

Presentation prepared for:  
St. George, Utah

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*Senior Vice President*  
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TRUSTED SINCE 1910



Utah Municipal Attorneys Association



# Insurance Issues

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1. Indemnity agreements
2. Commercial General Liability - EXCLUSIONS
3. Evidence of insurance(*ACORD*)
4. Insurance terminology
5. Professional liability
6. Special events
7. Ordinances Requiring Bonds
7. Electronic/Technology/Cyber
8. Limits of Insurance



# Indemnity Agreements

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- Broader than ANY insurance contract
- “Any and all claims...”
- Indemnify/defend/hold harmless
- Not limited to insurance coverage limits
- Contractual Liability (this is not contractual guarantee) Bond
- INCLUDE SUB CONTRACTORS!!!
- Include insurance requirements or to an Insurance Exhibit
- Include employees, volunteers



# Typical Exclusions

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- Property in “care, custody or control”
- Railroad (*50 feet*)
- Non-BI/PD (Employment etc)
- War / Nuclear / Terrorism
- Event or Athletic Participants
  - Some have small “medical” only
- Liquor
- Employee Dishonesty (Yours)
- Cyber/Technology/Email
- WORKERS COMP
- Exclusions de jour
  - *Mold / Asbestos / Silica/Pollution*
  - *Intentional*
- Construction Defects
  - *Ongoing Operations only*
- Aircraft/Hot Air balloons/Drones
  - Rides/Candy Drop



# Acord

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- Certificate of Insurance (*COI*)
- It Is Only Evidence (31A-22-1701)
  - Provides no assurance of coverage (Info Only)
  - Inherent limitations
  - Cannot alter terms and conditions
- **GET THE POLICY OR SIGNED ENDORSEMENT!!!** For activities with significant risk of injury or damage



**ACORD. CERTIFICATE OF LIABILITY INSURANCE**

DATE (MM/DD/YYYY)  
04/11/2011

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 Moreton & Company - Utah 709 East South Temple Salt Lake City, UT 84102 801-631-1234	CONTACT NAME: Kary Oldroyd PHONE (In, Ext): 801-631-1234 FAX (In, Ext): 801-631-6117 ADDRESS: PRODUCER CUSTOMER ID #: INSURER(S) AFFORDING COVERAGE:
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.

LINE	TYPE OF INSURANCE	INSURER	POLICY NO.	DATE OF POLICY	EXPIRES	LIMITS
1	GENERAL LIABILITY					EACH OCCURRENCE \$
	<input type="checkbox"/> COMMERCIAL GENERAL LIABILITY <input type="checkbox"/> CLAIMS-MADE <input type="checkbox"/> OCCUR					FAVOR TO POLICY \$ MED EXP (Any and person) \$ PERSONAL & ADV INJURY \$ GENERAL AGGREGATE \$ PRODUCTS - COMP/OP AGG \$
	GEN'L AGGREGATE LIMIT APPLIES PER: <input type="checkbox"/> POLICY <input type="checkbox"/> OCC <input type="checkbox"/> LOC					\$
	AUTOMOBILE LIABILITY					COMBINED SINGLE LIMIT (Per accident) \$ BODILY INJURY (Per person) \$ BODILY INJURY (Per accident) \$ PROPERTY DAMAGE (Per accident) \$
2	<input type="checkbox"/> ANY AUTO <input type="checkbox"/> ALL OWNED AUTOS <input type="checkbox"/> SCHEDULED AUTOS <input type="checkbox"/> HIRED AUTOS <input type="checkbox"/> NON-OWNED AUTOS					\$
	UMBRELLA LIAB <input type="checkbox"/> OCCUR EXCESS LIAB <input type="checkbox"/> CLAIMS-MADE DEDUCTIBLE \$ RETENTION \$					EACH OCCURRENCE \$ AGGREGATE \$ \$
3	WORKERS COMPENSATION AND EMPLOYERS LIABILITY ANY PROPRIETOR/PARTNER/EXECUTIVE OFFICER/OWNER EXCLUDED? (Mandatory in NH)					(FC, STATE, FED) LIMITS \$ \$1. EACH ACCIDENT \$ \$1. DISEASE - EA EMPLOYEE \$ \$1. DISEASE - POLICY LIMIT \$
	THIS SECTION UNDER REGULATION OF JURISDICTIONS below					

DESCRIPTION OF OPERATIONS / LOCATIONS / VEHICLES (Attach ACORD 101, Additional Remarks Schedule, 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





# Insurance Terminology

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- Old Terms In Contracts
  - Comprehensive Liability
  - Public Liability
  - Casualty Insurance
  - Personal Injury
- New Term
  - Commercial General Liability



# Professional Liability

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- AKA – Errors & Omissions
  - Malpractice
- Not standardized coverage language
- Be aware of insurance limits
  - Per project aggregate
  - Per policy aggregate
- Could be “claims-made” policy
  - Be careful of the coverage term
- Additional Insured?
- All kinds of professionals
  - Computer programmers
  - Advertising
  - Advice





# Special Events

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- Outside of the course and scope
- Governmental function
- Immunity apply?
- Participants exclusions – BE CAREFUL HERE
- Any unique activities?
  - Hot air balloons/Halverson Candy Drop
  - Mutton bustin’
  - Motor vehicles



# Bonds (performance/payment)

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- License & Permit Bonds
  - Analyze the reason
  - Outdated ordinances
- Performance / Payment Bonds (*contract guarantee*)
  - Cash deposit better?
  - Personal opinion – Bonding companies seldom pay...



# Electronic Technology/Cyber

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- Separate coverage
- Limits for 1<sup>st</sup> party
- Limits for expenses
- Breach Response



# Limits of Insurance

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- New Municipal Tort Caps (7-1-16)
  - \$ BI Per Person
  - \$ BI Per Occurrence
  - \$ PD
- Claims Outside of Immunity - Federal
- Private Insurance Limits – different format
  - Per Occurrence / Aggregate
  - Barneck v. Utah Department of Transportation
    - Proximately caused by the immunity...



# Insurance Requirements

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- Limits
- Terms and conditions
- Additional insured
- Primary and non-contributory (“other insurance provisions”)
- Matrix (Hazard & Limits)
  - Salt Lake County
  - Layton City
- Workers’ Compensation - Volunteers
  - New volunteer statute



## Other

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- EMPLOYEE MISTAKES via EMAIL
- Personal use of City vehicles
  - Statutory limits apply
  - Solutions
- Certificates of insurance
  - accommodating the small contractor/vendor
  - Out of the ordinary
  - Gordon Graham – “Playing in the upper left hand box”
  - Low frequency – high hazard





# Contact

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