Contract Guide Course for Design Professionals:

June 2, 2017

Presented by:

J. Kent Holland, J.D.

Construction*Risk, LLC*

Kent@ConstructionRisk.com
703-623-1932

AIA Registered Course

This course is taught by a Registered Provider with The American Institute of Architects Continuing Education Systems. Credit earned on completion of this program will be reported to CES Records for AIA members. Certificates of Completion for non-AIA members are available on request.

This program is registered with the AIA/CES for continuing professional education. As such, it does not include content that may be deemed or construed to be an approval or endorsement by the AIA of any material of construction or any method or manner of handling, using, distributing or dealing in any material or product. Questions related to specific materials, methods, and services will be addressed at the conclusion of this presentation.

Copyright Information © 2017

Some Key clauses to review

- Standard of Care
- Indemnification
- Limitation of Liability
- Waiver of Consequential Damages
- Insurance/waiver of subrogation/additional insured requirements
- Any warranties
- Time of the essence
- Ownership and copyright of instruments of service
- Cost overruns/cost estimates
- Compliance with laws
- Site visits/inspections
- Certifications
- Payment provisions
- Incorporation by reference
- Dispute resolution
- Prevailing party attorneys fees
- Lien waivers
- Confidentiality requirements

Standard of Care (problem)

- The following clause in an owner-generated contract requires greater than the generally accepted standard.
  - *"DP represents that its services will be performed in a manner consistent with the highest standards of care, diligence and skill exercised by nationally recognized consulting firms for similar services."*

Standard of Care (solution)

- AIA B101-2007, Section 2.2 reads as follows:
  - "The Architect shall perform its services consistent with the professional skill and care ordinarily provided by architects practicing in the same or similar locality under the same or similar circumstances. The Architect shall perform its services as expeditiously as is consistent with such professional skill and care and the orderly progress of the Project."

Standard of Care (solution 2)

- If the contract seems to contain language that might be interpreted as warranties and guarantees, consider adding a catch-all sentence to the "Standard of Care" section stating something like this:
  - "No warranty or guarantee, either express or implied, is made or intended by this Agreement."

Standard of Care (solution 3)

- If “highest standard” language cannot be deleted, consider adding a clause like this:
  - “The performance standard is not intended to create a warranty, guarantee or a strict liability standard, and it is expressly agreed that DP is agreeing only that its services will not be performed negligently or with willful or reckless misconduct.”

Designer not Liable for Implied Warranty of Habitability on Condo

- Condo association filed suit against a number of the parties involved in the design and construction of the condo complex, alleging breach of implied warranty of habitability.
- Association attributed air and water infiltration to latent defects in the design that were not discovered until 2007.
- Trial court dismissed suit against designer, and appellate court affirmed dismissal.

Board of Managers of Park Point at Wheeling Condominium Ass'n v. Park Point at Wheeling, LLC, 2015 IL App (1st) 123452

See next slide

- Court cited the principle that an architect does not warrant or guarantee perfection in his or her plans and specifications is long standing

- Court found implied warranty should be limited to subcontractors who were involved with the physical construction or the construction-sale of the property.

See next slide

- Court emphasized that implied warranty of habitability of construction arises between the builder-seller and the buyer because of their “unusual dependent relationship.”

- Court concluded that designer’s role in the design of the condominiums did not create such a relationship.

See next slide

Designers are not “workmen”

- Court rejected condo association's argument that DPs have an implied obligation to perform their tasks in a “workmanlike” manner.
- Citing to Black's Law Dictionary, the court noted a “workman” is a person who is “employed in manual labor, skilled or unskilled."
  - “Thus the term “workmen” does not include professional persons such as design professionals, and design professionals are not obligated to perform their professional services in a workmanlike manner.”
- **Contract Lesson**: Architects and engineers should be careful not to agree to contract provisions that require them to perform their services in a "good and workmanlike manner." While the phrase is seemingly innocuous, a court could find that it imposes a higher standard than the professional standard of care.

Certification (problem)

- Beware of language requiring certification of contractor's compliance with all plans and specs. E.g.,
  - *"Upon completion of the construction, the DP shall certify that the work was completed in accordance with the plans, specifications, and drawings."*

Certification
(AIA solution – knowledge within contract scope)

- AIA B101-2007, §10.4 set limits on signing certificates as follows:
  - "The Architect shall not be required to execute certificates or consents that would require knowledge, services or responsibilities beyond the scope of this Agreement."

Certification
(solution – to “best of knowledge” instead of absolute)

- Instead of making certificate an absolute certainty of fact, condition it on “the best of knowledge, information and belief.” E.g.,
  - “To the best of our knowledge, information and belief, the project was constructed in general conformance with the design concept of the contract documents.”

Compliance with Law (problem with indemnity)

- This clause creates liability if non-compliance with law was not intentional or negligent.

  – *"The DP shall indemnify and hold harmless the owner against any claims, damages and losses of any kind caused by, arising out of, or related to failure to comply with any laws, ordinances or regulations."*

Compliance with Law (Apply Negligence Standard)

- Make compliance subject to the Standard of Care instead of an absolute. E.g.,
  - "DP and Owner will apply the reasonable standard of care to comply with applicable laws in effect at the time the services are performed hereunder, which to the best of their knowledge, information and belief, apply to their respective obligations under this Agreement."

Damages (problem)

- Beware of Liquidated Damages (LD) clauses.
  - LD's might be excluded from coverage deemed to be based on warranty of schedule (warranty exclusions) or if deemed to have been created only by contract promise and would not have been awarded by court in absence of contract language. (Contractual liability exclusion).

Damages (solution – waive Consequential damages)

- Include Waiver of Consequential Damages Clause, EJCDC E500 (2008), §6.10.E:

  - *Mutual Waiver*: To the fullest extent permitted by law, Owner and Engineer waive against each other, and the other's employees, officers, directors, members, agents, insurers, partners, and DPs, any and all claims for or entitlement to special, incidental, indirect, or consequential damages arising out of, resulting from, or in any way related to the Project.

Damages
(mutual waiver of consequential damages)

- A mutual waiver of consequential damages is provided at AIA B101-2007, §8.1.3 as follows:

  - "The Architect and Owner waive consequential damages for claims, disputes or other matters in question arising out of or relating to this Agreement. This mutual waiver is applicable, without limitation, to all consequential damages due to either party's termination of this Agreement, except as specifically provided in Section 9.7."

Dispute Resolution (to litigate or arbitrate?)

- The introductory language to the AIA check-box in Section 8.2.4 states:

- "If the Owner and Architect do not select a method of binding dispute resolution below, or do not subsequently agree in writing to a binding dispute resolution method other than litigation, the dispute will be resolved in a court of competent jurisdiction."

Dispute Resolution (consolidation)

- AIA §8.3.4.1 states:
  - "Either party, at its sole discretion, may consolidate an arbitration conducted under this Agreement with any other arbitration to which it is a party provided that (1) the arbitration agreement governing the other arbitration permits consolidation; (2) the arbitrations to be consolidated substantially involve common questions of law or fact; and (3) the arbitrations employ materially similar procedural rules and methods for selecting arbitrator(s)."

Dispute Resolution
(prevailing party attorney's fees)

- *"Recovery of Litigation Costs.* In the event that legal action is brought by either party against the other in the Courts (including action to enforce or interpret any aspect of this agreement), the prevailing party shall be reimbursed by the other for the prevailing party's legal costs, in addition to whatever other judgments or settlement sums, if any, may be due. Such legal costs shall include, but not be limited to, reasonable attorney's fees, court costs, expert witness fees, and other documented expenses, in addition to any other relief to which it may be entitled."

Delete the clause because of uninsurable liability or at least define it as shown on next slide.

Incorporation by Reference: Flow Down Clauses

Incorporation by Reference

- Be sure to obtain and read the “prime agreement” that is incorporated.
- Determine that the incorporated t’s and c’s don’t create greater responsibility than the t’s and c’s in your subcontract.
- Example clause is AIA C401-2007, 1.1 that provides:
  - “A copy of the Architect’s agreement with the Owner, known as the Prime Agreement … is attached as Exhibit A and is made a part of this Agreement”.
- As a subcontractor, DP should:
  - (1) amend the above clause by adding exceptions for specific, identified articles of subcontract, and

    (2) revise the Prime Agreement clauses as they will apply to you in the event they are unacceptable.

-

- AIA C401 - § 1.3 To the extent that the provisions of the Prime Agreement apply to This Portion of the Project, the Architect shall assume toward the Consultant all obligations and responsibilities that the Owner assumes toward the Architect, and the Consultant shall assume toward the Architect all obligations and responsibilities that the Architect assumes toward the Owner. Insofar as applicable to this Agreement, the Architect shall have the benefit of all rights, remedies and redress against the Consultant that the Owner, under the Prime Agreement, has against the Architect, and the Consultant shall have the benefit of all rights, remedies and redress against the Architect that the Architect, under the Prime Agreement, has against the Owner. Where a provision of the Prime Agreement is inconsistent with a provision of this Agreement, this Agreement shall govern.

Incorporation of Reference –
avoiding uninsurable indemnify and warranty flowing down

- At the conclusion of whatever clause the subcontract has for this, add the following in order to do a **disclaimer of warranties and Indemnitees**:

- … provided however, that notwithstanding any clause in the Prime Contract or this Agreement to the contrary, Subconsultant expressly disclaims all express or implied warranties and guarantees with respect to the performance of professional services, and it is agreed that the quality of such services shall be judged solely as to whether Subconsultant performed its services consistent with the professional skill and care ordinarily provided by firms practicing in the same or similar locality under the same or similar circumstances, and provided further that Subconsultant shall not provide indemnification of any indemnitee other than to the extent damages arise out of third party claims against the indemnitee and to the extent caused by Subconsultant's willful misconduct or negligence, and provided further that Subconsultant shall not defend any indemnitee against professional liability claims.

Making the strictest terms apply when we are the Prime

- Subcontractor is bound to Prime for the performance of the Work in the same manner as Prime is bound to Owner under Prime's contract with Owner. The pertinent parts of such contract will be made available upon Subcontractor's request. In event of any conflict between these Terms and conditions and a contract between Prime and Owner, the more strict provision in favor of Prime shall govern.
- **CONFLICTS/INCONSISTENCIES.** In the event of any inconsistencies within or between any parts or provisions of this Contract, any Schedule, Exhibit or Attachment to this Contract, any Task Order or any applicable standards, codes or ordinances, the Consultant will (1) provide the better quality or greater quantity of services or (2) comply with the more stringent requirement; either or both in accordance with the Department's interpretation.

Indemnification

Indemnification for 3rd Party Claims Only

- After KR receiving GMP contract award, KR subcontracted engineering firm to provide balance of design services for the project.
- Later, KR claims A/E designs were flawed, and it had to make midstream corrections to comply with various code requirements, and thereby incurred unexpected costs.
- Made claim against A/E under indemnity clause.
- Court held against the indemnity claim

  Suit based on indemnification could only seek damages resulting from 3rd party claims against the Indemnitee (KR). The indemnity clause could not be basis for 1st first party KR claims to recover its financial losses.

  Hensel Phelps Construction v. Cooper Carry, Inc., 2016 WL 5415621 (U. S. District Ct., District of Columbia, 2016).

  (See next two slides)

- ***The clause:***

"indemnify, defend and hold … harmless" [the contractor] from any claim, judgment, lawsuit, damages, liability, and costs and expenses, including reasonable attorneys' fees, as a result of, in connection with, or as a consequence of [engineer's] performance of the Services under this Agreement…."

Court says, engineer, "naturally, argues that his clauses refers only to liabilities that [contractor] would face from third parties, not to [contractor's] own "damage" and "costs and expenses" from contract breaches."

According to the court, "The words "damage" and "costs and expenses" in the indemnification clause are listed along with other words that clearly anticipate the problem of third-party litigation against [contractor] for problems that [engineer created…. [ ] Reading the indemnification clause in the most obvious way, it required [engineer] to cover [contractor]s] liabilities when and if a third party sues over problems caused by the [engineer's] fault."

Engineer Required to Defend Client against Routine Contractor Claim

Trial court held A/E owed its client, the town, a defense against a contractor suit that alleged that the plans and specifications prepared by the engineer and provided by the town to the contractor for bidding and construction were defective.

It was a routine breach of contract claim by the contractor against the project owner, but the court concluded the indemnification agreement in the engineer's agreement with the town was broad enough to obligate it to defend the town against the contractor's claim.

Penta Corporation v. Town of Newport v. AECOM Technical Services, Inc., No. 212-2015-CV-00-011 (Merrimack, New Hampshire Superior Court, 2016).

KR filed suit against town to recover payments it alleged were owed it under its construction contract.

- Complaint asserted construction was in accordance with engineer's plans and specs that called for a specific brand of disc filters for a wastewater treatment facility that were not capable of handling required wastewater flow.
- Upon receipt of the suit, the town sent the engineer a demand for a defense against the contractor's suit pursuant to the terms of the indemnification clause in the contract between the engineer and the town and the engineer. The engineer responded to the town's demand, stating it would not defend (or indemnify) the town because the allegations of the contractor were not directed at the engineer.

The Indemnity Clause

Court found broad duty to defend based on this language:

"shall indemnify, exonerate, protect, **defend (with counsel acceptable to the Town . . .)**, hold harmless and reimburse the Town . . . **from and against any and all** damages (including without limitation, bodily injury, illness or death or property damage), losses, liabilities, obligations, penalties, **claims (including without limitation, claims predicated upon theories of negligence, fault, breach of warranty, products liability or strict liability), litigation**, demands, defenses, judgments, **suits**, proceedings, costs disbursements, or expenses of any kind or nature whatsoever, including without limitation, attorneys' and experts' fees, investigative and discovery costs and court costs, **which may at any time be** imposed upon, incurred by, **asserted against**, or awarded against **the Town** . . . **which are in any way related to the Engineer's performance under this Agreement** but only to the extent arising from (i) any negligent act, omission or strict liability of Engineer, Engineer's licenses, agents, servants or employees of any third party, (ii) any default by the Engineer under any of the terms or covenants of this Agreement, or (iii) any warranty given by or required to be given by Engineer relating to the performance of Engineer under this Agreement."

Duty to Defend Applied to "ALL" Claims – Not Just Tort Claims

- The court noted that the duty to defend applies to "claims," "litigation," and "suits" that are "asserted against" the town and related to the engineer's negligent contract performance.
- Significantly, the court concluded, "This language anticipates unproven allegations, meaning the duty to defend would necessarily arise prior to any factual finding as to [the engineer's] negligence or breach."
- The court said, "If [the engineer's] duty to defend only required it to reimburse the Town for the cost of a defense following adjudication of [the engineer's] negligence or breach, then the Town would necessarily have to choose its own counsel, thus rendering the [choice of counsel language in the clause] meaningless."

"Arising Out Of" is Very Broad Term

- A/E argued that language of the clause reading "but only to the extent arising from" served as a strict limitation on the engineer's responsibility.
- The court rejected that argument, stating, "The phrase 'arising out of' has been construed as a 'very broad, general and comprehensive term' meaning 'originating from or growing out of or flowing from'."
- The phrase, according to the court, "indicates intent 'to enter into a comprehensive risk allocation scheme.' 'Arising out of' does not mean that any losses or claims must have been caused by [the engineer's] negligence or breach. Nor does it necessarily require an action for negligence or breach. A claim merely has to involve an alleged negligent act or omission in the performance of the contract."
- Thus, the court concluded that the engineer's assertion that adding the words "to the extent" in front of "arising from" did not alter the broad intent of the words "arising from."

Draft Clause to Limit Indemnity to Third Party Tort Claims

- The need to add "third party" as a modifier of "claim" was revealed in the decision of *Wal-Mart Stores v. Qore, Inc*., 647 F.3d 237 (5th Cir., 2011) in which a court concluded that Wal-Mart could make a first party claim against Qore to recover losses incurred on the project even though no third party claim was ever made against Wal-Mart.
- That decision imposed attorneys' fees on Qore by concluding that the defense obligation in the indemnification clause meant that Qore was responsible for the attorneys' fees incurred by Wal-Mart in prosecuting a claim against the engineer and contractor.

Indemnification (problem 1)

- Uninsurable “contractual liability” when DP agrees to indemnify for anything other than damages caused by DP’s negligence.

- Indemnity provisions are being written so broadly as to apply to:
  - First party breach of contract claims;
  - All errors and omissions even if not negligent;
  - All damages so long as DP is a little bit responsible
- No professional coverage specifically for the terms of “indemnity” clauses. Only covered if liability would have existed at common law.
    - So revise indemnity clause accordingly

Indemnification – (problem - “In Whole or in Part”

- Beware of a clause stating DP will indemnify client for all damages caused “in whole or in part” by DP.
  - That language means DP will indemnify for ALL the damages even though caused only in small part by DP.
  - Insurance will only cover the damages to the extent caused by DP.
  - Reword a “in whole or in part” clause.

Indemnification
(problem of 1st party claims)

- Indemnity should only apply to damages arising out of third party tort claims against the client.
- Some courts are confusing indemnity and allowing clients to use the clause to recover breach of contract claims against the DP, and to include their attorneys fees as part of their recovery.
- See next slide for sample indemnity clause limited to third party claims.

Indemnification (solution for third party claims)

- Example of reasonable indemnity clause:
- "**Indemnification.** Notwithstanding any clause or provision in this Agreement or any other applicable Agreement to the contrary, Consultant's only obligation with regard to indemnification shall be to indemnify and hold harmless (but not defend) the Client, its officers, directors, and employees from and against those damages and costs that Client is legally obligated to pay as a result of third party tort claims, including the death or bodily injury to any person or the destruction or damage to any property, to the extent caused by the wrongful misconduct or negligent act, error or omission of the Consultant or anyone for whom the Consultant is legally responsible, subject to any limitations of liability contained in this Agreement.

Indemnification – Be sure the word “negligence” modifies everything.

- Poor wording may shift risk to DP for damages not caused by its own negligence. E.g.,
  - *“DP shall indemnify the Client for all claims, damages and expenses arising out of acts, omissions, errors or negligence of the DP.”*
- Notice that “negligence” is in the wrong place and fails to modify “acts, omissions and errors.” Thus, the indemnity applies to everything.

Indemnification – Could Increase Standard of Care

- Indemnification clauses that are not limited to negligence conflict with the normal Standard of Care.
- DP might be held to a perfection standard by the indemnification provision so it is liable despite having met the standard of care, i.e., it was not negligent.
- So a bad indemnity clause can trump a good standard of care provision in the contract,

Indemnification
(the Uninsurable Duty to Defend

- DPs should not agree to defend their Clients. No common law duty requires a DP to defend its client against third party actions.
  - No insurance coverage for the defense costs that the consultant pays on behalf of its client. The "contractual liability exclusion" applies.

- A contractually agreed upon duty to defend is triggered as soon as the claim is made because it is a separate duty from the duty to indemnify.

  - At least that is how most courts will interpret it. For example – California.

Insurance –
(problem – no coverage specifically for indemnity)

- Owner-generated contracts sometimes state that the DP is to procure a professional liability policy with contractual liability coverage for the project owner. E.g.,

  – *"The Engineer's contractual liability coverage must, at a minimum, protect the Owner to the extent of the following hold harmless agreement…."*

- Note that under the typical contractual liability exclusion, indemnity is not excluded from coverage so long as a court would have imposed the liability even in the absence of the indemnity provision. But insurance is not expressly written to cover indemnity clauses. So delete that language.

Site Visits - Inspection (the problem)

- An example of a problematic clause is the following:
  - *"DP shall make visits to the site to inspect the progress and quality of the executed work of the Contractor and its Subcontractors, and to determine if such work is proceeding in accordance with the Contract Documents. . . . DP shall keep the Owner informed of the progress and quality of the work and shall exercise the utmost care and diligence in discovering and promptly reporting to the Owner any defects or deficiencies."*

Inspection (Solution) –

- AIA B101-2007,§3.6.2.1, "The Architect shall visit the site at intervals appropriate to the stage of construction, or as otherwise required in Section 4.3.3, to become *generally familiar* with the progress and quality of the portion of the Work completed, and to *determine, in general*, if the Work observed is being performed in a manner indicating that the Work, when fully completed, will be in accordance with the Contract Documents. However, the Architect shall not be required to make exhaustive or continuous on-site inspections to check the quality or quantity of the Work. On the basis of the site visits, the Architect shall keep the Owner *reasonably informed* about the progress and quality of the portion of the Work completed, and report to the Owner (1*) known deviations* from the Contract Documents and from the most recent construction schedule submitted by the Contractor, and (2) defects and *deficiencies observed* in the Work.

Site visits (short version)

- On the basis of the site visits, the Consultant shall keep the Owner reasonably informed about the progress and quality of the portion of the Work completed, and report to the Owner (1) known deviations from the Contract Documents and from the most recent construction schedule submitted by the Contractor, and (2) defects and deficiencies observed in the Work.

Limitation of Liability (good example)

- *"Limitation of Liability:* To the fullest extent permitted by law, the total liability, in the aggregate, of DP, DP's officers, directors, partners, employees, agents, and subconsultants, to Client, and anyone claiming by, through, or under Client for any claims, losses, costs, or damages whatsoever arising out of, resulting from or in any way related to this Project or Agreement from any cause or causes, including but not limited to negligence, professional errors and omissions, strict liability, breach of contract, or breach of warranty, shall not exceed the total compensation received by DP or $50,000 whichever is greater. The Client may negotiate a higher limitation of liability for a reasonable additional fee, which is necessary to compensate for the greater risk assumed by DP.

Waiver of Consequential Damages

- AIA B101-2007, §8.1.3 as follows:
  - "The Architect and Owner waive consequential damages for claims, disputes or other matters in question arising out of or relating to this Agreement. This mutual waiver is applicable, without limitation, to all consequential damages due to either party's termination of this Agreement …."
-
-

Schedule
(Timeliness of Performance)

- Revise "time of the essence" clauses. They suggest absolute guarantee of completion by a specific date.
- Consider revising to state: "Time is of critical importance…."

- AIA B101-2007, at §2.2, addresses time for performance as follows:

  – "The Architect shall perform its services as expeditiously as is consistent with such professional skill and care and the orderly progress of the Project."

Prevailing Party Attorneys clause: If can't delete it, then Add a definition:

- Prevailing party is the party who recovers at least 67% of its total claims in the action or who is required to pay no more than 32% of the other party's total claims in the action when considered in the totality of claims and counterclaims, if any. In claims for monetary damages, the total amount of recoverable attorney's fees and costs shall not exceed the net monetary award of the Prevailing Party.

Confidentiality

- Consultant will not disclose proprietary or confidential information of the client to others or publish it in any form at any time; provided, however, that notwithstanding the foregoing, Consultant may disclose any such information to its Affiliates, employees, and consultants, to any regulatory agencies or instrumentality's when such disclosure is necessary, or otherwise required by law.

Cost Estimates Exceeded
A reasonable clause

- Notwithstanding any other term of this Agreement, if Consultant has any duty to design the Project within a Construction Budget, its duty shall be limited to responsibilities that are reasonably within its direct control, thereby excluding matters that are beyond the control of Consultant including, but not limited to, unanticipated rises in the cost of labor, materials or equipment, changes in market or negotiating conditions, and errors or omissions in cost estimates prepared by others. Therefore, any such redesign effort required of Consultant necessary to maintain the project within the Construction Budget that is not due specifically to the negligent act error, omission, or willful misconduct on the part of Consultant shall require an increase to the compensation of Consultant.

Ownership and Copyright

- (1) **How to handle our own proprietary pre-existing documents**. Client expressly acknowledges and agrees that the documents and data to be provided by Consultant under the Agreement may contain certain design details, features and concepts from Consultant's own practice detail library, which collectively may form portions of the design for the Project, but which separately, are, and shall remain, the sole and exclusive property of Consultant. Nothing herein shall be construed as a limitation on Consultant's right to re-use such component design details, features and concepts on other projects, in other contexts or for other clients.
-
-
- (2) **Get Indemnity if Client Reuses Documents without us**.
- "Client agrees to indemnify, defend and hold the Consultant harmless from and against any claims or damages that may result from the subsequent use, reuse, transfer or modification of Consultant's drawings and specifications, except on projects where the Consultant has been retrained to provided services."

CONTACT Information & DISCLAIMER

- Contact Information: **Kent Holland**

Email: Kent@Construction*Risk*.com
WEBSITE: www.Construction*Risk*.com - Free Risk Report
Phone: 703-623-1932

Disclaimer: This information is not legal advice and cannot be relied upon as such. Any suggested changes in wording of contract clauses, and any other information provided herein is for general educational purposes to assist in identifying potential issues concerning the insurability of certain identified risks that may result from the allocation of risks under the contractual agreement and to identify potential contract language that could minimize overall risk. Advice from legal counsel familiar with the laws of the state applicable to the contract should be sought for crafting final contract language. This is not intended to provide an exhaustive review of risk and insurance issues, and does not in any way affect, change or alter the coverage provided under any insurance policy.

Questions?

J. Kent Holland, Esq.

Construction*Risk*, LLC

1950 Old Gallows Rd, Ste 750

Tysons Corner, VA 22182

703-992-9480 (o)

703-623-1932 (c)

Kent@ConstructionRisk.com

- For case notes and articles on design-build decisions and other case law, visit: www.ConstructionRisk.com. For research or for free newsletter, visit: "*ConstructionRisk.com Report*"