

Purchase Order

PO Accounting Date: 7/2/2015

THIS NUMBER MUST APPEAR ON ALL INVOICES,
PACKAGES AND SHIPPING PAPERS.

Purchase Order # **PO-001659**

Delivery must be made within
doors of specified destination.

BILL TO

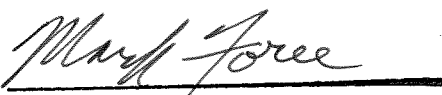
Truckee Meadows Water Authority
Accounts Payable
PO Box 30013
Reno NV 89520-3013

VENDOR

Gradex Construction Company
800 Bennie Lane
Reno NV 89512

SHIP TO

Truckee Meadows Water Authority
1355 Capital Blvd
Reno NV 89502

Requester Contact Name		Requester Contact Phone Number		Vendor Number		
				000490		
Date Ordered	Date Requested	Freight Method/Terms				
7/2/2015	9/1/2015					
Line #	Description/Part No.	Qty	UOM	Unit Price	Discount Amount	Extended Price
1	Verdi Storage Facility Project - PWP#WA-2015-194 338 Public Bid awarded to the reasonable and responsive bidder (PWP Public Bid) 21-0005 1.7051.30.3010 PWP Construction Projects	199495.47	usd	1.00		\$199,495.47
 Mark Foree General Manager						

Truckee Meadows Water Authority's Terms and Conditions shall govern this and all related transactions, review them at
http://tmwa.com/docs/po_terms_and_conditions.doc

This Purchase Order number must be indicated on all invoices, cartons and packing slips.

PO Total **\$199,495.47**

AGREEMENT FOR CONSTRUCTION
(NRS 338 Construction Services up to \$250,000)

Truckee Meadows Water Authority Verdi Storage Facility Project
TMWA Project No.:21-0005
Public Works Project Number: WA-2015-194

THIS AGREEMENT FOR CONSTRUCTION (the "Agreement"), made and entered into this 29th day of JUNE, 2015, by and between **Gradex Construction Company, 800 Bennie Lane, Ste A, Reno, NV 89512** a general contractor licensed by the State of Nevada (Nevada Contractor's License No.39634) (hereinafter referred to as "Contractor"), and Truckee Meadows Water Authority, P.O. Box 30013, Reno Nevada 89520-3013 (hereinafter referred to as "Owner").

RECITALS

WHEREAS, Owner intends to construct the Project and is engaging Contractor to perform certain labor, supervision and services and to provide certain equipment, goods and materials for the Project as described herein.

WHEREAS, Owner has engaged Contractor based on Contractor's representations that it (i) is experienced in the type of work for which it is being engaged; (ii) is duly licensed and qualified in the State of Nevada to perform the type of work for which it is being engaged; (iii) is qualified, willing and able to perform the work for the Project; and (iv) has the expertise and capability to perform the work which will meet Owner's objectives and which will comply with all applicable laws and ordinances.

WHEREAS, Contractor acknowledges it has reviewed and familiarized itself with this Agreement, including the documents enumerated in Article 1, and agrees to be bound by the terms and conditions contained therein.

NOW, THEREFORE, for good and valuable consideration, receipt of which is acknowledged, TMWA and the Contractor agree as follows:

1. **CONTRACT DOCUMENTS.** The "Contract Documents" consist solely of the Bidding Documents (if any), Bonds, this Agreement, the General Conditions, Supplementary Conditions, Technical Specifications, Addenda issued prior to execution, Amendments issued after execution, Drawings entitled Truckee Meadows Water Authority Verdi Storage Facility Project prepared by CFA, Inc., and any other documents listed below:

None.

These documents form the entire contract and are as fully a part of the Agreement as if attached to this Agreement or repeated herein. Contractor represents and agrees it has carefully examined and understands this Agreement and the Contract Documents.

2. **SCOPE OF WORK.** The Contractor shall furnish all work, labor, services, supplies, materials, equipment, tools, transportation, supervision, appliances, and appurtenances required for the prompt and efficient completion of the project described as the retirement of a rock lined well and adjacent concrete foundation, removal of fencing, stacked rock walls, saw cutting and removal of asphalt concrete, septic tank abandonment, and removal of identified trees. Ground is to be cleared and grubbed and prepared for a final grade of Type 2 Class B Aggregate Base and Asphalt Concrete. A fence enclosure and fence gates are to be incorporated as part of the project as is landscaping and irrigation. The area of disturbance is greater than one acre. Contractor will be required to maintain a Storm Water Pollution Prevention Plan and implement and maintain Best Management Practices as well as requirements of the Dust

Control Permit (“Project”) as described in the Contract Documents and in accordance with the contract provisions, Plans, and Specifications, together with all work incidental or reasonably inferable which is necessary to produce the results intended by the Contract Documents (collectively, the “Work”). Contractor shall be responsible for the supervision and coordination of the Work, including the construction means, methods, techniques, sequences and procedures utilized, unless the Contract Documents specifically provide otherwise. The Contractor represents and warrants that it has fully investigated the nature, locality and site of the Work and the conditions and difficulties under which it is to be performed, and that it enters into this Agreement on the basis of its own examination, investigation and evaluation of all such matters and is in no way relying upon any opinions or representations of the Owner, or any of their respective officers, agents, servants, or employees with respect thereto.

3. **TIME OF COMPLETION.** All times stated in the Contract Documents, including interim milestones and those for the delivery and installation of materials and equipment, are of the essence of this Agreement

3.1 **Commencement of Work.** Contractor shall promptly commence and diligently prosecute the Work to be performed under this Agreement on the date fixed in a Notice to Proceed and shall perform the Work diligently, expeditiously and with adequate resources so as to complete the Work on time.

3.2 **Completion of Work.** Contractor shall achieve Substantial Completion by N/A days from the date of the Notice to Proceed and shall achieve 100 percent completion by **Fifty-Six (56) days from the date of the Notice to Proceed**. Contractor shall reschedule or resequence the Work, to the extent possible, to avoid or minimize any delay to the contract time. Contractor agrees it included adequate costs in the Contract Sum to provide sufficient levels of labor and equipment (including overtime if required) to insure that the specified dates are met. The contract time set forth herein assumes **Zero (0) weather delay days** will occur during construction of the Project, and the Contract time will not be extended unless weather delay days exceed the days specified above. Should the Contractor fail to complete the Work in the time agreed upon, the Contractor will be subject to liquidated damages as provided herein.

3.3 **Liquidated Damages.** If Contractor fails to achieve Substantial Completion of the Work within the time specified above, Owner shall be entitled to retain or recover from Contractor, as liquidated damages for delay (but not as a penalty) the sum of **\$0.00 (Zero Dollars)** per day commencing on the expiration of the time specified above and continuing until the actual date of Substantial Completion is achieved; and if Contractor fails to achieve 100 percent completion of the Work within the time specified above, Owner shall be entitled to retain or recover from Contractor, as liquidated damages for delay (but not as a penalty) the sum of **\$250.00 (Two Hundred Fifty Dollars)** per day commencing on the expiration of the time specified above and continuing until the actual date of 100 percent completion. Owner may deduct liquidated damages from any unpaid amounts then or thereafter due the Contractor under this Agreement. If TMWA terminates the Contractor for default, the resulting damage will consist of liquidated damages until such reasonable time as may be required for final completion of the work together with any increased cost occasioned by TMWA in completing the Work.

3.4 **Construction Schedule.** Contractor shall, not less than ten (10) calendar days after execution of this Agreement by TMWA, prepare and submit a proposed Construction Schedule to TMWA for review and acceptance in accordance with the General Conditions.

4. **CONTRACT SUM.**

4.1 **Construction Contract Price.** Owner shall pay the Contractor, as full and complete compensation for Contractor’s timely performance of all the Work in accordance with the Contract Documents and to the satisfaction of Owner, the lump sum amount of: **One Hundred Ninety Nine Thousand Four Hundred Ninety Five Dollars and Forty Seven Cents (\$199,495.47)** (the “Contract Sum”). The amount set forth above includes the aggregate amount of all allowances and unit price items to be furnished or installed.

5. PAYMENTS.

5.1 Progress Payments. The Owner will pay the Contractor progress payments and the final payment in accordance with the provisions set forth in the Specifications computed from the actual quantities of work performed and accepted, and the materials furnished, at the unit and lump sum prices shown in the Proposal, as bid in conformance with the Contract Documents defined hereinafter. Owner will retain from such estimated value of the work done the amounts specified in the General Conditions. Owner shall pay to Contractor, at the end of each quarter this Agreement is in effect, interest for the quarter on the amount withheld at a rate to be determined by Owner in accordance with NRS 338.515. Except with respect to any payment withheld pursuant to NRS 338.525, the amount of payments withheld as provided herein shall be retained for a period of 30 days from the date of project Completion and acceptance. Contractor shall pay the subcontractors progress payments and pay interest on amounts retained from said progress payments in accordance with the provisions of NRS 338.510 through NRS 338.535.

5.2 Acceptance and Final Payment. As soon as practical following the completion of all phases of the Work, the Contractor shall make request by letter to Owner for a final inspection and acceptance of the Work, and if, in Owner's opinion, all provisions of the Contract Documents and Agreement have been satisfied, Owner will cause a Notice of Completion to be completed by the Project Representative and sent to the Labor Commissioner. Final payment, constituting the entire unpaid balance of the contract sum, shall be made by Owner to Contractor when the obligations in the Contract Documents have been fully performed by Contractor except for Contractor's responsibility to satisfy requirements, if any, which necessarily survive final payment; and the Notice of Completion has been sent to the Labor Commissioner and no prevailing wage disputes are under investigation by TMWA or pending before the Labor Commissioner. Final payment shall be made by Owner not more than 30 calendar days following the Notice of Completion, as specified in the General Conditions. Final payment is further subject to Owner's prior receipt from Contractor of all as-built drawings, certifications, prevailing wages, maintenance manuals, operating instructions, written guarantees, warranties, and bonds relating to the Work, and assignments of all guarantees and warranties from subcontractors, vendors, suppliers, or manufacturers, all as required by the Contract Documents. Acceptance of final payment by the Contractor shall constitute a full waiver and release by the Contractor of all claims against Owner arising out of or relating to this Agreement.

6. PREVAILING WAGE.

Pursuant to NRS 338.080, the obligations to pay prevailing wages on this Project under NRS 338.020 to 338.090 shall not apply; provided, however, that the total final cost to complete the Project remains less than \$250,000. Contractor acknowledges and agrees that to the extent the actual cost of the Project exceeds \$250,000 at any time, Owner may require Contractor to pay, and in such event Contractor will pay and will require all subcontractors to pay, unless otherwise exempt there from, all employees on said work a salary or wage at least equal to the prevailing salary or wage established for such work as set forth in the wage determinations and wage standards applicable to this work, as contained in or referenced by the Contract Document provisions for this Work. Where prevailing wage obligations are imposed:

- 1) Pursuant to NRS 338.060, Contractor shall forfeit to the Owner, as a penalty, not less than \$20 or more than \$50 for each calendar day and portion thereof that each workman employed on the public work: (a) is paid less than the designated rate for work done under the contract by the Contractor or any subcontractor under him (b) is not reported to the public body awarding as required pursuant to NRS 338.070.
- 2) In the performance of this Agreement, not more than eight (8) hours shall constitute a day's work, and the Contractor shall not require more than (8) hours of labor in a day from any person employed by him hereunder.
- 3) Contractor shall keep accurate records showing the name, occupation and actual per diem wages and benefits paid to each workman employed by him in connection with this project. The records shall be certified in LCP Tracker and open to inspection by Owner, its officers and agents and at all reasonable hours.
- 4) Contractor shall inquire, and shall require each subcontractor to inquire, of each worker employed in

connection with the public work whether the worker wishes to voluntarily specify his or her gender and ethnicity, and shall record and maintain such responses in accordance with NRS 338.070.

During the entire duration of the Project, Contractor shall keep and maintain accurate records of wages and benefits to enable Contractor's compliance with the foregoing in the event such obligations are imposed. Owner shall issue a change order in the event the payment of prevailing wages become required on the Project.

7. **INSURANCE.**

The Contractor shall purchase and maintain prior to performing any Work on the Project, at its sole expense, from a company or companies authorized to do business in the State of Nevada, insurance policies containing the types of coverages and minimum limits of liability described in the General Conditions protecting from claims which may arise out of or result from the performance or non-performance of services under this Agreement by the Contractor or by anyone directly or indirectly employed by it, or by anyone for whose acts it may be liable, including without limitation subcontractors, independent contractors, and agents. Contractor shall procure and maintain at a minimum the insurance as required in the General Conditions, and shall require all subcontractors to procure and maintain at a minimum the insurance as required in the General Conditions, including but not limited to industrial insurance as required by the Nevada Industrial Insurance Act and the Nevada Occupational Diseases Act. Contractor or his subcontractor(s) failure to pay premiums will automatically authorize Owner to, at its option, terminate this Agreement or withhold amounts from funds due the Contractor and make insurance premium payments on behalf of the Contractor and/or his subcontractors. Contractor shall provide Owner insurance certificates no later than 10 days after the date of the Notice of Award, and Contractor's failure to timely provide insurance certificates shall not result in any extensions to the contract time.

8. **PERFORMANCE AND PAYMENT BONDS.**

The Contractor shall, prior to the execution of the Agreement, furnish two bonds on the forms bound herein approved by the Owner, one in the amount of One Hundred Percent (100%) of the Contract Sum, to guarantee the faithful performance of the work, and one in the amount of One Hundred Percent (100%) of the Contract Price to guarantee payment of all claims for labor and materials furnished. This Contractor shall not begin work until such bonds are supplied to and approved by the Owner. Contractor shall provide Owner contract bonds no later than 10 days after the date of the Notice of Award, and Contractor's failure to timely provide bonds shall not result in any extensions to the contract time.

9. **NONDISCRIMINATION.**

In accordance with NRS 338.125, in connection with the performance of work under this Agreement, the Contractor agrees not to discriminate against any employee or applicant for employment because of race, creed, color, national origin, sex or age. Such agreements shall include, but not be limited to, the following: Employment, upgrading, demotion or transfer, recruitment or recruitment advertising, layoff or termination, rates of pay or other forms of compensation, and selection for training, including apprenticeship. Any violation of such provision by the Contractor shall constitute a material breach of the Agreement. Further, Contractor agrees to insert this nondiscrimination provision in all subcontracts hereunder, except subcontracts for standard commercial supplies or raw materials.

10. **PREFERENCES.**

10.1 **Veteran's Preference.** Contractor agrees to give preference as provided in NRS 338.130. If this provision is not complied with, the Agreement shall be void, and any failure or refusal to comply with this provision shall render the Agreement void.

10.2 Bidder Preference. Not applicable

11. WARRANTY.

In addition to any other warranties provided by law or in the General conditions, Contractor warrants the Work under this Agreement to be free from all defects for a period of one year from the date of final acceptance by Owner. Any defects found during this period shall be repaired by the Contractor at no cost to Owner in accordance with the requirements of the Contract Documents.

12. INDEMNIFICATION/HOLD HARMLESS.

Owner has established specific indemnification requirements which are fully set forth in the General Conditions, which Contractor has examined, understands and agrees to perform.

13. MISCELLANEOUS.

13.1 Termination. In addition to other provisions set forth in the Contract Documents, Owner has the right to terminate the Agreement without cause at any time upon giving Contractor seven days notice in writing. In the event the Agreement is terminated by Owner in accordance with this provision, Owner agrees to pay Contractor for all work satisfactorily completed and for materials installed prior to the date of termination to the extent otherwise due under this Agreement.

13.2 Governing Law. This Agreement shall be governed by, interpreted under and construed and enforced in accordance with the laws of the State of Nevada, with venue in the County of Washoe. Each party acknowledges and agrees that the laws of the State of Nevada and the selection of venue were freely chosen.

13.3 Compliance with Laws. Pursuant to NRS 338.153, Contractor shall comply, and shall insure each subcontractor and other person who provides labor, equipment, materials, supplies or services for the Project complies, with the requirements of all applicable state and local laws, including without limitation, any applicable licensing requirements and requirements for the payment of sales and use taxes on equipment, materials and supplies provided for the Project.

13.4 Confidentiality. Contractor acknowledges and agrees the Drawings and Technical Specifications reveal critical infrastructure of facilities used for storing, transporting or transmitting water as contemplated by Nevada's Homeland Security Act, and that the disclosure or release of the Drawings and Technical Specifications to any unauthorized person would create a substantial likelihood of compromising, jeopardizing or otherwise threatening the public health, safety or welfare. Contractor shall not, and shall ensure its Subcontractors, employees and agents shall not, knowingly disclose such documents or information or assist, solicit or conspire with another person to disclose such documents or information Contract Documents without the express prior written consent of Owner.

13.5 Attorneys' Fees. If either party hereto fails to perform any of its obligations under this Agreement or if any dispute arises between the parties hereto concerning the meaning or interpretation of any provision of this Agreement, then the defaulting party or the party not prevailing in such dispute, as the case may be, shall pay any and all costs and expenses incurred by the other party in enforcing or establishing its rights hereunder, including, without limitation, court costs and reasonable attorneys' fees and disbursements. Any such attorneys' fees and other expenses incurred by either party in enforcing a judgment in its favor under this Agreement shall be recoverable separately from and in addition to any other amount included in such judgment, and such attorneys' fees obligation is intended to be severable from the other provisions of this Agreement and to survive and not be merged into any such judgment.

13.6 Modifications. This Agreement cannot be changed orally, and no executory agreement shall be effective to waive, change, modify or discharge it in whole or in part unless such executory agreement is in writing and

is signed by the parties against whom enforcement of any waiver, change, modification or discharge is sought

13.7 Entire Agreement. This Agreement, including the exhibits and schedules hereto, contains the entire agreement between the parties hereto pertaining to the subject matter hereof and fully supersedes all prior written or oral agreements and understandings between the parties pertaining to such subject matter.

13.8 Severability. If any provision of this Agreement is held illegal or unenforceable in a judicial proceeding, such provision shall be severed and shall be inoperative, and, provided that the fundamental terms and conditions of this Agreement (including, without limitation, remain legal and enforceable, the remainder of this Agreement shall remain operative and binding on the Parties.

IN WITNESS WHEREOF, Owner and Contractor hereby enter into this agreement as of the date and year first written above.

“Owner”
TRUCKEE MEADOWS WATER AUTHORITY, a joint powers authority
By: Mark Force Date: 6/29/15
General Manager

STATE OF NEVADA)
) ss
County of WASHOE)

NATHAN B. ROACH states under penalty of perjury that he/she is the Contractor, or authorized agent of the Contractor, by whom the aforesaid described Work is to be performed; that he/she has read the foregoing Contract and understands and agrees to the terms, conditions, and requirements thereof.

CONTRACTOR:

By: NATHAN B. ROACH
Title: PRESIDENT
Firm: Gradex Construction Company
Address: 800 Bennie Lane, Suite A
City/State & Zip: Reno, NV 89512
Telephone: (775) 331-1070
Fax: (775) 331-4259
E-mail: nroach@gradexconstruction.com
[Signature]
(Signature Of Contractor)

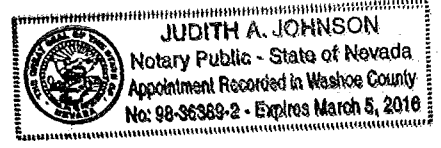
DATED this 29TH day of JUNE, 2015.

ATTEST:

On this 29TH day of JUNE, in the year 2015, before me, JUDITH A JOHNSON /Notary Public, personally appeared or personally known to me (or proved to me on the basis of satisfactory evidence) to be the person whose name is subscribed to this instrument, and acknowledged that he (she) executed it.
WITNESS my hand and official seal.

Judith A Johnson
Notary's Signature

L.S.



PERFORMANCE BOND

WHEREAS, Contractor has by written agreement dated June 29, 2015 entered into a contract with Truckee Meadows Water Authority for **PWP Bid #WA-2015-194** and titled "**Truckee Meadows Water Authority Verdi Storage Facility Project**" in accordance with drawings and specifications prepared by Truckee Meadows Water Authority and which contract is by reference made a part hereof, and is hereinafter referred to as the Agreement.

NOW THEREFORE, KNOW ALL MEN BY THESE PRESENTS, that the undersigned, as Principal, hereinafter called Contractor, and Indemnity Company of California, a corporation duly organized or authorized to do business under the laws of the State of Nevada, as Surety, hereinafter called the Surety, are held and firmly bound unto the Truckee Meadows Water Authority, a joint powers authority created pursuant to NRS Chapter 277, for the Sum of *See Below Dollars (\$ 199,495.47), to be paid to said Truckee Meadows Water Authority for which payment, well and truly to be made, we bind ourselves, our heirs, executors, administrators, successors and assigns, jointly and severally, firmly by these presents. This bond shall be governed by the laws of the State of Nevada.

*One Hundred Ninety Nine Thousand Four Hundred Ninety Five & 47/100

THE CONDITION OF THIS OBLIGATION IS SUCH that, if Contractor shall fail to promptly and faithfully perform said Agreement, or Contractor shall be, and is declared by Truckee Meadows Water Authority to be in default under the Agreement, Truckee Meadows Water Authority having performed Truckee Meadows Water Authority's obligations thereunder, the Surety may promptly remedy the default or shall promptly:

- 1) Complete the Agreement in accordance with its terms and conditions; or
- 2) Obtain a bid or bids for completing the Agreement in accordance with its terms and conditions, and upon determination by Truckee Meadows Water Authority and the Surety jointly of the lowest responsive, responsible bidder, arrange for a contract between such bidder and Truckee Meadows Water Authority, and make available as work progresses (even though there should be a default or a succession of defaults under the contract or contracts of completion arranged under this paragraph) sufficient funds to pay the cost of completion less the balance of the contract price, but not exceeding, including other costs and damages for which the Surety may be liable hereunder, the amount set forth in the first paragraph hereof. The term "balance of the contract price", as used in this paragraph, shall mean the total amount payable by Truckee Meadows Water Authority to Contractor under the Agreement and any amendments thereto, less the amount properly paid by Truckee Meadows Water Authority to Contractor. No right of action shall accrue on this bond to or for the use of any person or corporation other than Truckee Meadows Water Authority or successors of Truckee Meadows Water Authority.

If Contractor shall fully, promptly and faithfully perform all Contractor's obligations under the Agreement, then this obligation shall be null and void; otherwise it shall remain in full force and effect. The Surety hereby waives notice of any alteration or extension of time made by Truckee Meadows Water Authority and its obligation is not affected by any such alteration or extension provided the same is within the scope of the contract.

PERFORMANCE BOND

Continued for PWP BID #WA-2015-194 and titled "Truckee Meadows Water Authority Verdi Storage Facility Project"
Dated: June 29, 2015

BY: GRADEX CONSTRUCTION COMPANY

(signature of Principle)

TITLE: NATHAN B ROACH, PRESIDENT

L.S.

FIRM: Gradex Construction Company

Address: 800 Bennie Lane, Ste A

City, State, Zip: Reno, NV 89512

Phone: (775) 331-1070

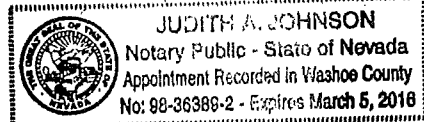
Printed Principal's Name: NATHAN B ROACH

Attest by: Judith A Johnson

(signature of Notary)

Subscribed and Sworn before me this 30TH day of JUNE, 2015.

Notary public for the State of NEVADA



CLAIMS UNDER THIS BOND MAY BE ADDRESSED TO:

Nevada Agent Information

Name of Surety Indemnity Company of California	Name of Nevada Licensed Agent Buschmann, Buschmann & Laux Surety Ins Services LLC / License #602882
Address P. O. Box 19725	Address 300 Harding Boulevard, Suite 209
City Irvine	City Roseville
State/Zip Code CA 92623 - 9725	State/Zip Code CA 95678
Name Kathy Rangel	Agent's Name Kathy Marie Rangel
Title Attorney-In-Fact	Agent's Title Agent
Telephone (916)924-8656 - Phyllis Bewley	Agent's Telephone (916)782-6637

Surety's Acknowledgment:

By: Kathy Rangel
Kathy Rangel, Attorney-In-Fact

Nevada Agent's Acknowledgment:

By: Kathy Marie Rangel
Kathy Marie Rangel / License #691731

NOTICE:

No substitution or revision to this bond form will be accepted. Sureties must be authorized to do business in and have an agent for service of process in the State of Nevada. Certified copy of Power of Attorney must be attached.

ACKNOWLEDGMENT

A notary public or other officer completing this certificate verifies only the identity of the individual who signed the document to which this certificate is attached, and not the truthfulness, accuracy, or validity of that document.

State of California
County of Placer)

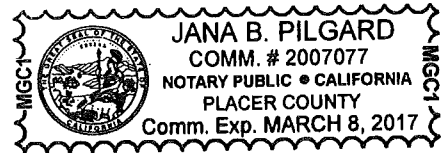
On June 29, 2015 before me, Jana B. Pilgard, Notary Public
(insert name and title of the officer)

personally appeared Kathy Rangel
who proved to me on the basis of satisfactory evidence to be the person(s) whose name(s) is/are subscribed to the within instrument and acknowledged to me that he/she/they executed the same in his/her/their authorized capacity(ies), and that by his/her/their signature(s) on the instrument the person(s), or the entity upon behalf of which the person(s) acted, executed the instrument.

I certify under PENALTY OF PERJURY under the laws of the State of California that the foregoing paragraph is true and correct.

WITNESS my hand and official seal.

Signature  (Seal)



ACKNOWLEDGMENT

A notary public or other officer completing this certificate verifies only the identity of the individual who signed the document to which this certificate is attached, and not the truthfulness, accuracy, or validity of that document.

State of California
County of Placer)

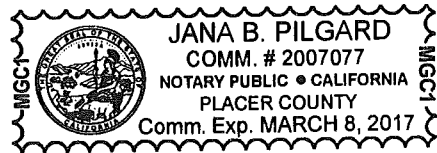
On June 29, 2015 before me, Jana B. Pilgard, Notary Public
(insert name and title of the officer)

personally appeared Kathy Marie Rangel,
who proved to me on the basis of satisfactory evidence to be the person(s) whose name(s) is/are subscribed to the within instrument and acknowledged to me that he/she/they executed the same in his/her/their authorized capacity(ies), and that by his/her/their signature(s) on the instrument the person(s), or the entity upon behalf of which the person(s) acted, executed the instrument.

I certify under PENALTY OF PERJURY under the laws of the State of California that the foregoing paragraph is true and correct.

WITNESS my hand and official seal.

Signature  (Seal)



LABOR AND MATERIAL PAYMENT BOND

WHEREAS, Contractor has by written agreement dated June 29, 2015 entered into a contract with Truckee Meadows Water Authority for PWP Bid #WA-2015-194 and titled "Truckee Meadows Water Authority Verdi Storage Facility Project" in accordance with drawings and specifications prepared by Truckee Meadows Water Authority and which contract is by reference made a part hereof, and is hereinafter referred to as the Agreement.

NOW THEREFORE, KNOW ALL MEN BY THESE PRESENTS, that the undersigned, as Principal, hereinafter called Contractor, and Indemnity Company of California, a corporation duly organized or authorized to do business under the laws of the State of Nevada, as Surety, hereinafter called the Surety, are held and firmly bound unto the Truckee Meadows Water Authority, a joint powers authority created pursuant to NRS Chapter 277, for the Sum of *See Below Dollars (\$ 199,495.47), to be paid to said Truckee Meadows Water Authority for which payment, well and truly to be made, we bind ourselves, our heirs, executors, administrators, successors and assigns, jointly and severally, firmly by these presents. This bond shall be governed by the laws of the State of Nevada

*One Hundred Ninety Nine Thousand Four Hundred Ninety Five & 47/100

THE CONDITION OF THIS OBLIGATION IS SUCH that, if Contractor, its heirs, executors, administrators, successors or assigns shall fail to pay for any materials, provision, supplies, implements or machinery used in, upon, for, or about the performance of the work contracted to be done, or for any work or labor thereon of any kind, together with interest at the rate of twelve percent per annum, or for amounts due under the unemployment compensation law with respect to such work or labor, as required by the provisions of NRS 612, and Surety shall promptly make payment to all claimants as hereinafter defined, for all labor and material used or reasonably required for use in the performance of the Contract not to exceed the sum specified in this Bond, subject, however, to the following conditions:

- 1) A claimant is defined as one having a direct contract with the Contractor or with a Subcontractor of the Principal for labor, material, or both, used or reasonably required for use in the performance of the Contract, labor and material being construed to include that part of water, gas, power, light, heat, oil, gasoline, telephone service, or rental of equipment directly applicable to the Contract.
- 2) The above-named Principal and Surety hereby jointly and severally agree with Truckee Meadows Water Authority that every claimant as herein defined, who has not been paid in full before the expiration of a period of ninety (90) days after the date on which the last of such claimant's work or labor was done or performed, or materials were furnished by such claimant, may sue on this bond for the use of such claimant, prosecute the suit to final judgment for such sum or sums as may be justly due claimant, and have execution thereon. Truckee Meadows Water Authority shall not be liable for the payment of any costs or expenses of any such suit.
- 3) No suit or action shall be commenced hereunder by any claimant:
 - a) Unless claimant, other than one having a direct contract with the Contractor, shall have given written notice to any two of the following: the Contractor, Truckee Meadows Water Authority, or the Surety above named, within ninety (90) days after such claimant did or performed the last of the work or labor, or furnished the last of the materials for which said claim is made, stating with substantial accuracy the amount claimed and the name of the party to whom the materials were furnished, or for whom the work or labor was done or performed. Such notice shall be personally served or served by mailing the same by registered mail or certified mail, postage prepaid, in an envelope addressed to the Principal at any place the Principal maintains an office or conducts its business.
 - b) After the expiration of one (1) year following the date on which the last of the labor was performed or material was supplied by the party bringing suit.
 - c) Other than in a court of competent jurisdiction for the county or district in which the construction contract was to be performed.

LABOR AND MATERIAL PAYMENT BOND

Continued for PWP Bid #WA-2015-194 and titled " Truckee Meadows Water Authority Verdi Storage Facility Project"

4) The amount of this bond shall be reduced by and to the extent of any payment or payments made in good faith hereunder.

Dated: June 29, 2015

BY: GRADEX CONSTRUCTION COMPANY

(Signature)
(signature of Principle)

TITLE: NATHAN B. BOACH, PRESIDENT

L.S.

FIRM: Gradex Construction Company

Address: 800 Bennie Lane, Suite A

City, State, Zip: Reno, NV 89512

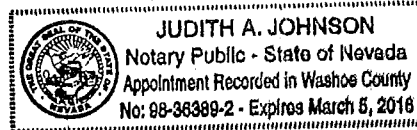
Phone: (775) 331-1070

Printed Principal's Name: NATHAN B. BOACH

Attest by: *Judith A. Johnson* (signature of Notary)

Subscribed and Sworn before me this 30th day of JUNE, 2015.

Notary public for the State of NEVADA



**CLAIMS UNDER THIS BOND
MAY BE ADDRESSED TO:**

Nevada Agent Information

Name of Surety Indemnity Company of California	Name of Nevada Licensed Agent Buschmann, Buschmann & Laux Surety Ins Services LLC / License #602882
Address P. O. Box 19725	Address 300 Harding Boulevard, Suite 209
City Irvine	City Roseville
State/Zip Code CA 92623 - 9725	State/Zip Code CA 95678
Name Kathy Rangel	Agent's Name Kathy Marie Rangel
Title Attorney-In-Fact	Agent's Title Agent
Telephone (916)924-8656 - Phyllis Bewley	Agent's Telephone (916)782-6637

Surety's Acknowledgment:

By: *Kathy Rangel*
Kathy Rangel, Attorney-In-Fact

Nevada Licensed Agent's Acknowledgment:

By: *Kathy Marie Rangel*
Kathy Marie Rangel / License #691731

NOTICE:

No substitution or revision to this bond form will be accepted. Sureties must be authorized to do business in and have an agent for service of process in the State of Nevada. Certified copy of Power of Attorney must be attached.

ACKNOWLEDGMENT

A notary public or other officer completing this certificate verifies only the identity of the individual who signed the document to which this certificate is attached, and not the truthfulness, accuracy, or validity of that document.

State of California
County of Placer)

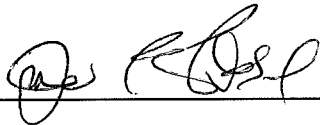
On June 29, 2015 before me, Jana B. Pilgard, Notary Public
(insert name and title of the officer)

personally appeared Kathy Rangel,
who proved to me on the basis of satisfactory evidence to be the person(s) whose name(s) is/are subscribed to the within instrument and acknowledged to me that he/she/they executed the same in his/her/their authorized capacity(ies), and that by his/her/their signature(s) on the instrument the person(s), or the entity upon behalf of which the person(s) acted, executed the instrument.

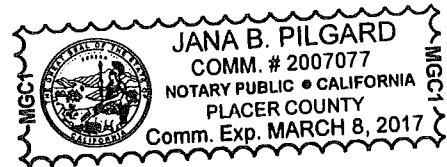
I certify under PENALTY OF PERJURY under the laws of the State of California that the foregoing paragraph is true and correct.

WITNESS my hand and official seal.

Signature



(Seal)



ACKNOWLEDGMENT

A notary public or other officer completing this certificate verifies only the identity of the individual who signed the document to which this certificate is attached, and not the truthfulness, accuracy, or validity of that document.

State of California
County of Placer)

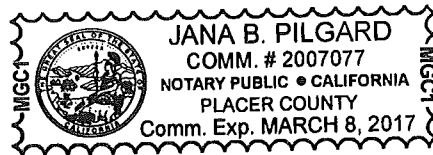
On June 29, 2015 before me, Jana B. Pilgard, Notary Public
(insert name and title of the officer)

personally appeared Kathy Marie Rangel,
who proved to me on the basis of satisfactory evidence to be the person(s) whose name(s) is/are subscribed to the within instrument and acknowledged to me that he/she/they executed the same in his/her/their authorized capacity(ies), and that by his/her/their signature(s) on the instrument the person(s), or the entity upon behalf of which the person(s) acted, executed the instrument.

I certify under PENALTY OF PERJURY under the laws of the State of California that the foregoing paragraph is true and correct.

WITNESS my hand and official seal.

Signature  (Seal)



**POWER OF ATTORNEY FOR
DEVELOPERS SURETY AND INDEMNITY COMPANY
INDEMNITY COMPANY OF CALIFORNIA
PO Box 19725, IRVINE, CA 92623 (949) 263-3300**

KNOW ALL BY THESE PRESENTS that except as expressly limited, DEVELOPERS SURETY AND INDEMNITY COMPANY and INDEMNITY COMPANY OF CALIFORNIA, do each hereby make, constitute and appoint:

Dona Lisa Buschmann, Robert D. Laux, J. Buschmann, Jana B. Pilgard, Kathy Rangel, jointly or severally

as their true and lawful Attorney(s)-in-Fact, to make, execute, deliver and acknowledge, for and on behalf of said corporations, as sureties, bonds, undertakings and contracts of suretyship giving and granting unto said Attorney(s)-in-Fact full power and authority to do and to perform every act necessary, requisite or proper to be done in connection therewith as each of said corporations could do, but reserving to each of said corporations full power of substitution and revocation, and all of the acts of said Attorney(s)-in-Fact, pursuant to these presents, are hereby ratified and confirmed.

This Power of Attorney is granted and is signed by facsimile under and by authority of the following resolutions adopted by the respective Boards of Directors of DEVELOPERS SURETY AND INDEMNITY COMPANY and INDEMNITY COMPANY OF CALIFORNIA, effective as of January 1st, 2008.

RESOLVED, that a combination of any two of the Chairman of the Board, the President, Executive Vice-President, Senior Vice-President or any Vice President of the corporations be, and that each of them hereby is, authorized to execute this Power of Attorney, qualifying the attorney(s) named in the Power of Attorney to execute, on behalf of the corporations, bonds, undertakings and contracts of suretyship; and that the Secretary or any Assistant Secretary of either of the corporations be, and each of them hereby is, authorized to attest the execution of any such Power of Attorney;

RESOLVED, FURTHER, that the signatures of such officers may be affixed to any such Power of Attorney or to any certificate relating thereto by facsimile, and any such Power of Attorney or certificate bearing such facsimile signatures shall be valid and binding upon the corporations when so affixed and in the future with respect to any bond, undertaking or contract of suretyship to which it is attached.

IN WITNESS WHEREOF, DEVELOPERS SURETY AND INDEMNITY COMPANY and INDEMNITY COMPANY OF CALIFORNIA have severally caused these presents to be signed by their respective officers and attested by their respective Secretary or Assistant Secretary this January 29, 2015.

By: *Daniel Young*
Daniel Young, Senior Vice-President

By: *Mark Lansdon*
Mark Lansdon, Vice-President



A notary public or other officer completing this certificate verifies only the identity of the individual who signed the document to which this certificate is attached, and not the truthfulness, accuracy, or validity of that document.

State of California
County of Orange

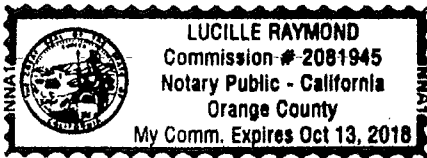
On January 29, 2015 before me, Lucille Raymond, Notary Public
Date Here Insert Name and Title of the Officer
personally appeared Daniel Young and Mark Lansdon
Name(s) of Signer(s)

who proved to me on the basis of satisfactory evidence to be the person(s) whose name(s) is/are subscribed to the within instrument and acknowledged to me that he/she/they executed the same in his/her/their authorized capacity(ies), and that by his/her/their signature(s) on the instrument the person(s), or the entity upon behalf of which the person(s) acted, executed the instrument.

I certify under PENALTY OF PERJURY under the laws of the State of California that the foregoing paragraph is true and correct.

WITNESS my hand and official seal.

Signature *Lucille Raymond*
Lucille Raymond, Notary Public



Place Notary Seal Above

CERTIFICATE

The undersigned, as Secretary or Assistant Secretary of DEVELOPERS SURETY AND INDEMNITY COMPANY or INDEMNITY COMPANY OF CALIFORNIA, does hereby certify that the foregoing Power of Attorney remains in full force and has not been revoked and, furthermore, that the provisions of the resolutions of the respective Boards of Directors of said corporations set forth in the Power of Attorney are in force as of the date of this Certificate.

This Certificate is executed in the City of Irvine, California, this 29th day of June, 2015

By: *Cassie J. Berrisford*
Cassie J. Berrisford, Assistant Secretary



CERTIFICATE OF LIABILITY INSURANCE

DATE (MM/DD/YYYY)
7/1/2015

THIS CERTIFICATE IS ISSUED AS A MATTER OF INFORMATION ONLY AND CONFERS NO RIGHTS UPON THE CERTIFICATE HOLDER. THIS CERTIFICATE DOES NOT AFFIRMATIVELY OR NEGATIVELY AMEND, EXTEND OR ALTER THE COVERAGE AFFORDED BY THE POLICIES BELOW. THIS CERTIFICATE OF INSURANCE DOES NOT CONSTITUTE A CONTRACT BETWEEN THE ISSUING INSURER(S), AUTHORIZED REPRESENTATIVE OR PRODUCER, AND THE CERTIFICATE HOLDER.

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 Comstock Insurance Agency 9424 Double R Blvd Reno NV 89521		CONTACT NAME: Judy Soracco PHONE (A/C, No, Ext): (775) 853-9424 FAX (A/C, No): (775) 852-1616 E-MAIL ADDRESS: jsoracco@comstockins.com	
INSURED Gradex Construction Company 800 Bennie Lane Reno NV 89512		INSURER(S) AFFORDING COVERAGE NAIC # INSURER A: Acuity 14184 INSURER B: Benchmark Insurance Company 41394 INSURER C: INSURER D: INSURER E: INSURER F:	

COVERAGES CERTIFICATE NUMBER: 15-16 GL BA Umb WC 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
A	<input checked="" type="checkbox"/> COMMERCIAL GENERAL LIABILITY <input type="checkbox"/> CLAIMS-MADE <input checked="" type="checkbox"/> OCCUR GEN'L AGGREGATE LIMIT APPLIES PER: <input checked="" type="checkbox"/> POLICY <input checked="" type="checkbox"/> PRO-JECT <input type="checkbox"/> LOC OTHER:	<input checked="" type="checkbox"/>	<input checked="" type="checkbox"/>	Z24360	7/1/2015	7/1/2016	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 Employee Benefits \$ 1,000,000
A	<input checked="" type="checkbox"/> 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	<input checked="" type="checkbox"/>	<input checked="" type="checkbox"/>	Z24360	7/1/2015	7/1/2016	COMBINED SINGLE LIMIT (Ea accident) \$ 1,000,000 BODILY INJURY (Per person) \$ BODILY INJURY (Per accident) \$ PROPERTY DAMAGE (Per accident) \$
A	<input checked="" type="checkbox"/> UMBRELLA LIAB <input checked="" type="checkbox"/> OCCUR <input checked="" type="checkbox"/> EXCESS LIAB <input type="checkbox"/> CLAIMS-MADE DED <input checked="" type="checkbox"/> RETENTION \$ 10,000			Z24360	7/1/2015	7/1/2016	EACH OCCURRENCE \$ 2,000,000 AGGREGATE \$ 2,000,000
B	WORKERS COMPENSATION AND EMPLOYERS' LIABILITY ANY PROPRIETOR/PARTNER/EXECUTIVE OFFICER/MEMBER EXCLUDED? (Mandatory in NH) If yes, describe under DESCRIPTION OF OPERATIONS below	<input type="checkbox"/>	<input type="checkbox"/>	BWC150126-00	1/1/2015	1/1/2016	<input checked="" type="checkbox"/> PER STATUTE <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


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

Project # 21-0005

Additional Insured endorsements CB 7242 5 13 and CA 7214 10 98 that includes Primary and Non-Contributory applies to TMWA, its officers, employees and immune contractors, if any for general liability and auto liability when required in written contract. Waiver of Subrogation endorsements CB 7268 04 10 and CA 7243 10 03 applies to TMWA, its officers, employees and immune contractors, if any for general liability and auto liability when required in written contract. Per Project is included in general liability endorsement CB 0006 12 12 when required in written contract. Waiver of Subrogation endorsement WC 00 03

CERTIFICATE HOLDER

CANCELLATION

TMWA Attn: Purchasing and Contracts P.O. Box 30013 Reno, NV 89520	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 Judy Soracco/JVS 
--	---

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COMMENTS/REMARKS

13 04 84 applies to TMWA, its officers, employees and immune contractors, if any for workers compensation when required in written contract.

ADDITIONAL INSURED - COMPLETED OPERATIONS - PRIMARY AUTOMATIC STATUS WHEN REQUIRED IN CONSTRUCTION AGREEMENT WITH YOU (OWNERS, LESSEES OR CONTRACTORS)

CB-7242(5-13)

This endorsement modifies insurance provided under the following:

BIS-PAK BUSINESS LIABILITY AND MEDICAL EXPENSES COVERAGE FORM

1. Who Is An Insured is amended to include as an additional insured:
 - a. Any person(s) or organization(s) for whom you have performed operations if you and such person(s) or organization(s) have agreed in writing in a contract or agreement that such person(s) or organization(s) be added as an additional insured on your policy for completed operations; and
 - b. Any other person or organization you are required to add as an additional insured under the contract or agreement described in paragraph a above.

Such person(s) or organization(s) is an additional insured only with respect to liability included in the *products-completed operations hazard* for *bodily injury* or *property damage* caused, in whole or in part, by *your work* performed for that additional insured at the location designated and described in the contract or agreement.

2. The insurance does not apply to:
 - a. *Bodily injury* or *property damage* which occurs prior to execution of the contract or agreement described in item 1; or
 - b. *Bodily injury* or *property damage* that occurs after the time period during which the contract or agreement described in item 1 requires you to add such person or organization onto your policy as an additional insured for completed operations; or
 - c. *Bodily injury* or *property damage* arising out of the rendering of, or the failure to render, any professional, architectural, engineering or surveying services, including:
 - (1) The preparing, approving or failing to prepare or approve maps, shop drawings, opinions, reports, surveys, field orders, change orders or drawings and specifications; and
 - (2) Supervisory, inspection, architectural or engineering activities.
3. The insurance provided by this endorsement is primary and noncontributory.

**ADDITIONAL INSURED - AUTOMATIC STATUS WHEN REQUIRED IN
WRITTEN AGREEMENT WITH YOU - PRIMARY**

Policy #Z05383 CA-7214(10-98)

This endorsement modifies insurance provided under the following:

BUSINESS AUTO COVERAGE FORM

GARAGE COVERAGE FORM

MOTOR CARRIER COVERAGE FORM

1. Who Is an Insured under Section II - Liability Coverage is amended to include any person or organization with whom you have agreed in writing in a contract or agreement that such person or organization be added as an additional insured on your policy. Such persons or organizations are additional insureds only with respect to liability arising

out of operations performed for the additional insured by you.

2. The coverage provided by this endorsement will be primary and noncontributory with respect to any other coverage available to the additional insured.

3. The Limits of Insurance applicable to the additional insured are those specified in the written contract or agreement or in the Declarations for this Coverage Form, whichever is less. These Limits of Insurance are inclusive and not in addition to the Limits of Insurance shown in the Declarations.

ACUITY ENHANCEMENTS - LIABILITY COVERAGES

CB-7268(4-10)

This endorsement modifies insurance provided under the following:

BIS-PAK BUSINESS LIABILITY AND MEDICAL EXPENSES COVERAGE FORM**A. Increased Bail Bond Amount**

Paragraph 1f(1)(b) under Liability and Medical Expenses Coverages is replaced by the following:

- (b) Up to \$1,000 for cost of bail bonds required because of accidents or traffic law violations arising out of the use of any vehicle to which Business Liability Coverage for *bodily injury* applies. We do not have to furnish these bonds.

B. Increased Reasonable Expenses Incurred by Insured

Paragraph 1f(1)(d) under Liability and Medical Expenses Coverages is replaced by the following:

- (d) All reasonable expenses incurred by the insured at our request to assist us in the investigation or defense of the claim or *suit*, including actual loss of earnings up to \$350 a day because of time off from work.

C. Newly Acquired Organizations

Paragraph 3a under Who Is An Insured is replaced by the following:

- a. Coverage under this provision is afforded only until the 180th day after you acquire or form the organization or the end of the policy period, whichever is earlier;

D. Tenants Legal Liability

Paragraphs (1), (3) and (4) of the Damage to Property Exclusion do not apply to *property damage* (other than damage by fire or explosion) to premises, including the contents of such premises, rented to you for a period of 8 or more consecutive days.

The most we will pay under this coverage for damages because of *property damage* to any one premises is \$10,000. A \$250 deductible applies.

E. Knowledge of Claim or Suit

The following is added to the Duties in the Event of Occurrence, Offense, Claim or Suit Condition:

Knowledge of an *occurrence*, offense, claim or *suit* by an agent or *employee* of any insured shall not in itself constitute knowledge of the insured unless your partners, *executive officers*, directors, managers, members or a person who has been designated by them to receive reports of *occurrences*, offenses, claims or *suits* shall have received such notice from the agent

or *employee*.

F. Broadened Bodily Injury

The definition of *bodily injury* is amended to include mental anguish.

G. Unintentional Failure to Disclose Hazard

The following is added to the Representations Condition in the Bis-Pak Common Policy Conditions:

Based on our dependence upon your representations as to existing hazards, if unintentionally you should fail to disclose all such hazards at the inception date of your policy, we will not reject Liability coverage under this policy based solely on such failure.

H. Waiver of Subrogation for Written Contracts

The following is added to the Transfer of Rights of Recovery Against Others to Us Condition under 2 Applicable to Liability Coverage in the Bis-Pak Common Policy Conditions:

We waive any right of recovery we may have against a person or organization because of payments we make for injury or damage arising out of your ongoing operations or *your work* done under a contract with that person or organization and included in the *products-completed operations hazard*. The waiver applies only to a person or organization with whom you have a written contract or agreement in which you are required to waive rights of recovery under this policy. Such contract or agreement must have been executed prior to the *occurrence* causing injury or damage.

I. Electronic Data Liability

1. The following paragraph is added to Liability and Medical Expenses Limits of Insurance:

Subject to 2 above, \$10,000 is the most we will pay for *property damage* because of all loss of *electronic data* arising out of any one *occurrence*.

2. The following definition is added to Liability and Medical Expenses Definitions:

"*Electronic data*" means information, facts or programs stored as or on, created or used on, or transmitted to or from computer software (including systems and application software), hard or floppy disks, CD-ROMS, tapes, drives, cells, data processing devices or any other media which are used with electronically controlled equipment.

3. For the purposes of this coverage, the definition of "*property damage*" is replaced by the following:

"*Property damage*" means:

- a. Physical injury to tangible property, in-

cluding all resulting loss of use of that property. All such loss of use shall be deemed to occur at the time of the physical injury that caused it;

- b. Loss of use of tangible property that is not physically injured. All such loss of use shall be deemed to occur at the time of the *occurrence* that caused it; or
- c. Loss of *electronic data*. Loss of *electronic data* means loss of, loss of use of, damage to, corruption of, inability to access, or inability to properly manipulate such data resulting from physical injury to tangible property. All such loss of *electronic data* shall be deemed to occur at the time of the *occurrence* that caused it.

For the purposes of this coverage, *electronic data* is not tangible property.

J. Employee Benefits Liability Coverage

1. The following is added to Liability and Medical Expenses Coverages:

Insuring Agreement

- a. We will pay those sums that the insured becomes legally obligated to pay as damages because of any act, error or omission, of the insured, or of any other person for whose acts the insured is legally liable, to which this coverage applies. We will have the right and duty to defend the insured against any *suit* seeking those damages. However, we will have no duty to defend the insured against any *suit* seeking damages to which this coverage does not apply. We may, at our discretion, investigate any report of an act, error or omission and settle any *claim* or *suit* that may result. But:
 - (1) The amount we will pay for damages is limited as described in paragraph 5 of this coverage; and
 - (2) Our right and duty to defend end when we have used up the applicable limit of insurance in the payment of judgments or settlements.No other obligation or liability to pay sums or perform acts or services is covered unless explicitly provided for under Supplementary Payments.
- b. This coverage applies to damages only if:
 - (1) The act, error or omission, is negligently committed in the *administration* of your *employee benefit program*;

- (2) The act, error or omission, did not take place before the original inception date of this coverage nor after the end of the policy period; and

- (3) A *claim* for damages, because of an act, error or omission, is first made against any insured, in accordance with paragraph c below, during the policy period or an Extended Reporting Period we provide under paragraph 6 of this coverage.

- c. A *claim* seeking damages will be deemed to have been made at the earlier of the following times:

- (1) When notice of such *claim* is received and recorded by any insured or by us, whichever comes first; or

- (2) When we make settlement in accordance with paragraph a above.

A *claim* received and recorded by the insured within 60 days after the end of the policy period will be considered to have been received within the policy period, if no subsequent policy is available to cover the "claim".

- d. All *claims* for damages made by an *employee* because of any act, error or omission, or a series of related acts, errors or omissions, including damages claimed by such *employee's* dependents and beneficiaries, will be deemed to have been made at the time the first of those *claims* is made against any insured.

Exclusions

This coverage does not apply to:

a. Dishonest, Fraudulent, Criminal Or Malicious Act

Damages arising out of any intentional, dishonest, fraudulent, criminal or malicious act, error or omission, committed by any insured, including the willful or reckless violation of any statute.

b. Bodily Injury, Property Damage, Or Personal And Advertising Injury

Bodily injury, property damage or personal and advertising injury.

c. Failure To Perform A Contract

Damages arising out of failure of performance of contract by any insured.

d. Insufficiency Of Funds

Damages arising out of an insufficiency of funds to meet any obligations under any plan included in the *employee benefit program*.

- e. **Inadequacy Of Performance Of Investment/Advice Given With Respect To Participation**
Any *claim* based upon:
 - (1) Failure of any investment to perform;
 - (2) Errors in providing information on past performance of investment vehicles; or
 - (3) Advice given to any person with respect to that person's decision to participate or not to participate in any plan included in the *employee benefit program*.
 - f. **Workers' Compensation And Similar Laws**
Any *claim* arising out of your failure to comply with the mandatory provisions of any workers' compensation, unemployment compensation insurance, social security or disability benefits law or any similar law.
 - g. **ERISA**
Damages for which any insured is liable because of liability imposed on a fiduciary by the Employee Retirement Income Security Act of 1974, as now or hereafter amended, or by any similar federal, state or local laws.
 - h. **Available Benefits**
Any *claim* for benefits to the extent that such benefits are available, with reasonable effort and cooperation of the insured, from the applicable funds accrued or other collectible insurance.
 - i. **Taxes, Fines Or Penalties**
Taxes, fines or penalties, including those imposed under the Internal Revenue Code or any similar state or local law.
 - j. **Employment-Related Practices**
Damages arising out of wrongful termination of employment, discrimination, or other employment-related practices.
2. For the purposes of the coverage provided:
 - a. All references to Supplementary Payments are replaced by Supplementary Payments and Employee Benefits Liability.
 - b. Paragraphs f(1)(b), f(2) and f(3) Coverage Extension - Supplementary Payments do not apply.
 3. For the purposes of the coverage provided, paragraphs 2 and 4 under Who Is An Insured are replaced by the following:
 - 2. Each of the following is also an insured:
 - a. Each of your *employees* who is or was authorized to administer your *employee benefit program*.
 - b. Any persons, organizations or *employees* having proper temporary authorization to administer your *employee benefit program* if you die, but only until your legal representative is appointed.
 - c. Your legal representative if you die, but only with respect to duties as such. That representative will have all your rights and duties under this coverage.
 - 4. Any organization you newly acquire or form, other than a partnership, joint venture or limited liability company, and over which you maintain ownership or majority interest, will qualify as a Named Insured if no other similar insurance applies to that organization. However:
 - a. Coverage under this provision is afforded only until the 90th day after you acquire or form the organization or the end of the policy period, whichever is earlier.
 - b. Coverage under this provision does not apply to any act, error or omission that was committed before you acquired or formed the organization.
 4. For the purposes of the coverage provided, the Liability And Medical Expenses Limits Of Insurance Section is replaced by the following:

Limits Of Insurance

 - a. The Limits of Insurance shown in d below and the rules below fix the most we will pay regardless of the number of:
 - (1) Insureds;
 - (2) *Claims* made or *suits* brought;
 - (3) Persons or organizations making *claims* or bringing *suits*;
 - (4) Acts, errors or omissions; or
 - (5) Benefits included in your *employee benefits program*.
 - b. The Aggregate Limit is the most we will pay for all damages because of acts, errors or omissions negligently committed in the *administration* of your *employee benefit program*.
 - c. Subject to the Aggregate Limit, the Each Employee Limit is the most we will pay for all damages sustained by

any one *employee*, including damages sustained by such *employee's* dependents and beneficiaries, as a result of:

- (1) An act, error or omission; or
- (2) A series of related acts, errors or omissions negligently committed in the *administration* of your *employee benefit program*.

However, the amount paid under this coverage shall not exceed, and will be subject to, the limits and restrictions that apply to the payment of benefits in any plan included in the *employee benefit program*.

d. Limits of Insurance

Each Employee Limit: \$250,000

Aggregate Limit: \$250,000

The Limits of Insurance of this coverage apply separately to each consecutive annual period and to any remaining period of less than 12 months, starting with the beginning of the policy period shown in the Declarations of the policy to which this coverage is attached, unless the policy period is extended after issuance for an additional period of less than 12 months. In that case, the additional period will be deemed part of the last preceding period for purposes of determining the Limits of Insurance.

Deductible

- a. Our obligation to pay damages on behalf of the insured applies only to the amount of damages in excess of the deductible amount stated in e below as applicable to Each Employee. The Limits of Insurance shall not be reduced by the amount of this deductible.
- b. The deductible amount stated in e below applies to all damages sustained by any one *employee*, including such *employee's* dependents and beneficiaries, because of all acts, errors or omissions to which this coverage applies.
- c. The terms of this coverage, including those with respect to:
 - (1) Our right and duty to defend any *suits* seeking those damages; and
 - (2) Your duties, and the duties of any other involved insured, in the event of an act, error or omission, or *claim*

apply irrespective of the application of the deductible amount.

- d. We may pay any part or all of the deductible amount to effect settlement of any *claim* or *suit* and, upon notifica-

tion of the action taken, you shall promptly reimburse us for such part of the deductible amount as we have paid.

e. Deductible

Each Employee Deductible: \$1,000

5. For the purposes of the coverage provided, Duties In The Event Of Occurrence, Offense, Claim Or Suit Condition is replaced by the following:

2. Duties In The Event Of An Act, Error Or Omission, Or Claim Or Suit

- a. You must see to it that we are notified as soon as practicable of an act, error or omission which may result in a *claim*. To the extent possible, notice should include:

- (1) What the act, error or omission was and when it occurred; and
- (2) The names and addresses of anyone who may suffer damages as a result of the act, error or omission.

- b. If a *claim* is made or *suit* is brought against any insured, you must:

- (1) Immediately record the specifics of the *claim* or *suit* and the date received; and
- (2) Notify us as soon as practicable.

- c. You and any other involved insured must:

- (1) Immediately send us copies of any demands, notices, summonses or legal papers received in connection with the *claim* or *suit*;
- (2) Authorize us to obtain records and other information;
- (3) Cooperate with us in the investigation or settlement of the *claim* or defense against the *suit*; and
- (4) Assist us, upon our request, in the enforcement of any right against any person or organization which may be liable to the insured because of an act, error or omission to which this coverage may also apply.

- d. No insured will, except at that insured's own cost, voluntarily make a payment, assume any obligation or incur any expense without our consent.

- e. The requirements to notify us can

be satisfied by notifying our agent. Notice can be by any means of communication.

6. For the purposes of the coverage provided, the following Extended Reporting Period provisions are added:

EXTENDED REPORTING PERIOD

- a. You will have the right to purchase an Extended Reporting Period, as described below, if:
- (1) This coverage is canceled or not renewed; or
 - (2) We renew or replace this coverage with insurance that:
 - (a) Has an inception date later than the original inception date of this coverage; or
 - (b) Does not apply to an act, error or omission on a claims-made basis.
- b. The Extended Reporting Period does not extend the policy period or change the scope of coverage provided. It applies only to *claims* for acts, errors or omissions that were first committed before the end of the policy period but not before the original inception date of this coverage. Once in effect, the Extended Reporting Period may not be canceled.

- c. An Extended Reporting Period of five years is available, but only by an endorsement and for an extra charge.

You must give us a written request for the endorsement within 60 days after the end of the policy period. The Extended Reporting Period will not go into effect unless you pay the additional premium promptly when due.

We will determine the additional premium in accordance with our rules and rates. In doing so, we may take into account the following:

- (1) The *employee benefit programs* insured;
- (2) Previous types and amounts of insurance;
- (3) Limits of Insurance available under this coverage for future payment of damages; and
- (4) Other related factors.

The additional premium will not exceed \$100.

The Extended Reporting Period endorsement applicable to this coverage shall set forth the terms, not inconsistent with this Section, applicable to the

Extended Reporting Period, including a provision to the effect that the coverage afforded for *claims* first received during such period is excess over any other valid and collectible insurance available under policies in force after the Extended Reporting Period.

- d. If the Extended Reporting Period is in effect, we will provide an extended reporting period aggregate limit of insurance described below, but only for claims first received and recorded during the Extended Reporting Period.

The extended reporting period aggregate limit of insurance will be equal to the dollar amount shown in 4d of this coverage under Limits of Insurance.

Paragraph 4b of this coverage will be amended accordingly. The Each Employee Limit shown in 4d will then continue to apply as set forth in paragraph 4c.

7. For the purposes of the coverage provided, the following definitions are added to Liability And Medical Expenses Definitions:

- a. "*Administration*" means:

- (1) Providing information to *employees*, including their dependents and beneficiaries, with respect to eligibility for or scope of *employee benefit programs*;
- (2) Handling records in connection with the *employee benefit program*; or
- (3) Effecting, continuing or terminating any *employee's* participation in any benefit included in the *employee benefit program*.

However, *administration* does not include handling payroll deductions.

- b. "*Cafeteria plans*" means plans authorized by applicable law to allow employees to elect to pay for certain benefits with pre-tax dollars.

- c. "*Claim*" means any demand, or *suit*, made by an *employee* or an *employee's* dependents and beneficiaries, for damages as the result of an act, error or omission.

- d. "*Employee benefit program*" means a program providing some or all of the following benefits to *employees*, whether provided through a *cafeteria plan* or otherwise:

- (1) Group life insurance; group accident or health insurance; dental, vision and hearing plans; and flexible spending accounts; provided that

no one other than an *employee* may subscribe to such benefits and such benefits are made generally available to those *employees* who satisfy the plan's eligibility requirements;

- (2) Profit sharing plans, employee savings plans, employee stock ownership plans, pension plans and stock subscription plans, provided that no one other than an *employee* may subscribe to such benefits and such benefits are made generally available to all *employees* who are eligible under the plan for such benefits;
 - (3) Unemployment insurance, social security benefits, workers' compensation and disability benefits;
 - (4) Vacation plans, including buy and sell programs; leave of absence programs, including military, maternity, family, and civil leave; tuition assistance plans; transportation and health club subsidies; and
 - (5) Any other similar benefits added thereto by endorsement.
8. For the purposes of the coverage provided, the following Definitions in the Liability And Medical Expenses Definitions Section are replaced by the following:
- a. "*Employee*" means a person actively employed, formerly employed, on leave of absence or disabled, or retired. *Employee* includes a *leased worker*. *Employee* does not include a *temporary worker*.
 - b. "*Suit*" means a civil proceeding in which damages because of an act, error or omission to which this coverage applies are alleged. *Suit* includes:
 - (1) An arbitration proceeding in which such damages are claimed and to which the insured must submit or does submit with our consent; or
 - (2) Any other alternative dispute resolution proceeding in which such damages are claimed and to which the insured submits with our consent.
9. The Bis-Pak Common Policy Conditions are amended as follows:
- For the purposes of the coverage provided, paragraph H3 Other Insurance is replaced by the following:
3. This Employee Benefits Liability Coverage is excess over any of the other insurance, whether primary, excess, contingent or on any other basis that is

effective prior to the beginning of the policy period shown in the Declarations and that applies to an act, error or omission on other than a claims-made basis, if the other insurance has a policy period which continues after the original inception date of this coverage.

K. Voluntary Property Damage

1. With respect to the insurance provided under this coverage, the following apply:
 - a. Exclusion 1k(4) is replaced by the following:
 - (4) Personal property of others:
 - (a) Held by the insured for servicing, repair, storage or sale at premises owned, occupied or rented to the insured.
 - (b) Caused by the ownership, maintenance, use, loading or unloading of any auto, watercraft, or transportation of property by any means.
 - b. Exclusion 1k(5) is deleted.
2. The insurance provided by this coverage is subject to the following provisions:
 - a. We will pay for *property damage* at your request even if you are not legally liable, if it is otherwise subject to this coverage.
 - b. *Property damage* does not include loss of use if personal property of others is not physically injured.
 - c. **Limits**

The most we will pay for an *occurrence* under this coverage is \$2,500.

The most we will pay for the sum of all amounts paid under this coverage is an aggregate of \$2,500.

The Liability and Medical Expenses Limit and the Aggregate Limits do not apply to the insurance provided under this coverage.
 - d. **Settlement**

If you make any repairs to damaged property, at our request, we will pay the larger of your actual cost or 75% of your usual charge for the necessary labor and materials. Any property paid for or replaced by us may become our property at our option. Any payment made under this coverage shall not be interpreted as an admission of liability by the insured or the company.
 - e. **Deductible**

Our obligation to pay for a covered loss

applies only to the amount of loss in excess of \$100.

f. Other Insurance

The insurance provided by this coverage is excess over any other insurance carried by the insured which applies to a loss covered by this coverage.

L. Increased Limits of Insurance

1. The General Aggregate Limit is increased to three times the Liability and Medical Expenses Limit if your current Liability and Medical Expenses Limit is equal to \$500,000 or \$1,000,000.

2. The Products-Completed Operations Aggregate Limit is increased to three times the Liability and Medical Expenses Limit if your current Liability and Medical Expenses Limit is equal to \$500,000 or \$1,000,000.
3. The Damage To Premises Rented To You Limit is increased to \$250,000.
4. The Medical Expense Limit is increased to \$10,000.

The Limits of Insurance shown here do not replace and are not in addition to the Limits of Insurance shown in the Declarations.

**WAIVER OF TRANSFER OF RIGHTS OF RECOVERY AGAINST OTHERS TO
US - AUTOMATIC STATUS UNDER AN INSURED CONTRACT**

CA-7243(10-03)

This endorsement modifies insurance provided under the following:

BUSINESS AUTO COVERAGE FORM
GARAGE COVERAGE FORM
MOTOR CARRIER COVERAGE FORM

With respect to coverage provided by this endorsement, the provisions of the Coverage Form apply unless modified by the endorsement.

The following is added to the Transfer of Rights of Recovery Against Others to Us Loss Condition:

1. We waive any right of recovery we may have

against any person or organization described in paragraph 2 because of payments we make for *bodily injury* or *property damage* under an *insured contract* with that person or organization as described in paragraph a of Exclusion B2 Contractual under Section II - Liability Coverage.

2. The waiver applies only to a person or organization with whom you have a written contract or agreement requiring you to waive the rights of recovery under this policy.

WAIVER OF OUR RIGHT TO RECOVER FROM OTHERS ENDORSEMENT

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.)

This agreement shall not operate directly or indirectly to benefit anyone not named in the Schedule.

Schedule

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 Date: 1/1/2015 Policy No. BWC150126-00 Endorsement No.
Policy Effective Dates: 01/01/2015 - 01/01/2016 Premium \$
Insured: Gradex Construction Company

Carrier Name / Code: Benchmark Insurance Company

WC 00 03 13
(Ed. 4-84)

Countersigned by _____