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2016 Risk Transfer

and

Coverage Verification Update

by

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2016 Risk Transfer & Coverage Verification Update

NOTE: In this workshop we discuss what needs to be done to effectively

1. Transfer risk,
2. Satisfy standard policy provisions, and
3. Verify Compliance with your Contract Insurance requirements

to obtain maximum protection for the Public Agency.

It is not our intent to rewrite your contract language and requirements. Rather, we are recommending updated language due to (1) changes needed as a result of new insurance coverage forms and (2) to help plug the gaps in the problem areas we have observed in many contracts.

Risk Transfer & Coverage Verification

The job of Risk Transfer and Coverage Verification has become much more difficult in recent years. After you set up your Risk Transfer provisions for your Vendor/Contractor, you **MUST** verify the coverage to know if they are complying with your requirements.

After the Contractor has contractually agreed to assume risk, it will require Insurance to pay for that risk, since most Contractors are not flush with cash!

How do you verify their Compliance with your Insurance requirements, especially with so many Insurance Companies now issuing "Restricted Coverage" policies?

In this workshop we will learn how to ensure ***Compliance and Verification*** in an effective and time-saving manner.

But you say – we require Certificates of Insurance for every Contractor/Vendor!

Many things NOT shown on **Certificates of Insurance** (COIs, Certs) endanger your Liability protection from the Contractor's Insurance Policy when there is substandard coverage – much of which they or their insurance Brokers may not even know about!



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1. Certs will NOT show if coverage complies with **your Contractual** requirements – the Certificate of Insurance picks and chooses what to tell you – and it's not the important things!
2. Certs will NOT show “Restricted Coverage” policy exclusions & endorsements that result in NO coverage, or reduced coverage for you – There are many of them!
3. Restrictions, Exclusions, or Limitations for location, types of ongoing or completed operations, type of work, etc. Examples:
 - a. Limitation of Coverage to Designated Premises or Project (CG 21 44)
 - b. Exclusion—Designated Ongoing Operations (CG 21 53)
4. Certs will NOT show exclusions or limitations for **Contractual** liability coverage, changes to the “insured Contract” definition, or Vendor/Contractor employee “action over” exclusions—all of which result in no coverage for your Indemnification on very expensive matters!
5. Certs will NOT show exclusions for Property Damage liability done by Subcontractors
 - a. Exclusion—Damage to Work Performed by Subcontractors on Your Behalf (CG 22 94)
6. Certs will NOT show Prior work exclusions, including:
 - a. Montrose exclusions, Continuous injury coverage exclusions, Modification of Occurrence definition, Continuous and Progressive or Pre-existing Damage endorsements.
 - b. All of these endorsements can have the effect of deleting Completed Operations Coverage, including **Construction Defect** coverage for you!
7. Certs will NOT show “Contractor’s endorsements” that change or exclude coverages that are otherwise included in standard policy provisions!
 - a. These are completely customized and manuscripted endorsements that totally change policy provisions – occasionally for good, but nearly all the time for bad.
8. Certs will NOT show waiver(s) of subrogation – they must be attached as actual copies of policy endorsements.
9. Certs will NOT show if coverage is primary for Underlying & Excess policy(ies)
10. Certs will NOT show specific Additional Insured Endorsements & Compliance for ongoing and completed operations – they must be attached as actual copies of policy endorsements.
11. Certs will NOT show details of any large **SIR endorsements** and dangers.





- a. If the SIR is not paid, there is NO COVERAGE for the Insured or for you as the Additional Insured or indemnified Party
12. Certs will NOT show verification of Insurance for any Subs hired by your Contractor.
13. **The worst part** – Under many of the Additional Insured forms, your Contract must specifically and correctly Require (1) the limits and (2) the extent of coverage or there is NO coverage beyond the Contract Requirements even if the policy would otherwise have provided for the coverage! No clear Contract Requirement = NO COVERAGE! See <http://www.certifiedriskmanagers.com/ISO0413forms.htm>

You can resolve these issues and adapt the methodology to do so into your existing system. We will show you how to identify them and do that.

First, we need to **understand the issues involved to see why and how to solve them.**

Transfer of Risk Using Contracts

1. When you hire a Contractor, you become liable for their work

- a. Public Entities & GCs have their own liability plus responsibility and liability for the actions of others they hire (Contractors and Subs)
- b. All parties need to have correct Insurance for both the liabilities they have, and the liabilities they assume in a Contract

2. Party best able to control the risk should be responsible—the Contractor/Vendor

- a. Proper use of Contract Agreements can transfer financial risk to the responsible party—Public Agency Transfers risk to the Contractor or his Subs doing the work and directly causing the risk





- b. The Contract specifies the requirements and responsibilities of each party and therefore the liabilities they assume

3. Two principal ways to transfer the cost to protect the Public Agency

1. Indemnity—Insured (paid for) by Contractor and by means of Contractual liability coverage and the definition of “insured contract” in Contractor’s Insurance policy
2. Insurance—Insure the Upstream Party by Additional Insured Endorsement(s) on the Contractor’s policy. We will cover those later.

4. **First** look at what contracts require, or should require—then examine the coverages that will pay for it.

5. Indemnification and Risk Transfer

- a. What it is—One party agrees to assume another’s liability
- b. In California, the Legislature has codified the definition of indemnity as follows: "Indemnity is a contract by which one engages to save another from a legal consequence of the conduct of one of the parties, or some other person." California Civil Code § 2772.

6. Types of liability to be Transferred

- a. Vicarious liability—liability as a function of law regardless of the actions of the Hiring Party





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- i. Negligence is not required to have vicarious liability

- b. Negligent Tort liability—Duty of Care; Prudent person standard; Breach resulting in harm = Negligence
 - i. Active liability—What you did caused the harm

 - ii. Passive liability—What you did not do, but could have, caused the harm; you could have prevented it; Failure to prevent a known danger may be considered “Active” negligence
 - 1. Passive examples: Failure to discover, supervise, inspect; prevent; an omission of a duty

 - iii. Strict Liability—no negligence required, only causation; Products, etc

- c. Contractual Liability—Liability of others assumed by Contract; Liability because the Contract says so! What the Contractor does to indemnify you.

- d. Joint & Individual (Several) Liability and its effect = deep pockets

- e. Professional Liability—Different from General (tort) Liability in that it includes Financial Harm even if no Bodily Injury or Property Damage happens; a financial loss from an error or omission





7. Types of indemnity agreements:

- a. Type I Contractual Indemnity— Allows indemnification for the Public Agency's Liability for damages from any tort liability, including Active or Passive, whether or not caused by the contractor or within his scope of work.
 - i. Exceptions: 1—Sole or 2—Willful Liability, including fraud
- b. Type II—Indemnification for the Passive, but not Active Liability of the Public Agency regardless of who caused it, i.e. whether or not caused by the indemnifying contractor; Indemnifies passive liability caused by others
- c. Type III—Indemnification only for Passive liabilities caused by the indemnifying contractor, but not Passive liability caused by others
- d. General Indemnity clause does not specifically address how much of the Public Agency's negligence is indemnified. At most, only Passive, not Active liability, is indemnified. May be tossed out of Court entirely!
 - i. Reference for Types 1-3 & General Indemnity clause: *McCrary Construction Co. v. Metal Deck Specialists, Inc.*, 133 Cal. App. 4th 1528 (2005)
- e. Danger of so-called "2 way indemnity" agreements! Actual Example:
 - i. Public Agency 1 shall defend, indemnify, and hold harmless Public Agency 2, its officers, agents, employees, assigns, and successors in interest from and against any and all suits, claims, causes of action, liability, losses, damages, demands or expenses (including, but not



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limited to, attorney's fees and costs of litigation), claimed by anyone by reason of injury to, or death of, any person(s), or for damage to, or destruction of, any property or for any and all other losses, founded upon or alleged to arise out of, pertain to, or relate to Public Agency 2's performance of the Agreement, whether or not contributed to by any act or omission of Public Agency 2, its officers, agents or employees.

- ii. Public Agency 2 shall defend, indemnify, and hold harmless Public Agency 1 and any and all of Public Agency 1's boards, officers, agents, employees, assigns, and successors in interest from and against any and all suits, claims, causes of action, liability, losses, damages, demands or expenses (including, but not limited to, attorney's fees and costs of litigation), claimed by anyone by reason of injury to, or death of, any person(s), or for damage to, or destruction of, any property or for any and all other losses, founded upon or alleged to arise out of, pertain to, or relate to the Public Agency 1's performance of the Agreement, whether or not contributed to by any act or omission of Public Agency 1 or any of Public Agency 1's boards, officers, agents, or employees.
- iii. What is the effect of this Type of indemnity? They cancel each other out and there is NO Indemnity! When the claim reaches the Insurance Company attorneys they will have a field day and the original good intent between the Public Agencies will be of no value.

8. Elements of Indemnification—

- a. Hold Harmless, Defend, Indemnify, & Waive subrogation rights.
 - i. Contractual waiver must be endorsed for Work Comp policy, but is allowed by ISO carriers for CGL policy & Business Auto





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- ii. Effect of waiver of subrogation—no right of recovery

- b. Contractual Duty to defend can stand separate from the duty to Indemnify
 - i. Crawford v. Weather Shield Mfg., Inc.(July 2008): Duty to defend arises immediately upon a proper tender of defense by the Owner regardless of actual negligence of the Contractor.

 - ii. Review and update Defense obligation in contracts!

- c. Length of obligation—During Contract, or including after completion – Why later—Construction Defect and liability for Bodily Injury
 - i. Currently, How long is allowed by law?

 - ii. Contract should include requirement it is the Contractor's responsibility that defense and indemnity obligations shall survive the termination of the agreement for the full period of time allowed by law

- d. Is Indemnity regardless of or limited by insurance coverage?
 - i. Contract should make clear that the defense and indemnification obligations of the agreement are undertaken in addition to, and are not limited by, the insurance obligations in the agreement.





9. INSURANCE COVERAGE FOR INDEMNITY OBLIGATIONS

- a. Standard ISO CGL Policies contain coverage **for the Named Insured** for liability assumed (Indemnified by Contractor) in an “Insured contract.”
 - i. “That part of any other contract or agreement pertaining to your business under which you (*the Named Insured Vendor/Contractor*) assume the tort liability of another party to pay for "bodily injury" or "property damage" to a third person or organization.” (definition “f.” of “insured contract” definition)
- b. **BEWARE** of endorsements restricting the Contractual Liability coverage or other endorsements excluding or changing the “insured contract” definition that provides this coverage.
- c. Do your Insurance requirements prohibit “modification of the standard ISO Contractual liability definition of an “insured Contract”?”
 - i. ISO CG 21 39 deletes the “f.” portion of the definition clause above
and results in no coverage for most Contracts (other than a. through e.)
- d. Effect on indemnification provisions—Contractor liable & no coverage

10. Employer’s Liability (Worker’s Comp) Indemnification—

- a. “Action over” employee liability suit against Public Agency
- b. Employee lawsuit of Public Agency is indemnified by Employer’s coverage
provided under the same ISO CGL definition of an “insured contract”





11. What about high deductibles or SIRs? What's the difference?

- a. Danger of large Self Insured Retentions (SIRs) (not deductibles)
 - i. A policy with a deductible (not SIR) requires that the Insurance Company perform their duties (defense and coverage) without prior payment, but not for SIRs. An SIR must be paid before any defense or coverage for damages applies!
 - ii. Forecast Homes Inc. vs. Steadfast Insurance Company—Carrier not obligated to provide coverage to Additional Insureds where the Named insured failed to pay the SIR. The Additional insured could not satisfy the SIR on behalf of the Named insured in order to trigger coverage.
 - iii. **Be very careful** of granting such high limit SIRs which must be paid by the named Insured.
 - iv. With respect to a Contractor that has a very high SIR – Do your due diligence. Require financials, collateral, Letter of Credit, security, etc sufficient to pay the SIR. Require a Contract provision that the Contractor pay the SIR
 - v. Have the Insurance Company amend the policy to provide that the Public Agency, not just the named Insured, can satisfy the SIR (in order to trigger coverage).
 - vi. Include Contract requirements that—





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1. Self-insured retentions (SIR) must be disclosed to Risk Management for approval and shall not reduce the limits of liability.
2. Policies containing any self-insured retention (SIR) provision provide, or be endorsed to provide, that the SIR may be satisfied by either the named Insured or the Public Agency.
3. Public Agency reserves the right to obtain a copy of the Insurance policy and endorsements.

12. Pass through or Pass down provision – require that any Subs hired by the Contractor require the same coverage for the Public Agency

13. Completed Operations exposure (liability after work completed) for Construction, Repair, & Maintenance Agreements:

- a. Require Contractor to maintain insurance for a minimum of 3-5 years (or more) following completion of the project.

14. Amount of risk not necessarily consistent with size of job

- a. Purchase order used for small jobs? Example: Tank Maintenance—built scaffold and EE injured
- b. Worker's comp "action over" liability for Public Agency from Contractor's or Sub's Employees
- c. Most Public Entities have services for which you do NOT require a Contract





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- i. Balance needed to not require overly cumbersome, strict, or excessive Insurance requirements. Doing so may rule out small, local, responsible vendors and create higher Contract costs. Do these on a pre-vetted service basis.
- ii. Evaluate higher risk operations for Contract requirements with higher limits. Awareness level training to:
 1. Distinguish low & high risk; routine vs suspicious; normal vs hazardous or risky. Examples: kids, large crowds, high voltage, water, heights, ladders, scaffolding, pyrotechnics, flammable, etc
- iii. Special event & facility rentals; Boy Scouts vs 5k run; too much risk for Public Agency to take on their own. Some policies available for these. Contact your JPA or Insurance broker for more info. It is dangerous to allow higher exposure and not transfer the risk.
- iv. Put your “Indemnity & Insurance Requirements” on the Purchase Order (or Proposal, Memorandum of Understanding, Letter of Intent, etc. – whatever you use) and have them sign and date it with a statement that they have read, understand, and agree to comply with the Indemnity and Insurance requirements supplied with the Purchase Order. This will “trigger” the “written Contract or Agreement” requirement for coverage in most policies.
- v. Surprising good coverage of small BOP policies.
- vi. **For RFPs:** It is strongly recommended when distributing an RFP (proposal) or RFQ (qualification) to include a document containing a summary of your Indemnity and Insurance Requirements that includes



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language to provide a copy of the requirements to their insurance broker or insurer to confirm compliance.

- vii. Then, at the bottom of the form have them sign, date, and return with language that they have read, understand, and agree to comply with the Indemnity and Insurance requirements supplied with their proposal.

Provides quick & early problem screening & policy trigger with late or no Contract!

15. Anti-Indemnity Public Agency restrictions for all construction related contracts:

- i. Civil Code Section 2782(b) provides that indemnification for the active negligence of a public agency relating to a construction related contract is invalid (i.e. void and unenforceable)

1. Type 1 is not allowable! Type 2 & 3 are ok

- ii. Assembly Bill 573, effective January 1, 2007 (Section 2782.8 of the California Civil Code) prohibits public agencies (but not the State) from requiring design professionals to indemnify for the public agencies' negligence or other fault (not just active), unless caused by that design professional

1. Type 1 & 2 is not allowable! Only Type 3 is ok





SB474—effective 1-1-2013

- b. NO MORE Type 1 indemnity—For contracts executed on or after 1-1-2013, Indemnification for active liability of the Public Agency will no longer be allowed in any construction related contract
 - i. Limitation also applies to defense for the Public Agency's active negligence—may now obtain only defense proportionate to the extent of damage caused by the contractor.

- c. The above does NOT apply to non-construction related contracts
 - i. To avoid overly broad indemnity provisions, use qualifying language such as: To the fullest extent allowed by law, Contractor shall...

The best indemnity Contract in the world is no good if the Contractor can not afford to pay for the indemnification promises; OR does not have Insurance to do so!

There are 2 primary ways to cover Contract obligations with Insurance

- 1) **Coverage as an Indemnified Party (Indemnitee)**—
 - a) Covered by means of Contractual liability coverage

 - b) Coverage is limited by definition of “Insured Contract” in Contractor's Policy
 - i) Is definition amended to require named insured contractor's fault





ii) Does definition otherwise exclude or reduce Contractual Coverage

c) **Policy exclusions or limitations** will also prevent coverage!

2) **Coverage by endorsement as an Additional Insured Party**

a) By means of Additional Insured Endorsement – not just Certificate of Insurance!

b) Coverage is limited by which form is used for Additional Insured. The issues that vary are:

i) When does coverage apply, i.e. during operations or after completion

(1) Completed Operations exposure for Construction, repair, and maintenance

ii) Does the form require the Contractor be at fault

iii) Does the policy itself have other exclusions or limitations that prevent coverage





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ALL 2013 ISO Additional Insured forms do not apply unless required by Contract!

1. **ALL** of the 2013 ISO Additional Insured Endorsements with the edition date of 04.13 contain provisions limiting and restricting their Insurance coverage for the Additional Insured to ONLY the requirements in the written contract (or agreement) between the parties.
2. **COVERAGE**—The Contract must explicitly require the extent of coverage or there is NO coverage! No clear Contract requirement = NO COVERAGE!
3. **LIMITS**—Even if your Contractor’s policy contains broader coverage or higher limits of liability than your contract requires, they will NOT apply in behalf of the Additional Insured or Indemnified Party (Indemnitee) unless it is required in the contract!

Contracts should require that (1) the full coverage and (2) the full limits available to the named insured shall also be available and applicable to the additional insured!

You should further require that the coverage and limits shall be (1) the minimum coverage and limits specified in your Agreement; or (2) the broader coverage and maximum limits of the coverage available to the named Insured; whichever is greater.

1. The new ISO CG 20 38 endorsement provides Additional Insured “ongoing operations” liability coverage for the Public Agency from the Contractor you hire **as well as for Subs he may hire** on an automatic basis **provided it is required in the Contract.**
 - a. The CG 20 33 provides this coverage for only the Contractor you hire and not any of his Subs. In this case the Subs must name you individually.
 - b. **Make sure your Contract requires it!** How—To receive the automatic blanket provisions of the CG 20 38 04 13 endorsement or coverage “at least as broad” (do not say “equivalent”) include a provision requiring it in your Contract. Have the Contractor require and verify that all subcontractors or other parties hired for this work purchase and maintain coverage for indemnity and insurance requirements as least as broad as specified in your agreement (to the extent they apply to the scope of the subcontractor’s work) and naming as additional insureds all parties to the Contract. Then have the Contractor provide a certificate of insurance as proof of Compliance and verification by the subs to the Public Agency upon request.



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2. The certificate of insurance, despite what it may say, is not enough! Be sure they provide proof to you (a copy and/or listing on the policy declarations and endorsement page) of the actual CG 20 38 policy endorsement that changes the coverage on the policy.
3. **With this new CG 20 38 04 13 we see no reason to use the CG 20 33 form once the CG 20 38 form is available to your contracting party.**

FOLLOWING ARE THE NEW SAMPLE FORMS OF THE CG 20 38 & CG 20 33 WITH HIGHLIGHTING AND NOTES TO SHOW THE DIFFERENCES



THIS ENDORSEMENT CHANGES THE POLICY. PLEASE READ IT CAREFULLY.

ADDITIONAL INSURED – OWNERS, LESSEES OR CONTRACTORS – AUTOMATIC STATUS FOR OTHER PARTIES WHEN REQUIRED IN WRITTEN CONSTRUCTION AGREEMENT

This endorsement modifies insurance provided under the following:

COMMERCIAL GENERAL LIABILITY COVERAGE PART

A. Section II – Who Is An Insured is amended to include as an additional insured:

1. 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; and
2. Any other person or organization you are required to add as an additional insured under the contract or agreement described in Paragraph 1. above.

Such person(s) or organization(s) is an additional insured only with respect to liability for "bodily injury", "property damage" or "personal and advertising injury" caused, in whole or in part, by:

- a. Your acts or omissions; or
- b. The acts or omissions of those acting on your behalf;

in the performance of your ongoing operations for the additional insured.

However, the insurance afforded to such additional insured described above:

- a. Only applies to the extent permitted by law; and
- b. Will not be broader than that which you are required by the contract or agreement to provide for such additional insured.

A person's or organization's status as an additional insured under this endorsement ends when your operations for the person or organization described in Paragraph 1. above are completed.

B. With respect to the insurance afforded to these additional insureds, the following additional exclusions apply:

This insurance does not apply to:

1. "Bodily injury", "property damage" or "personal and advertising injury" arising out of the rendering of, or the failure to render, any professional architectural, engineering or surveying services, including:
 - a. The preparing, approving, or failing to prepare or approve, maps, shop drawings, opinions, reports, surveys, field orders, change orders or drawings and specifications; or
 - b. Supervisory, inspection, architectural or engineering activities.

This exclusion applies even if the claims against any insured allege negligence or other wrongdoing in the supervision, hiring, employment, training or monitoring of others by that insured, if the "occurrence" which caused the "bodily injury" or "property damage", or the offense which caused the "personal and advertising injury", involved the rendering of, or the failure to render, any professional architectural, engineering or surveying services.

2. "Bodily injury" or "property damage" occurring after:
 - a. All work, including materials, parts or equipment furnished in connection with such work, on the project (other than service, maintenance or repairs) to be performed by or on behalf of the additional insured(s) at the location of the covered operations has been completed; or

- b. That portion of "your work" out of which the injury or damage arises has been put to its intended use by any person or organization other than another contractor or subcontractor engaged in performing operations for a principal as a part of the same project.
- C. With respect to the insurance afforded to these additional insureds, the following is added to **Section III – Limits Of Insurance:**
 - The most we will pay on behalf of the additional insured is the amount of insurance:
 - 1. Required by the contract or agreement described in Paragraph A.1.; or

- 2. Available under the applicable Limits of Insurance shown in the Declarations; whichever is less.

This endorsement shall not increase the applicable Limits of Insurance shown in the Declarations.

HIGHLIGHTS ADDED TO THE FORM

Color Font Added to the Form

THIS ENDORSEMENT CHANGES THE POLICY. PLEASE READ IT CAREFULLY.

ADDITIONAL INSURED – OWNERS, LESSEES OR CONTRACTORS – AUTOMATIC STATUS WHEN REQUIRED IN CONSTRUCTION AGREEMENT WITH YOU

This endorsement modifies insurance provided under the following:

COMMERCIAL GENERAL LIABILITY COVERAGE PART

A. Section II – Who Is 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. Such person or organization is an additional insured only with respect to liability for "bodily injury", "property damage" or "personal and advertising injury" caused, in whole or in part, by:

1. Your acts or omissions; or
2. The acts or omissions of those acting on your behalf;

in the performance of your ongoing operations for the additional insured.

However, the insurance afforded to such additional insured:

1. Only applies to the extent permitted by law; and
2. Will not be broader than that which you are required by the contract or agreement to provide for such additional insured.

A person's or organization's status as an additional insured under this endorsement ends when your operations for that additional insured are completed.

B. With respect to the insurance afforded to these additional insureds, the following additional exclusions apply:

This insurance does not apply to:

1. "Bodily injury", "property damage" or "personal and advertising injury" arising out of the rendering of, or the failure to render, any professional architectural, engineering or surveying services, including:
 - a. The preparing, approving, or failing to prepare or approve, maps, shop drawings, opinions, reports, surveys, field orders, change orders or drawings and specifications; or
 - b. Supervisory, inspection, architectural or engineering activities.

This exclusion applies even if the claims against any insured allege negligence or other wrongdoing in the supervision, hiring, employment, training or monitoring of others by that insured, if the "occurrence" which caused the "bodily injury" or "property damage", or the offense which caused the "personal and advertising injury", involved the rendering of or the failure to render any professional architectural, engineering or surveying services.

2. "Bodily injury" or "property damage" occurring after:
- a. All work, including materials, parts or equipment furnished in connection with such work, on the project (other than service, maintenance or repairs) to be performed by or on behalf of the additional insured(s) at the location of the covered operations has been completed; or
 - b. That portion of "your work" out of which the injury or damage arises has been put to its intended use by any person or organization other than another contractor or subcontractor engaged in performing operations for a principal as a part of the same project.

- C. With respect to the insurance afforded to these additional insureds, the following is added to **Section III – Limits Of Insurance:**

The **most we will pay** on behalf of the additional insured **is the amount** of insurance:

- 1. **Required by the contract** or agreement you have entered into with the additional insured; **or**
- 2. **Available under the applicable Limits** of Insurance shown in the Declarations; **whichever is less.**

This endorsement shall not increase the applicable Limits of Insurance shown in the Declarations.

HIGHLIGHTS ADDED TO THE FORM

Color Font Added to the Form



The NEW ISO CG 20 01 ENDORSEMENT PROVIDES EXPLICIT PRIMARY AND NON-CONTRIBUTORY COVERAGE

1. This is a new endorsement that expressly states that the coverage is provided to an additional insured Public Agency on a “primary and non-contributory” basis
2. This endorsement is activated only if the named insured Contractor has agreed to these terms in a written contract or agreement.
3. **Make this a requirement in all your Contracts!**
The Additional Insured coverage under the Contractor’s policy shall be “primary and non-contributory” and will not seek contribution from the Public Agency’s insurance or self-insurance and shall be at least as broad as CG 20 01 04 13.
4. **Excess Insurance**—Most excess or umbrella policies usually contains language that makes them excess only, and not primary. This policy language requires exhaustion of all policy limits (including the Public Agency’s) before any excess policy applies. Include language in your Contract that requires the umbrella or excess Insurance to provide coverage on a primary and non-contributory basis:
The limits of Insurance required in this agreement may be satisfied by a combination of primary and umbrella or excess Insurance. Any umbrella or excess Insurance shall contain or be endorsed to contain a provision that such coverage shall also apply on a primary and non-contributory basis for the benefit of Public Agency as required in a written contract or agreement before the Public Agency’s own Insurance or self-insurance shall be called upon to protect it as a named insured.

FOLLOWING IS THE NEW SAMPLE CG 20 01 ENDORSEMENT WITH NOTES



THIS ENDORSEMENT CHANGES THE POLICY. PLEASE READ IT CAREFULLY.

PRIMARY AND NONCONTRIBUTORY – OTHER INSURANCE CONDITION

This endorsement modifies insurance provided under the following:

COMMERCIAL GENERAL LIABILITY COVERAGE PART
PRODUCTS/COMPLETED OPERATIONS LIABILITY COVERAGE PART

The following is added to the **Other Insurance** Condition and supersedes any provision to the contrary:

Primary And Noncontributory Insurance

This insurance is primary to and will not seek contribution from any other insurance available to an additional insured under your policy provided that:

- (1) The additional insured is a Named Insured under such other insurance; and

- (2) You have agreed in writing in a contract or agreement that this insurance would be primary and would not seek contribution from any other insurance available to the additional insured.



PRACTICAL EFFECTS OF THE 2013 FORMS—

1. The first thing the Insurance Company will look for to deny coverage is the underlying Contract! **Your Contract becomes an endorsement to the policy!**
2. Even if the Contractor's policy contains broader coverage or higher limits of liability they will NOT apply in behalf of the Additional Insured / Indemnified Party (Indemnitee) unless it is required in the contract!
3. Unless agreements between “friendly parties” (both parties are Public Entities) contain clear written requirements, you may have no Insurance coverage at all from your Insurance carrier for anything in excess of the Self Insured Retention limits!
4. Public Entities need the correct written requirements in their contracts! Otherwise the Insurance of Contractors will not provide the expected coverage!
5. Contracts or agreements **must be clear** as respects the extent of additional insured coverage required. Many agreements simply require a party to the contract to be an "additional insured" or simply "an insured." What, then, is the scope of coverage agreed upon? (Negligence or “Caused by” requirement, Active, Passive, Vicarious, etc.)
6. Require that Contractors provide coverage “at least as broad” (not just “equivalent”) as the specific ISO forms listed in your Insurance requirements. Make provisions to analyze whether “non-standard (non-ISO) forms” constitute coverage “at least as broad” since most, but not all Companies, use the ISO forms.

A reference Matrix of various ISO Indemnity and Additional Insured Endorsement forms and their appropriate application follows.





ISO COVERAGES for Parties Other than the Named Insured

CAUTION! Non-ISO Manuscript Policies or Modified Definitions or Endorsements differ from the standard ISO coverages below! Be very careful!

INDEMNIFIED PARTY Contractual Liability Coverage for Named Insured (Definition of “Insured Contract”)

Ongoing Operations (During Construction)	Completed Operations (After Construction)	NOT require “caused by” Named Insured; Covers Type 1, 2 or 3	REQUIRES “caused by” Named Insured; covers <u>only</u> Type 3 indemnity
Standard ISO “Insured Contract” definition in CG 00 01	Standard ISO “Insured Contract” definition in CG 00 01	Standard ISO “Insured Contract” definition in CG 00 01	CG 24 26 07 04 & 04.13+ AMENDMENT OF INSURED CONTRACT DEFINITION
CG 21 39 deletes “f.” NO COVERAGE	CG 21 39 deletes “f.” NO COVERAGE	CG 21 39 deletes “f.” NO COVERAGE	CG 21 39 deletes “f.” NO COVERAGE

BEWARE of endorsements amending, excluding, or changing Contractual Liability coverage or the “insured contract” definition that provides the liability coverage for Indemnification obligations assumed by Contract by the Named Insured Vendor/Contractor.

ADDITIONAL INSURED ENDORSEMENT Coverage (CG 20 01 adds Primary & Non-Contributory)

Ongoing Operations (During Construction)	Completed Operations (After Construction)	NOT require “caused by” Named Insured	REQUIRES “caused by” Named Insured to trigger coverage. <u>ALL</u> 07.04 & 04.13
Named AI- CG 2010 & 2026#—All editions	CG 2010 & 2026# 11.85 Edition only	YES—all except 07.04 & 04.13*+	CG 2010 & 2026# 07.04 & 04.13*+
“Blanket” CG 2033 All editions & 2038 4.13*+	CG 2033 & 2038 04.13*+ = NO Coverage	YES—all except 07.04 & 04.13*+	CG 2033 07.04 & CG 2038 04.13*+
Named AI - CG 2037 = NO Coverage	CG2037 ALL editions	YES 10.01; NO 07.04 & 04.13*+	CG 2037 07.04 & 04.13*+

EXAMINE CAREFULLY Non-ISO Additional Insured Endorsements to see how they differ from the above for coverage in each of the 4 column and 3 row categories.

2026 (or 2011) covers “Designated” Additional Insured for rental of premises; 2012 = AI for Permits “Blanket” (Automatic Status) forms need written Contract or Agreement requirement to trigger coverage. + All of the 04 13 Endorsements above apply only to the extent permitted by law.

* ALL of the 04.13 Additional Insured Endorsements **will NOT (1) provide broader coverage or (2) pay higher limits than required by the written Contract or Agreement!** The Contract must explicitly require the limits and extent of coverage or there is NO coverage even if the policy would otherwise provide the coverage!

No clear Contract requirement = NO COVERAGE!



“RESTRICTED COVERAGE POLICIES” – A Whole new class of Insurance

- 1) Some Companies actually specialize in Restricted Coverage policies, and other Companies have them as options.

- 2) Chilling statements made by an executive of a large, national Insurance Company:
 - a) ‘Brokers need to understand and explain to their Insureds that we don’t ever expect to pay a loss under this type of policy.’

 - b) ‘They need to understand all they are getting is paper to allow them to get on the job.’

- 3) **Certificates of Insurance will not warn you of the restricted or excluded items!**

- 4) Your Contractor’s Insurance Company will not pay

- 5) Many, if not most, Contractor policies now have special endorsements!

- 6) **Examples of Restricted Coverage Endorsements** put on policies:
 - a) **Non-standard Additional Insured Endorsements** providing less coverage, or with unreasonable limitations or conditions

 - b) **Prior work exclusions—These are deadly!**
 - i) Montrose exclusions – continuous injury coverage exclusions.





- ii) Modification of Occurrence definition

- iii) Various Continuous and Progressive / Pre-existing Damage endorsements

- iv) **These endorsements can have the effect of deleting Completed Operations Coverage, including Construction Defect coverage for both Additional Insured Endorsements and Contractual Liability indemnity coverage—The 2 principal methods of covering the Public Agency!**

- c) **Restrictive Exclusions** – type of work, residential, # of units, etc—No coverage if the work excluded is what they are doing for you!

- d) **Limitation** of Coverage to Designated Premises or Project (CG 21 44)—No coverage if the Designated Project is not yours!

- e) **Exclusion**—Designated Ongoing Operations (CG 21 53)—No coverage if the Operations are the work they are doing for you!

- f) **Exclusion—Damage to Work Performed by Subcontractors on Your Behalf (CG 22 94) – Removes coverage for Property Damage liability!**

- g) **Wrap Up policies** (OCIPs, CCIPS, etc) – can be very good, or very, very bad
 - i) **Coverage Considerations for a Wrap Policy are completely different! All the normal rules above will not apply! Please get help if you are involved in a Wrap-up project! Much of my expert witness time the last several years has been where Wrap policies were involved!**





h) Contractor's Endorsements – the catch all!

- i) One Company underwriter said 'we put all the bad stuff in that one endorsement hoping they won't notice.'
- 7) If the Public Agency is named on a **policy with exclusions** or “wrong” coverage or no coverage—**there is no coverage** for the Public Agency as an Additional Insured, or the named Insured Contractor!
- 8) **VERIFICATION** of Coverage Compliance[®] IS THE MOST IMPORTANT PART OF THE ENTIRE PROCESS! Make it **standard practice** (authorized & required by your Contract) that you require a Certificate of Insurance with the following attached—
- i) **Waiver of subrogation endorsement for Workers' Compensation**
 - ii) **Additional Insured Endorsement for “ongoing operations”** (i.e., CG 20 10, CG 20 33, or CG 20 38. Do not use the CG 20 33 if Subs may be involved. Phase out usage of the CG 20 33 as the CG 20 38 becomes available.)
 - iii) **Additional Insured Endorsement for “completed operations” exposures such as construction, repair, or maintenance operations** (i.e., CG 20 37 if scope of work makes it applicable due to completed operations exposure.)
 - iv) **Primary & non-contributory coverage** (Such as CG 20 01 04.13)
 - v) **A copy of the Declarations & Policy Endorsements page for the GL policy.**





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(This is **necessary** to help **identify** “Restricted Coverage” policies and endorsements and verify if limitations or exclusions have been added to the policy – the policy endorsements will be listed here.)

IF YOU DO NOT KNOW WHAT AN ENDORSEMENT OR POLICY PROVIDES OR CONTAINS—GET HELP!

THE BEST CONTRACT FOR INDEMNITY AND INSURANCE REQUIREMENTS IS USELESS UNLESS VERIFIED FOR COVERAGE COMPLIANCE!

Here is the process we follow, and you can integrate the same methodology into your Risk Management program:

Our *Coverage Compliance Verification*® (CCV) Program actually verifies Coverage Compliance® (not just document or Cert Compliance) with the customized Insurance requirements from your specific Contract for each item for each Contractor!

Upon receipt of your brief intake information of your preferences and your Contract with your Insurance Coverage Requirements, we provide you—

1. An Insurance Coverage Requirements **Addendum** (if needed) for your Contract of typical Insurance requirements that may not be in the Agreement and are important to your coverage and verification of compliance.
2. We Prepare and Provide the **Insurance Requirements Guide** for the Contractor/Vendor and do all data entry.
3. We work with Contractors to facilitate and **verify Coverage Compliance**® and keep the Public Agency advised of communications.
4. **We upload all data and documentation** of *Coverage Compliance*® (or Non-Compliance) to the website for each item of your Insurance requirements for the Contractor along with copies of all documents and communication. Real time Status



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and comprehensive search features with password protection are available at all times on the website of each item for every Contractor for all Projects.

5. All communication is based upon your contact preferences, your specific insurance requirements, and our proprietary *Coverage Compliance Verification*® system with our large **Database of Restrictive and Prohibited endorsements** helping to identify policies and endorsements that could reduce or exclude your Risk Transfer coverage protection.

We have now automated to a large degree what previously has been a time consuming task.

For additional information on our Coverage Compliance Verification® program, you may see details at www.CoverageComplianceVerification.com

Or contact me at Bob@CertifiedRiskManagers.com or my direct line at 949-613-7075.





APPLICATION OF KNOWLEDGE LEARNED

- 1) Use the recommended Contract language & Additional Insured endorsements!
- 2) Use a “Summary of Indemnity and Insurance requirements” with signature for RFPs, RFQs, Purchase Orders, MOUs, LOIs, etc to prevent problems, solve earlier, trigger coverage, and make the process simpler & quicker!
 - a) Having this signed “Summary” triggers available coverage for:
 - i) Indemnity for Contractual Liability coverage (“Insured Contract” definition) and “action over” Workers' Compensation claims
 - ii) Automatic Blanket Additional Insured Endorsements
- 3) Use the new ISO CG 20 38 as available for broader coverage (for Subs) to replace the 20 33 automatic blanket Additional Insured (OK if no Subs)
- 4) Focus on high risk operations for higher limits. Awareness level training to:
 - a) Distinguish low & high risk; routine vs suspicious; normal vs hazardous or risky.
Examples: kids, large crowds, high voltage, water, heights, ladders, scaffolding, pyrotechnics, flammable, etc
- 5) Verification of requirements –Require the Declarations & Endorsements page with the Certificate of Insurance. Review the Schedule and Evaluate Yellow (Need more info—could be a problem) and red flags (Prohibited endorsements). It saves time, expedites any delays and questions to an earlier, manageable time process.
- 6) Pay special attention to the Schedule of Policy endorsements for—
 - a) Contractual Liability “Insured Contract” definition changes or exclusions
 - b) The correct Additional Insured Endorsements per your requirements
 - c) Policy exclusions, limitations, and reductions in coverage





R. J. Marshburn & Associates

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BIOGRAPHICAL PROFILE—Robert J. Marshburn, CRM, CIC, ARM, CRIS, CISC, CCIP



In independent industry evaluations, Mr. Marshburn is consistently rated as one of the nation's top Risk Management Consultants and Educators. He is the founder and principal of R. J. Marshburn & Associates, CertifiedRiskManagers.com, an independent risk management consulting and educational firm. He has been in risk management 40 years.

Mr. Marshburn holds the professional designations of Certified Risk Manager (CRM), Associate in Risk Management (ARM), Certified Insurance Counselor (CIC), Construction Risk & Insurance Specialist (CRIS), Certified Insurance Specialist in Construction (CISC), and Certified Construction Insurance Program (CCIP).

Mr. Marshburn works as an outsourced risk manager, as an independent consultant to clients, and in association with other professionals with their clients. He is an appealing, frequent speaker before various groups on risk management and insurance topics.

Mr. Marshburn was an original designated member of the National Faculty of the Certified Risk Managers teaching courses for qualification for the CRM professional designation and served as a consultant developing the CRM program on the Curricula Advisory Committee. He authored Graduate courses and teaches workshops in Indemnification & Additional Insureds, Contractual Liability & Insurance Coverage, Construction Defect issues, Wrap-Up Policies, and Ethics.

He is the co-creator and author of the Certified Insurance Specialist in Construction (CISC) professional designation that was later merged into the Construction Risk & Insurance Specialist (CRIS) program from the International Risk Management Institute which he also teaches. In addition, he serves as the Senior Educational Consultant and Instructor to the Insurance Community University and is a co-creator of the University's Certified Construction Insurance Program (CCIP).

Mr. Marshburn is a nationally recognized expert in the field of Contractual risk transfer, including indemnity and insurance requirements for risk management. He currently serves as the contributing editor of the California Public Agency Contract Manual.

He is the founder and creator of the [Coverage Compliance Verification](#)[®] Program and specializes in the challenges posed in Construction Risk, including Construction Contracts, Contractual Liability Analysis & Design, Insurance Policy Coverages and Endorsements, Wrap Policies (OCIPs, CCIPs, etc), Construction Defect Liability, and Coverage Disputes.

Mr. Marshburn has been retained as a consultant, educator, and expert witness for some of the nation's premier builders, contractors, risk managers, carriers, developers, brokers, consultants, attorneys, public entities, industry & trade associations, and educational organizations.





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EXHIBITS



THIS ENDORSEMENT CHANGES THE POLICY. PLEASE READ IT CAREFULLY.

ADDITIONAL INSURED – OWNERS, LESSEES OR CONTRACTORS – SCHEDULED PERSON OR ORGANIZATION

This endorsement modifies insurance provided under the following:

COMMERCIAL GENERAL LIABILITY COVERAGE PART

SCHEDULE

Name Of Additional Insured Person(s) Or Organization(s)	Location(s) Of Covered Operations
<p>MUST LIST ALL ENTITIES PRECISELY! IF NOT LISTED, THEY ARE NOT COVERED!</p>	<p>ALL LOCATIONS FOR XYZ ENTITY(IES)</p>
<p>Information required to complete this Schedule, if not shown above, will be shown in the Declarations.</p>	

A. Section II – Who Is An Insured is amended to include as an additional insured the person(s) or organization(s) shown in the Schedule, but only with respect to liability for "bodily injury", "property damage" or "personal and advertising injury" **caused, in whole or in part, by:**

1. **Your acts or omissions; or**
2. The acts or omissions of **those acting on your behalf;**

in the performance of **your ongoing operations** for the additional insured(s) at the location(s) designated above.

However:

1. The insurance afforded to such additional insured **only applies to the extent permitted by law;** and
2. If coverage provided to the additional insured is required by a contract or agreement, the insurance afforded to such additional insured **will not be broader than** that which you are **required by** the **contract** or agreement to provide for such additional insured.

B. With respect to the insurance afforded to these additional insureds, the following additional exclusions apply:

This insurance **does not apply to** "bodily injury" or "property damage" occurring **after:**

1. All work, including materials, parts or equipment furnished in connection with such work, on the project (other than service, maintenance or repairs) to be performed by or on behalf of the additional insured(s) at the location of the covered **operations** has been **completed;** or
2. That portion of "your work" out of which the injury or damage arises has been put to its intended use by any person or organization other than another contractor or subcontractor engaged in performing operations for a principal as a part of the same project.

C. With respect to the insurance afforded to these additional insureds, the following is added to **Section III – Limits Of Insurance:**

If coverage provided to the additional insured is required by a contract or agreement, **the most we will pay** on behalf of the additional insured **is the amount** of insurance:

1. **Required by the contract** or agreement; **or**

2. **Available** under the applicable **Limits** of Insurance shown in the Declarations; **whichever is less.**

This endorsement shall not increase the applicable Limits of Insurance shown in the Declarations.

HIGHLIGHTS ADDED TO THE FORM

RED CAPS WORDING ADDED TO THE FORM

THIS ENDORSEMENT CHANGES THE POLICY. PLEASE READ IT CAREFULLY.

ADDITIONAL INSURED – OWNERS, LESSEES OR CONTRACTORS – COMPLETED OPERATIONS

This endorsement modifies insurance provided under the following:

COMMERCIAL GENERAL LIABILITY COVERAGE PART
 PRODUCTS/COMPLETED OPERATIONS LIABILITY COVERAGE PART

SCHEDULE

Name Of Additional Insured Person(s) Or Organization(s)	Location And Description Of Completed Operations
MUST LIST ALL ENTITIES PRECISELY! IF NOT LISTED, THEY ARE NOT COVERED!	ALL LOCATIONS FOR XYZ ENTITY(IES)

Information required to complete this Schedule, if not shown above, will be shown in the Declarations.

A. Section II – Who Is An Insured is amended to include as an additional insured the person(s) or organization(s) shown in the Schedule, but only with respect to liability for "bodily injury" or "property damage" **caused, in whole or in part, by "your work"** at the location designated and described in the Schedule of this endorsement performed for that additional insured and included in the **"products-completed operations hazard"**.

However:

1. The insurance afforded to such additional insured **only applies to the extent permitted by law;** and
2. If coverage provided to the additional insured is required by a contract or agreement, the **insurance** afforded to such additional insured **will not be broader than** that which you are **required by the contract** or agreement to provide for such additional insured.

B. With respect to the insurance afforded to these additional insureds, the following is added to **Section III – Limits Of Insurance:**

If coverage provided to the additional insured is required by a contract or agreement, **the most we will pay** on behalf of the additional insured **is the amount** of insurance:

1. **Required by the contract or agreement; or**
2. **Available under the applicable Limits of Insurance** shown in the Declarations;
whichever is less.

This endorsement shall not increase the applicable Limits of Insurance shown in the Declarations.

HIGHLIGHTS ADDED TO THE FORM

RED CAPS WORDING ADDED TO THE FORM



CERTIFICATE OF LIABILITY INSURANCE

DATE (MM/DD/YYYY)

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.

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	CONTACT NAME:	
	PHONE (A/C, No. Ext):	FAX (A/C, No):
	E-MAIL ADDRESS:	
	INSURER(S) AFFORDING COVERAGE	NAIC #
INSURED	INSURER A :	
	INSURER B :	
	INSURER C :	
	INSURER D :	
	INSURER E :	
	INSURER F :	

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 LTR	TYPE OF INSURANCE	ADDL INSD	SUBR WVD	POLICY NUMBER	POLICY EFF (MM/DD/YYYY)	POLICY EXP (MM/DD/YYYY)	LIMITS
	COMMERCIAL GENERAL LIABILITY <input type="checkbox"/> CLAIMS-MADE <input type="checkbox"/> OCCUR _____ GEN'L AGGREGATE LIMIT APPLIES PER: <input type="checkbox"/> POLICY <input type="checkbox"/> PRO-JECT <input type="checkbox"/> LOC OTHER: _____						EACH OCCURRENCE \$ DAMAGE TO RENTED PREMISES (Ea occurrence) \$ MED EXP (Any one person) \$ PERSONAL & ADV INJURY \$ GENERAL AGGREGATE \$ PRODUCTS - COMP/OP AGG \$ _____ \$
	AUTOMOBILE LIABILITY <input type="checkbox"/> ANY AUTO <input type="checkbox"/> ALL OWNED AUTOS <input type="checkbox"/> HIRED AUTOS <input type="checkbox"/> SCHEDULED AUTOS <input type="checkbox"/> NON-OWNED AUTOS						COMBINED SINGLE LIMIT (Ea accident) \$ BODILY INJURY (Per person) \$ BODILY INJURY (Per accident) \$ PROPERTY DAMAGE (Per accident) \$ _____ \$
	UMBRELLA LIAB <input type="checkbox"/> OCCUR EXCESS LIAB <input type="checkbox"/> CLAIMS-MADE DED _____ RETENTION \$ _____						EACH OCCURRENCE \$ AGGREGATE \$ _____ \$
	WORKERS COMPENSATION AND EMPLOYERS' LIABILITY ANY PROPRIETOR/PARTNER/EXECUTIVE OFFICER/MEMBER EXCLUDED? <input type="checkbox"/> Y / <input type="checkbox"/> N / A (Mandatory in NH) If yes, describe under DESCRIPTION OF OPERATIONS below						<input type="checkbox"/> PER STATUTE <input type="checkbox"/> OTH-ER E.L. EACH ACCIDENT \$ E.L. DISEASE - EA EMPLOYEE \$ E.L. DISEASE - POLICY LIMIT \$

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

CERTIFICATE HOLDER**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

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ACORD™ CERTIFICATE OF LIABILITY INSURANCE

DATE (MM/DD/YYYY)
09/25/2015

PRODUCER

**ACTUAL SAMPLE -
NOTE THE ITEMS IN
YELLOW BELOW**

INSURED

Names & Policy #s have been redacted for privacy.

THIS CERTIFICATE IS ISSUED AS A MATTER OF INFORMATION ONLY AND CONFERS NO RIGHTS UPON THE CERTIFICATE HOLDER. THIS CERTIFICATE DOES NOT AMEND, EXTEND OR ALTER THE COVERAGE AFFORDED BY THE POLICIES BELOW.

INSURERS AFFORDING COVERAGE	NAIC #
INSURER A: COLONY	
INSURER B: PROGRESSIVE	
INSURER C: NATIONAL UNION FIRE INS. CO OF	
INSURER D: BENCHMARK INSURANCE COMPANY	
INSURER E:	

COVERAGES

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. AGGREGATE LIMITS SHOWN MAY HAVE BEEN REDUCED BY PAID CLAIMS.

INSR	ADD'L LTR	INSRD	TYPE OF INSURANCE	POLICY NUMBER	POLICY EFFECTIVE DATE (MM/DD/YY)	POLICY EXPIRATION DATE (MM/DD/YY)	LIMITS	
A	X		GENERAL LIABILITY <input checked="" type="checkbox"/> COMMERCIAL GENERAL LIABILITY <input type="checkbox"/> CLAIMS MADE <input checked="" type="checkbox"/> OCCUR <input checked="" type="checkbox"/> DED. \$ 1,000 GEN'L AGGREGATE LIMIT APPLIES PER: <input checked="" type="checkbox"/> POLICY <input type="checkbox"/> PROJ <input type="checkbox"/> LOC	101GL	12/20/14	12/20/15	EACH OCCURRENCE	\$ 1,000,000
							DAMAGE TO RENTED PREMISES (Ea occurrence)	\$ 100,000
							MED EXP (Any one person)	\$ 5,000
							PERSONAL & ADV INJURY	\$ 1,000,000
							GENERAL AGGREGATE	\$ 2,000,000
							PRODUCTS & COMP/OP AGG	\$ 2,000,000
B			AUTOMOBILE LIABILITY <input type="checkbox"/> ANY AUTO <input type="checkbox"/> ALL OWNED AUTOS <input checked="" type="checkbox"/> SCHEDULED AUTOS <input checked="" type="checkbox"/> HIRED AUTOS <input checked="" type="checkbox"/> NON-OWNED AUTOS	0243	10/07/14	10/07/15	COMBINED SINGLE LIMIT (Ea accident)	\$ 1,000,000
							BODILY INJURY (Per person)	\$
							BODILY INJURY (Per accident)	\$
							PROPERTY DAMAGE (Per accident)	\$
			GARAGE LIABILITY <input type="checkbox"/> ANY AUTO				AUTO ONLY > EA ACCIDENT	\$
							OTHER THAN AUTO ONLY: EA ACC	\$
							AGG	\$
C			EXCESS/UMBRELLA LIABILITY <input checked="" type="checkbox"/> OCCUR <input type="checkbox"/> CLAIMS MADE DEDUCTIBLE RETENTION \$	EBU02	12/20/14	12/20/15	EACH OCCURRENCE	\$ 9,000,000
							AGGREGATE	\$ 9,000,000
							PROD/COMP OPS	\$ 9,000,000
							CRISIS RESP LMT	\$ 250,000
							EXCESS CRIS. LMT	\$ 50,000
D			WORKERS COMPENSATION AND EMPLOYERS' LIABILITY ANY PROPRIETOR/PARTNER/EXECUTIVE OFFICER/MEMBER EXCLUDED? If yes, describe under SPECIAL PROVISIONS below YES	CST50	1/31/15	1/31/16	<input checked="" type="checkbox"/> WC STATUTORY LIMITS <input type="checkbox"/> OTH: ER	
							E.L. EACH ACCIDENT	\$ 1,000,000
							E.L. DISEASE > EA EMPLOYEE	\$ 1,000,000
							E.L. DISEASE > POLICY LIMIT	\$ 1,000,000
			OTHER					

DESCRIPTION OF OPERATIONS / LOCATIONS / VEHICLES / EXCLUSIONS ADDED BY ENDORSEMENT / SPECIAL PROVISIONS

THE CITY OF _____ THEIR OFFICERS, OFFICIALS, EMPLOYEES AND VOLUNTEERS ARE ADDED AS ADDITIONAL INSURED PER CONDITIONS OF THE ATTACHED FORMS CG 20 10 07 04, CG 20 37 07 04, U047-0310. AUTO IS PROOF OF INSURANCE ONLY. AND PROVIDED A WAIVER OF SUBROGATION ON WORKERS COMPENSATION COVERAGE PER CONDITIONS OF THE ATTACHED FORM WC 04 03 06. EXCESS IS FORM TO FOLLOW ON CGL. ALL OFFICERS / OWNERS / PARTNERS ARE EXCLUDED FROM WORKER'S COMPENSATION COVERAGE.

CERTIFICATE HOLDER

CANCELLATION

SHOULD ANY OF THE ABOVE DESCRIBED POLICIES BE CANCELLED BEFORE THE EXPIRATION DATE THEREOF, THE ISSUING INSURER WILL ENDEAVOR TO MAIL 30 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.

AUTHORIZED REPRESENTATIVE, _____

IMPORTANT

If the certificate holder is an ADDITIONAL INSURED, the policy(ies) must be endorsed. A statement on this certificate does not confer rights to the certificate holder in lieu of such endorsement(s).

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).

DISCLAIMER

The Certificate of Insurance on the reverse side of this form does not constitute a contract between the issuing insurer(s), authorized representative or producer, and the certificate holder, nor does it affirmatively or negatively amend, extend or alter the coverage afforded by the policies listed thereon.

COMMERCIAL GENERAL LIABILITY
CG 20 10 07 04

THIS ENDORSEMENT CHANGES THE POLICY. PLEASE READ IT CAREFULLY.

**ADDITIONAL INSURED – OWNERS, LESSEES OR
CONTRACTORS – SCHEDULED PERSON OR
ORGANIZATION**

This endorsement modifies insurance provided under the following:

COMMERCIAL GENERAL LIABILITY COVERAGE PART

SCHEDULE

Name Of Additional Insured Person(s) Or Organization(s):	Location(s) Of Covered Operations
All persons or organizations as required by written contract with the insured.	various
Information required to complete this Schedule, if not shown above, will shown in the Declarations.	

It is further agreed that this insurance shall be Primary and Non-Contributory but only in the event of a Named Insured's sole negligence.

A. Section II – Who Is An Insured is amended to include as an additional insured the person(s) or organization(s) shown in the Schedule, but only with respect to liability for "bodily injury", "property damage" or "personal and advertising injury" caused, in whole or in part, by:

1. Your acts or omissions; or
2. The acts or omissions of those acting on your behalf;

in the performance of your ongoing operations for the additional insured(s) at the location(s) designated above.

B. With respect to the insurance afforded to these additional insureds, the following additional exclusions apply:

This insurance does not apply to "bodily injury" or "property damage" occurring after:

1. All work, including materials, parts or equipment furnished in connection with such work, on the project (other than service, maintenance or repairs) to be performed by or on behalf of the additional insured(s) at the location of the covered operations has been completed; or
2. That portion of "your work" out of which the injury or damage arises has been put to its intended use by any person or organization other than another contractor or subcontractor engaged in performing operations for a principal as a part of the same project.

COMMERCIAL GENERAL LIABILITY
CG 20 37 07 04

THIS ENDORSEMENT CHANGES THE POLICY. PLEASE READ IT CAREFULLY.

**ADDITIONAL INSURED – OWNERS, LESSEES OR
CONTRACTORS – COMPLETED OPERATIONS**

This endorsement modifies insurance provided under the following:

COMMERCIAL GENERAL LIABILITY COVERAGE PART

SCHEDULE

Name Of Additional Insured Person(s) Or Organization(s):	Location And Description Of Completed Operations
All persons or organizations as required by written contract with the insured.	Various
Information required to complete this Schedule, if not shown above, will be shown in the Declarations.	

It is further agreed that this insurance shall be Primary and Non-Contributory but only in the event of a Named Insured's sole negligence.

Section II – Who Is An Insured is amended to include as an additional insured the person(s) or organization(s) shown in the Schedule, but only with respect to liability for "bodily injury" or "property damage" caused, in whole or in part, by "your work" at the location designated and described in the schedule of this endorsement performed for that additional insured and included in the "products-completed operations hazard".

THIS ENDORSEMENT CHANGES THE POLICY. PLEASE READ IT CAREFULLY.

TRANSFER OF RIGHTS OF RECOVERY AGAINST OTHERS TO US

This endorsement modifies insurance provided under the following:

COMMERCIAL GENERAL LIABILITY COVERAGE PART
PRODUCTS/COMPLETED OPERATIONS LIABILITY COVERAGE PART

The following is added to Paragraph 8. **Transfer Of Rights Of Recovery Against Others To Us** of Section **IV – Conditions**:

We waive any rights of recovery we may have against any person or organization because of payments we make for injury or damage resulting from your ongoing operations or "your work" done under a contract with that person or organization and included in the "products-completed operations hazard" if:

- a. you agreed to such waiver;
- b. the waiver is included as part of a written contract or lease; and
- c. such written contract or lease was executed prior to any loss to which this insurance applies.

ALL OTHER TERMS AND CONDITIONS OF THE POLICY REMAIN UNCHANGED.

WAIVER OF OUR RIGHT TO RECOVER FROM OTHERS ENDORSEMENT-CALIFORNIA

We have the right to recover our payments from anyone liable for an injury covered by this policy. We will not enforce our right against the person or organization named in the Schedule. (This agreement applies only to the extent that you perform work under a written contract that requires you to obtain this agreement from us.)

You must maintain payroll records accurately segregating the remuneration of your employees while engaged in the work described in the Schedule.

The additional premium for this endorsement shall be 2 % of the California workers' compensation premium otherwise due on such remuneration.

Schedule

Person or Organization

Job Description

Any person or organization as required by written contract.

This endorsement changes the policy to which it is attached and is effective on the date issued unless otherwise stated.

(The information below is required only when this endorsement is issued subsequent to preparation of the policy.)

Endorsement Effective 01/31/2015

Policy No. CST50

Endorsement No. 1

Coverage Dates: 01/31/2015 - 01/31/2016

Premium \$

Insured

Carrier Name / Code: Benchmark Insurance Company A

WC 04 03 06

(Ed. 4-84)

Countersigned by

