coverage, fees probably not recoverable
- Contractor can litigate zealously

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## Example – Additional Insured

### Additional Insured endorsement states:

An Insured is amended to include, as an additional insured, any person or organization for whom you are performing operations when you and such person or organization have **agreed in writing in a contract or agreement** that such person or organization be added as an additional insured on your policy



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## Additional Insured (AI) Endorsement Options

- Thirteen (13) additional insured options – *If not effectively selected, may leave coverage shortfalls*
  - e.g., AI but no contractual liability
- Option 1: CG 20 10 11 85 or equivalent
  - Provides the broadest additional insured coverage, including completed operations
- Option 2: CG 20 10 10 01 with CG 20 37 10 01 or equivalent combination
  - Provides coverage similar to CG 20 10 11 85 by adding completed operations coverage; still contains “arising out of” language which provides broader coverage for the AI
- Option 3: CG 20 10 07 04 with CG 20 37 07 04 or equivalent combination
  - CG 20 37 provides coverage for completed operations, however, the AI will not have coverage for liability resulting from their sole negligence

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## Additional Insured Status

*Don't trust:*  
VERIFY

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## Contractual Liability

- Included within the Commercial General Liability (“CGL”) policy, and followed by excess or umbrella forms
- Despite the term, Contractual Liability is not a warranty or insurance that covers breach of contract
- It is an exception to an exclusion in the CGL, which allows the policy to respond to the Insured’s promise of indemnity in an “Insured Contract”

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## Insurance Certificates

- Imperfect, but likely the best system we have to understand contractor and vendor insurance coverages and to efficiently check compliance with the utility's requirements
- However, note that Insurance Certificates are not always accurate. Establish a process to periodically review and request updated Insurance Certificates
- Use (and abuse!) of Insurance Certificates is currently under scrutiny by State insurance departments
  - *If it's not in the policy, it can't be put on a certificate; and if it's on a certificate, it MUST be specifically a part of the policy*
  - *In many cases, this includes the practice of only showing partial limits*

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## Evaluating Insurance Certificates


- Review for compliance with what was asked for in the contract with the contractor or vendor
- Check for coverage dates, policy limits, and policy numbers
- Correct parties on Certificate?
  - Contractor / Vendor properly identified? Same party as in the contract?
  - Utility company properly named as Additional Insured
  - Are parent / subsidiaries / affiliates of the Utility named?

**Note:** Insurance Certificates do not in and of themselves confer coverage. Not a binding document.

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## Certificates of Insurance

		<b>CERTIFICATE OF LIABILITY INSURANCE</b>		DATE (MM/DD/YYYY) 04/27/2015	
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(S), AUTHORIZED REPRESENTATIVE OR PRODUCER, AND THE CERTIFICATE HOLDER.					
<b>IMPORTANT:</b> 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).					
<b>PRODUCER</b>  ABC Insurance Broker 527 West Parkway Augusta, GA 30909		<b>CONTACT</b> NAME: Horatio Alger PHONE (A/C, No, Ext): 555-5555 E-MAIL: 555-5555 ADDRESS:		<b>FAX</b> (A/C, No):	
<b>INSURED</b>  Contractor 801 Halleck Avenue Augusta, GA 30901		<b>INSURER(S) AFFORDING COVERAGE</b>		<b>NAIC #</b>	
		<b>INSURER A:</b> Liberty Mutual Insurance		23035	
		<b>INSURER B:</b> Employers Insurance of Wausau			
		<b>INSURER C:</b> Aegis Insurance Company		24767	
		<b>INSURER D:</b> Travelers Insurance Company		36940	
		<b>INSURER E:</b> Hartford Insurance		22357	
		<b>INSURER F:</b> Ohio Casualty		24074	

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## Certificates of Insurance

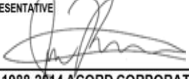
COVERAGES		CERTIFICATE NUMBER:		REVISION NUMBER:	
THIS IS TO CERTIFY THAT THE POLICIES OF INSURANCE LISTED BELOW HAVE BEEN ISSUED TO THE INSURED NAMED ABOVE FOR THE POLICY PERIOD INDICATED. NOTWITHSTANDING ANY REQUIREMENT, TERM OR CONDITION OF ANY CONTRACT OR OTHER DOCUMENT WITH RESPECT TO WHICH THIS 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.					
INSR	TYPE OF INSURANCE	ADOL SUBR	POLICY NUMBER	POLICY EFF (MM/DD/YYYY)	POLICY EXP (MM/DD/YYYY)
A	<b>COMMERCIAL GENERAL LIABILITY</b> <input type="checkbox"/> CLAIMS-MADE <input checked="" type="checkbox"/> OCCUR Contractual XCU Included GEN'L AGGREGATE LIMIT APPLIES PER: <input type="checkbox"/> POLICY <input type="checkbox"/> PRO-JECT <input type="checkbox"/> LOC OTHER:	X X	ZZZZ999888777	02/20/2015	02/20/2016
B	<b>AUTOMOBILE LIABILITY</b> <input type="checkbox"/> ANY AUTO <input checked="" type="checkbox"/> ALL OWNED AUTOS <input checked="" type="checkbox"/> HIRER AUTOS <input type="checkbox"/> SCHEDULED AUTOS <input type="checkbox"/> NON-OWNED AUTOS Contractual	X X	AAA6665544330	02/20/2015	02/20/2016
C	<input checked="" type="checkbox"/> UMBRELLA LIAB <input type="checkbox"/> EXCESS LIAB <input type="checkbox"/> DED <input checked="" type="checkbox"/> RETENTION \$ 10,000 <input type="checkbox"/> CLAIMS-MADE <input checked="" type="checkbox"/> OCCUR	X X	YYBB111000	02/20/2015	02/20/2016
D	<b>WORKERS COMPENSATION AND EMPLOYERS LIABILITY</b> ANY PROPRIETOR/PARTNER/EXECUTIVE OFFICER/MEMBER EXCLUDED? (Mandatory in NY) If yes, describe under DESCRIPTION OF OPERATIONS below	Y/N Y N/A X	WC77733100 GA PA,MO,LA,MD,TX,IN,KY,FL,WI	02/20/2015	02/20/2016
E	Environmental Impairment Liability ETT999000	X X	CCC222000-CYBER CLAIMS MADE RETRO 11/1/10	02/20/2014	02/20/2015
F	E&O (Professional) PPP33210	X X			
<b>DESCRIPTION OF OPERATIONS / LOCATIONS / VEHICLES (ACORD 101, Additional Remarks Schedule, may be attached if more space is required)</b>  Certificate Holder is an additional insured with respects to General Liability, Auto Liability, Excess (Umbrella) Liability and Environmental Impairment Liability policies. Subrogation is waived as against Certificate Holder in respects to the General Liability, Auto Liability, Excess Liability, Workers' Compensation, Cyber, Environmental Impairment Liability and Professional Liability policies. The above coverages are to be on a primary basis in relation to the additional insured's own policy, which will be non-contributing.					

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## Certificates of Insurance

CERTIFICATE HOLDER	CANCELLATION
<p>Gas Company 700 Market St. Louis, MO 63101</p>	<p>SHOULD ANY OF THE ABOVE DESCRIBED POLICIES BE CANCELLED BEFORE THE EXPIRATION DATE THEREOF, NOTICE WILL BE DELIVERED IN ACCORDANCE WITH THE POLICY PROVISIONS.</p>
	<p>AUTHORIZED REPRESENTATIVE </p>
<p>ACORD 25 (2014/01)      © 1988-2014 ACORD CORPORATION. All rights reserved. The ACORD name and logo are registered marks of ACORD</p>	

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## Notice of Cancellation

- **Cancellation** provision – requires contractor’s insurer to provide the utility with advance notice that contractor’s insurance policy will be cancelled
- One of the most frequent “hang-ups” experienced in contract insurance requirements and certificates of insurance
- Concept was to ensure that an Additional Insured and / or a Certificate holder would be directly notified by the contractor’s insurance company
  - Rarely works that way, and never has
- State insurance departments are scrutinizing
- Now most cancellation provisions must be specifically and individually endorsed to the policy – this is not a slam dunk

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## Certificate Changes – Cancellation

<i>Old Text</i>	<i>New Text</i>
SHOULD ANY OF THE ABOVE DESCRIBED POLICIES BE CANCELLED BEFORE THE EXPIRATION DATE THEREOF, THE ISSUING INSURER WILL ENDEAVOR TO MAIL ___ DAYS WRITTEN NOTICE TO THE CERTIFICATE HOLDER NAMED TO THE LEFT, BUT FAILURE TO DO SO SHALL IMPOSE NO OBLIGATION OR LIABILITY OF ANY KIND UPON THE INSURER, ITS AGENTS OR REPRESENTATIVES.	SHOULD ANY OF THE ABOVE DESCRIBED POLICIES BE CANCELLED BEFORE THE EXPIRATION DATE THEREOF, NOTICE WILL BE DELIVERED IN ACCORDANCE WITH THE POLICY PROVISIONS.

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## Additional Contractual Considerations

- How long is coverage needed?
  - Contractor shall procure and maintain in effect during the term of the agreement, and for a period of \_\_\_\_\_ years thereafter the following coverages
- Require contractor's coverage to be "Primary and Noncontributory"
  - Contractor agrees to stipulate that such insurance is primary and is not additional to; or contributing with, any other insurance carried by on for the benefit of the owner
- Beware of the Limitation of Liability Clause. *The fine print can hurt you.*
  - Evaluate the risk and understand how the limit of liability will apply before agreeing to the contract
  - Negotiate – even if it is part of a standard form
  - Limits of insurance is a possible compromise if the amount of the insurance reflects the amount of the risk

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## Owners and Contractors Protective Liability (“OCP”)

- Occasionally, contractors will ask to provide an OCP policy instead of naming Owner as an Additional Insured on their existing / operational liability insurance coverage
- Typically, contractors will emphasize advantages to this approach – all potentially valid – including
  - It is a separate policy in the name of the Owner – not the contractor
  - It provides Owner with a separate set of limits, instead of potentially sharing the limits of the contractor’s existing / operational insurance coverages
  - Once purchased, it’s typically non-cancellable by the insurer
  - Since it is a policy in the name of the Owner – the full policy will be provided, instead of an insurance certificate (i.e., more complete evidence of coverage)
- This alternative should be carefully considered before accepting

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## Owners and Contractors Protective Liability (“OCP”)

OCP vs. Additional Insured	OCP	Additional Insured
Separate Policy in Utility Name	Utility is Named Insured, “owns” the policy and is sole beneficiary of policy protection. Utility receives the full policy. Contractor pays the premium.	As Additional Insured on a contractor policy the insurer would still have a duty directly to Utility, which would have to be treated with same good faith as the Named Insured contractor. Utility receives a Certificate of Insurance as evidence of coverage. Contractor pays the premium.
Separate Limits Dedicated to Project	Policy aggregate limits are not eroded by claims on contractors other projects during the year. If a small contractor or concerns that claims from contractor’s other projects may erode policy aggregate, this is a benefit.	Potential that adverse claims experience from contractor’s other projects may erode limits available to respond to Utility project. This can be rectified by requirement that contractor’s policy is endorsed so that aggregate limits apply “per project”.
Availability of Excess Liability	Normally only limits available to Utility will be limits specified in the OCP, with no excess liability insurance protection above.	Normally, if designated Additional Insured on primary liability policy, Utility would also be an Additional Insured on contractor’s excess liability policies above the primary layer.

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## Owners and Contractors Protective Liability (“OCP”)

OCP vs. Additional Insured	OCP	Additional Insured
<b>Duration of Coverage</b>	Coverage only applies during tenure of project – no completed operations coverage for losses which arise after contractor's work is completed.	While most Additional Insured endorsements seek to exclude completed operations coverage, this coverage can be carved back in by endorsement.
<b>Coverage if Utility is alleged to be jointly negligent</b>	Coverage for Utility negligence is limited to “general supervision” only. This term is rarely defined, and is subject to interpretation – sometimes only through litigation.	As an Additional Insured on contractor's policy, generally Utility can be covered for its own concurrent negligence/liability, in addition to the liability of the contractor imputed vicariously to Utility, as long as the loss is not due to Utility's “sole” negligence. (Depending on Indemnification Agreement)
<b>Notice of Cancellation</b>	Utility and contractor receive notice.	Normally only contractor receives notice; however can be modified by endorsement to provide that Utility also receive notice as Additional Insured.
<b>Other Insurance</b>	OCP policy is specifically primary.	Other insurance language in contractor's policy may have to be modified so that as Additional Insured, contractor's policy is primary and any Utility coverage is excess over and above contractor cover.

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## You Can Lead a Horse to Water: Internal Pushbacks

**“Our insurance requirements are too strict and require too much!”**

**“Why does this apply to the small, local contractors we have always used?”**

**“If you don’t make an exception, the project will be delayed and it’s your fault.”**

**“Nothing is going to happen. This contractor is just doing [fill in the blank].”**

**“But, he used to work here. Our insurance should cover him.”**

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## Pushback from Contractors (and red flags)



“I can’t get the coverage you require.”



“I can’t afford the premium to get the coverage you require.”



“I’m a sole proprietor or only have a couple employees so I’m not required to carry workers’ compensation.”



“I’ll just add the cost of the coverage you require to my invoice.”

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## Utility Case Study #1: Where Things Appear to be Going Wrong



- Utility’s contractor allegedly damaged historic church constructed in 1844 while installing a transformer vault
- Utility tendered claim to contractor and contractor’s carrier. Contractor and carrier denied coverage, disputing the contract documents.
- Church sued utility and contractor. Contractor and carrier again denied tender.
- Church lawsuit settled
- Utility is now suing contractor. Utility prevailed in appellate courts on contract issues and case should soon be set for trial on damages.

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## Utility Case Study #2: Where Things Definitely Went Wrong



- Emergency boiler feedwater pump repairs – contractor / vendor called and plant “ran repairs” under an existing contract or P.O. that was specific to a different scope of work.
- Contractor employee was inside BFP when a “burp” sent hot water past a check valve that was not properly engaged by the contractor employee, seriously burning the worker
- Contractor employee sued utility, and utility tendered back to the contractor and contractor’s insurance carrier under existing contract’s indemnification clause
- Contractor and insurer successfully argued that contract indemnity and insurance requirement did not extend to unrelated emergency work
- Final settlement & cost to utility: \$458,000 + legal costs

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## Utility Case Study #3: Where Things Went Right



- During refurbishment of boiler tubing, contractor employees were using power plant manlift to access boiler building elevations
- Contractor employee fell 20’ onto next elevation grating while stepping onto or off the manlift, resulting in serious head injuries
- In addition to collecting substantial workers compensation benefits from employer, employee sued the utility for substantial general damages, alleging improper safeguards and training on use of the manlift
- Indemnification, WC waiver of subrogation and appropriate insurance requirements in place – tendered to contractor and its insurers
- Negotiated confidential settlement reached (est. mid-six figures)
- **Cost to utility: \$-0-.**

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## Utility Case Study #4: And Now the Emerging Risk



- Two regulated utility business units owned by the same parent used an outside contractor for work on their customer information systems;
- The contractor engaged an unauthorized subcontractor for some of the work, and shared access to Personally Identifiable Information (“PII”) in the CIS;
- Investigation determined that approximately 1.8 million customer records were compromised, requiring notification and credit monitoring be made available to potentially impacted customers;
- At last word approximately **\$4 million** expended, with additional costs expected; State PUC directed utilities that costs will NOT be recovered through rates or riders;

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## “Too Small to Fail”?

Can a plugged toilet actually cause this?

**\$400+ Million**



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## Practical Considerations

- Determine degree of leverage and competitive landscape of the bidding/contracting process and use it to your best advantage in securing contract protections;
- Sometimes it is necessary to compromise;
- Allowing reasonable limitations of liability are often necessary when negotiating commercial terms, but should be avoided if at all possible when negotiating responsibility for property damage and bodily injuries arising out of contractor / vendor activities and operations;
  - Allowing limitation of liability with respect to 3rd party injuries & damages should rarely if ever be allowed;
- Keep current with and understand insurance, be state-of-art when specifying insurance requirements;
- Be specific in designing and communicating insurance requirements – but within reason;
- Assure that insurance requirements and limits are expressed as the minimum coverage necessary to qualify for / be in compliance with the work or project, and that the contractor/vendor understands they are solely responsible to determine the proper types and amounts of insurance to protect themselves, others and their indemnity obligations under the contract or agreement.

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## Questions?



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