



**OLYMPUS**  
INSURANCE



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# Avoiding Liabilities from Contracted Work

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BRIAN CHILD, CLCS, CIC  
ACCOUNT EXECUTIVE  
OLYMPUS INSURANCE

JARED SMITH, ARM  
RISK MANAGER  
CITY OF WEST JORDAN

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What can  
go wrong?



SUBSCRIBE



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# **Jury awards \$4.75 million in Vienna fireworks accident**





# 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



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# 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

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

# Contract / Project Risk Management Steps

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What type of  
contract will we  
enter in to?



# Step 1 – Identify Scope

## Project / Contract Examples

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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



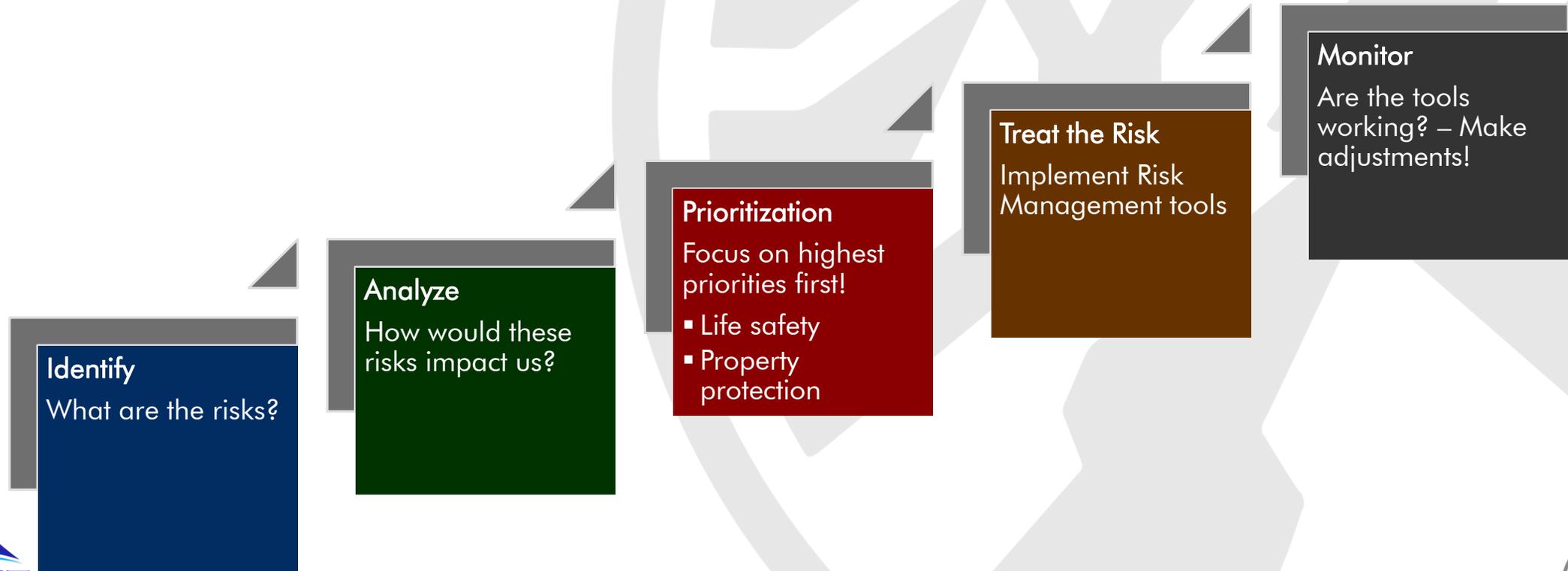




# Step 1 – Identify Scope

## Project Risk Assessment

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# Step 1 – Identify Scope

## Project Risk Assessment

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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

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## Employee & citizen safety

- Work performed near the public or employees?



- Appropriate signage?

- Designated vehicle & pedestrian traffic routes?



# Step 1 – Identify Scope

## Project Risk Assessment

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### 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

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## 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

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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: <b>WORKERS COMPENSATION FUND</b> Policy Number: Policy Period: <b>01/01/2016 To 01/01/2017</b> at 12:01 a.m.				
Classifications	Code No.	Premium Basis Total Estimated Annual Remuneration	Rates Per \$100 of Remuneration	Estimated Annual Premium
<b>STATE: UT</b>				
SEWAGE DISPOSAL PLANT OPERATIONS & DRIVERS CLERICAL OFFICE EMPLOYEES	7580 8810	2,382,269 267,219	2.63 .15	\$62,653.67 \$400.83
<b>MANUAL PREMIUM</b>				<b>\$63,054.50</b>
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
<b>TOTAL STANDARD PREMIUM</b>				<b>\$37,292.64</b>
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
<b>ESTIMATED ANNUAL PREMIUM</b>				<b>\$34,302.11</b>
<b>Total Due For: UT</b>				<b>\$34,302.11</b>



# Step 2 – Contractor Selection

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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 <sup>2</sup>	NAICS code <sup>3</sup>	Total recordable cases
Support activities for oil and gas operations .....	213112	1.6
<b>Construction .....</b>		<b>3.6</b>
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

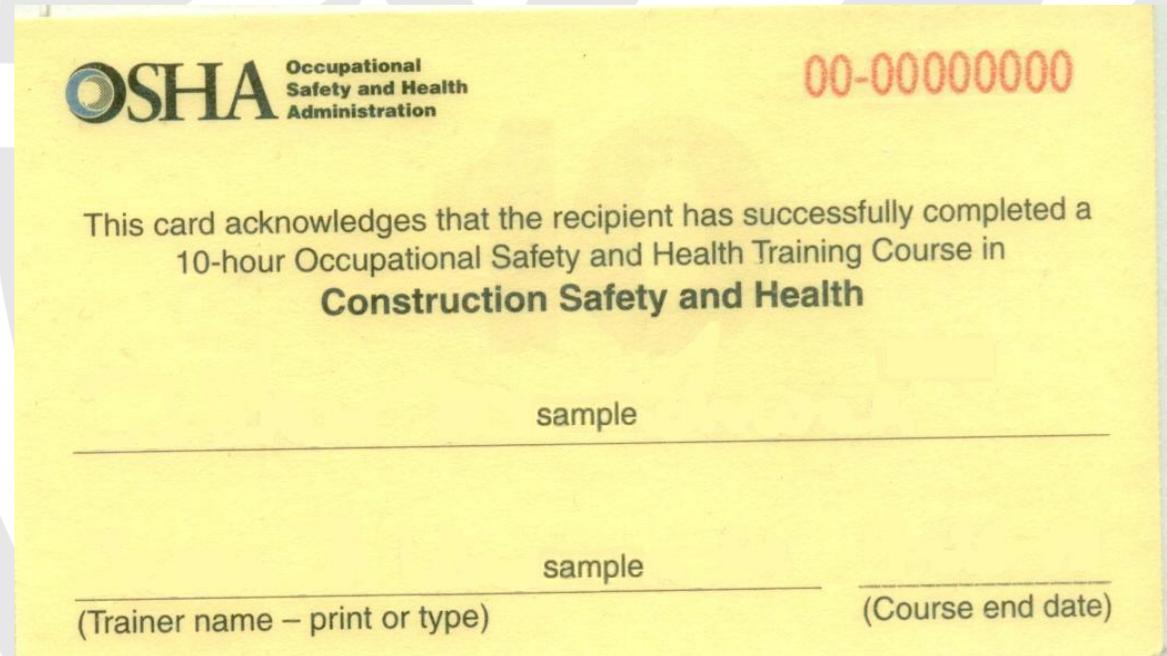
Culture of safety and risk awareness

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										
<b>EXTERIOR</b>										
Ground under vehicle free of leaked fluids?										
Auto body free of new damage?										
Clean windows and mirrors?										
Windshield wipers/washers appear OK?										
<b>TIRES APPEAR OK?</b>										
Properly inflated?										
Free of visible damage?										
<b>UNDER THE HOOD</b>										
Adequate clean oil?										
Hoses appear OK? (e.g., no cracks, leaks)										
Belt appear OK? (e.g., no fraying)										
Adequate windshield washer fluid?										
<b>ITEMS STORED IN VEHICLE?</b>										
Current, valid insurance ID card?										
Current, valid vehicle registration?										
First-aid kit?										
Seatbelt cutter?										
Flares or reflective triangles?										
Fire extinguisher?										
Blanket? (winter only)										
<b>ITEMS INSPECTED FROM THE INTERIOR APPEAR OK?</b>										
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.)										
Tire level adequate?										
No warning lights (e.g., check brakes) lit?										
2-way communication device? (e.g., radio)										
Horn?										
Back-up alarm (if equipped)?										
Brakes?										
Heater, defroster, and AC?										
<b>LIGHTS WORKING PROPERLY?</b>										
Each headlight (high & low beam)?										
Each tail light and marker light?										
Each brake light?										
Each turn signal?										
Each back-up light?										
Hazard lights (front and rear)?										
License plate light?										
Interior lights?										
<b>If equipped WHEELCHAIR LIFT and RAMP APPEAR OK?</b>										
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?										

\*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.

DRIVER: \_\_\_\_\_ PRINT NAME: \_\_\_\_\_  
 \_\_\_\_\_ SIGNATURE: \_\_\_\_\_

Form ODA0008 (Rev. 12/2008)



# Step 3 - Insurance Requirements

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# Step 3 – Insurance Requirements

## Key Definitions

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**Indemnification** – compensate (someone) for harm or loss, secure (someone) against legal responsibility for their actions.

**Subrogation** – the substitution of one person or group by another in respect of a debt or insurance claim, accompanied by the transfer of any associated rights and duties.

# Step 3 – Insurance Requirements

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## POLICIES

General liability

Automobile liability

Excess liability

Workers' compensation / Employers liability

Environmental Liability

Builders' risk

## 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

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Bodily injury

Property damage

Personal injury

Advertising injury

Completed operations

- Construction defects

# Step 3 – Insurance Requirements

## Automobile Liability

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



# Step 3 – Insurance Requirements

## Excess Liability

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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

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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

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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**



# Step 3 – Insurance Requirements

## Builders' Risk

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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

## Verify Compliance

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### 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

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

Excluded officers or owners on WC...

ACORD CERTIFICATE OF LIABILITY INSURANCE

WEST060 OP ID: BD  
DATE (MMDDYYYY) 09/14/2016

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 DESCRIBED 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: B. Darrell Child, PHONE: (801) 468-1111, FAX: (801) 468-1111, EMAIL: bchild@olympusins.com, ADDRESS: 8000 Redwood Road, West Jordan, UT 84088

INSURED: XYZ Contractor

INSURER(S) AFFORDING COVERAGE: INSURER A: Travelers Insurance Company

COVERAGES

INSR LTR	TYPE OF INSURANCE	ADDITIONAL INSURED	SUBROGATION	POLICY NUMBER	POLICY EFF DATE	POLICY EXP DATE	LIMITS
A	COMMERCIAL GENERAL LIABILITY CLAIMS-MADE <input checked="" type="checkbox"/> OCCUR <input checked="" type="checkbox"/>	X	X	123456789	07/01/2016	07/01/2017	EACH OCCURRENCE \$ 1,000,000 TOWERS TO TRENCH PREMISES (Ea occurrence) \$ 1,000,000 MED EXP (Any one person) \$ PERSONAL & ADV INJURY \$ 1,000,000 GENERAL AGGREGATE \$ 2,000,000 PRODUCTS - COMPROP AGG \$ 2,000,000
A	AUTOMOBILE LIABILITY ANY AUTO <input checked="" type="checkbox"/> ALL OWNED AUTOS <input type="checkbox"/> SCHEDULED AUTOS <input type="checkbox"/> HIRED AUTOS <input type="checkbox"/>	X	X	123456789	07/01/2016	07/01/2017	BODILY INJURY PROPERTY DAMAGE (Per accident) \$ EACH OCCURRENCE \$ 10,000,000 AGGREGATE \$ 10,000,000
A	UMBRELLA LIAB EXCESS LIAB <input checked="" type="checkbox"/> CLAIMS-MADE <input checked="" type="checkbox"/>	X	X	123456789	07/01/2016	07/01/2017	EACH OCCURRENCE \$ 10,000,000 AGGREGATE \$ 10,000,000
A	WORKERS COMPENSATION AND EMPLOYERS LIABILITY ANY PROPRIETOR/PARTNER/EXECUTIVE OFFICER/MEMBER EXCLUDED? (Mandatory in NH) If yes, describe under DESCRIPTION OF OPERATION			123456789	07/01/2016	07/01/2017	E.L. EACH ACCIDENT \$ 1,000,000 E.L. DISEASE - EA EMPLOYEE \$ 1,000,000 E.L. DISEASE - POLICY LIMIT \$ 1,000,000
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

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

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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

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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

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

An unsafe contractor, can cause injuries to citizens, city employees, and ultimately the city's reputation.



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# Questions?



# Contact Information

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**OLYMPUS**  
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Excellence.  
Innovation.  
Stability.

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