

MINUTES

of a regular meeting of the Board of Directors of the Redevelopment Agency of the City of Redlands held in the Council Chambers, Civic Center, 35 Cajon Street, on August 3, 2010 at 4:47 P.M.

PRESENT

Pat Gilbreath, Chairperson
Jon Harrison, Boardmember
Mick Gallagher, Boardmember
Pete Aguilar, Boardmember

ABSENT

Jerry Bean, Vice Chairperson

STAFF

N. Enrique Martinez, Executive Director; Daniel J. McHugh, Agency Attorney; Tina Kundig, Finance Director/Agency Treasurer; Oscar Orci, Redevelopment Agency Director; and Sam Irwin, Agency Secretary

CONSENT CALENDAR

Minutes - On motion of Mr. Gallagher, seconded by Mr. Harrison, the minutes of the regular meeting of July 20, 2010 were approved as submitted.

Non-Disclosure Agreement - On motion of Mr. Gallagher, seconded by Mr. Harrison, the Board of Directors unanimously approved a Non-Disclosure Agreement between the Redevelopment Agency and GGP-Redlands Mall, L.P. to facilitate an appraisal of the value of the mall.

Economic Development Agreement - On motion of Mr. Gallagher, seconded by Mr. Harrison, the Board of Directors unanimously approved the first amendment to an agreement with the Redlands Chamber of Commerce for economic development services. The amendment maintains the scope of services, reduces the level of participation by the Chamber consistent with FY 2010-2011 budget decisions.

NEW BUSINESS

State Street Planters - On motion of Mr. Aguilar, seconded by Mr. Gallagher, the Board of Directors unanimously agreed that the State Street Planters Retrofit Project is exempt from the California Environmental Quality Act and directed staff to file a Notice of Exemption in accordance with City of Redlands guidelines. The Board of Directors also approved the project plans and awarded a contract for the work to America West Landscaping, Inc.

PUBLIC COMMENTS

Olio - Steve Rogers spoke on three subjects: He said the City of Redlands should be charging for business licenses for landlords. Citing examples of disrepair at the Terrace Project area, he said the City of Redlands is not getting their money's worth from expenditures on that project. Lastly, he proposed the Skate Park Project should be accomplished with a partnership of public and private funding.

ADJOURNMENT

There being no further business, the Board of Directors' meeting of the Redevelopment Agency adjourned at 4:57 P.M. The Board of Directors will meet next at their regularly scheduled meeting on September 7, 2010. The regular meeting on August 17, 2010 is cancelled.

MUNICIPAL UTILITIES & ENGINEERING DEPARTMENT

MEMORANDUM

TO: Pat Gilbreath, Mayor

FROM: Rosemary Hoerning, Municipal Utilities & Engineering Director *RH.*
Chris Diggs, Assistant Utilities Director

THROUGH: N. Enrique Martinez, City Manager
Dan McHugh, City Attorney

DATE: August 18, 2010

SUBJECT: Request for Mayor's Signature

The documents are in appropriate form for execution by the Mayor
DJR

Recommendation:

I am recommending the Mayor execute the two attached agreement with America West landscape, Inc. for the State Street Planter Retrofit project.

Background:

On August 3, 2010, the City Council awarded the State Street Planter Retrofit project to America West landscape, Inc. Both agreements have been signed by MCC and the required bonds and insurance has been submitted.

ATTACHMENT:

- (1) 2 agreements signed by America West landscape, Inc.
- (2) Performance bond and Labor and Material Bond
- (3) Minutes from August, 3 2010 City Council meeting

RH:trw

PUBLIC WORK CONSTRUCTION CONTRACT

This Public Work Construction contract "Contract"), made and entered into this 3 day of August, 2010, by and between the City of Redlands, a municipal corporation organized and existing under the laws of the State of California, (hereinafter "City"), and America West Landscape Inc. (hereinafter "Contractor"), City and Contractor are sometimes individually referred to herein as a "Party" and, together, as the "Parties".

In consideration of the mutual promises contained herein, City and Contractor agree as follows:

1. **SCOPE OF WORK:** The Contractor will furnish all materials and will perform all of the work for the following: Construction of the certain designated public improvements project, complete, as required by the Contract Documents and Specifications for: **THE STATE STREET PLANTERS RETROFIT BETWEEN ORANGE STREET AND REDLANDS BLVD. PROJECT NO. 11008**
2. **THE CONTRACT SUM:** The City shall pay Contractor the sum of \$ 77,128.39 in as consideration for its performance of the work in accordance with the terms and conditions set forth in the Contract Documents. Pursuant to Section 22300, Contractor has the option to deposit securities with an Escrow Agent as a substitute for retention of earnings requirement to be withheld by City pursuant to an escrow agreement as set forth in the Public Contract Code Section 22300.
3. **TIME FOR COMPLETION:** The work under this Contract is to be completed within Forty-Five (45) calendar days from and after the date of delivery of a written Notice to Proceed by City.
4. **LIQUIDATED DAMAGES:** Contractor's failure to complete the work within the time allowed will result in damages being sustained by City. Such damages are, and will continue to be, impracticable and extremely difficult to determine. Accordingly, Contractor shall pay to the City, or have withheld from monies due the Contractor, the sum of Five Hundred Dollars (\$500) for each consecutive calendar day in excess of the specified time for completion of the work.

Execution of the Contract shall constitute agreement by the City and Contractor that Five Hundred Dollars \$500 per day is the estimated damage to City caused by the failure of the Contractor to complete the work within the allowed time. Such sum is for liquidated damages and shall not be construed as a penalty, and may be deducted from payments due Contractor if such delay occurs.

5. **CONTRACT DOCUMENTS:** This Contract includes all of the Contract documents set forth herein, to wit; Notice Inviting Bids, Instructions to Bidders, Contractor's Proposal, Bid Bond, Agreement, Performance Bond, Labor and Material Bond, Plans, General Conditions, Special Conditions, Special Provisions and Specifications and any addenda thereto.

IN WITNESS WHEREOF, the parties hereto have executed this Agreement the day and year first written above.

(SEAL)

City of Redlands
(Owner)

By: Pat Gilheath
Mayor, City of Redlands, County of
San Bernardino, California

ATTEST:

[Signature]
City Clerk, City of Redlands
County of San Bernardino, California

(SEAL)

America West Landscape Inc.
Name of Contractor

By: [Signature]
Signature of Authorized Agent

President
Title

[Signature]
Signature of Authorized Agent (if necessary)

[Signature] Pres
Title DB

812932
Contractor's License No.

Executed in Duplicate

Bond Number: 10-08509-PP
Premium: \$1,543.00
Premium is for contract term
and is subject to adjustment
based on final contract price.

PERFORMANCE BOND

Whereas, the City Council of the City of Redlands, State of California, and America West Landscape, Inc. (hereinafter designated as "Principal") have entered into an agreement whereby Principal agrees to install and complete certain designated public improvements, which said agreement, dated August 3, 2010, and identified as **THE STATE STREET PLANTERS RETROFIT BETWEEN ORANGE STREET AND REDLANDS BLVD., PROJECT NO. 11008** is hereby referred to and made a part hereof; and

Whereas, said Principal is required under the terms of said agreement to furnish a bond for the performance of said project.

Now, therefore, said Principal and First Sealord Surety, Inc., as surety, are held firmly bound unto the City of Redlands (hereinafter call "City"), in the penal sum of Seventy Seven Thousand One Hundred Twenty Eight and 39/100 Dollars (\$ 77,128.39) lawful money of the United States, for the payment of which sum well and truly to be made, we bind ourselves, our heirs, successors, executors and administrators, jointly and severally, firmly by these presents.

The condition of this obligation is such that if the above bounded Principal, his or hers heirs, executors, administrator, successors or assigns, shall in all things stand to and abide by, and well and truly keep and perform the covenants, conditions and provisions in the said agreement and any alteration thereof made as therein provided, or his or their part, to be kept and performed at the time and in the manner therein specified, and in all respects according to their true intent and meaning, and shall defend, indemnify and save harmless the City, its elected officials, officers, agents and employees, as therein stipulated, then this obligation shall become null and void; otherwise it shall be and remain in full force and effect.

As a part of the obligation secured hereby and in addition the face amount specified therefore, there shall be included costs and reasonable expenses and fees, including reasonable attorney's fees incurred by the City in successfully enforcing such obligation, all to be taxed as costs and included in any judgment rendered.

The surety hereby stipulates and agrees that no change, extension of time, alteration or addition to the terms of the agreement or to the work to be performed thereunder or the specifications accompanying the same shall in anyway affect its obligations on this bond, and it does hereby waive notice of any such change, extension of time, alteration or addition to the terms of the agreement or to the work or to the specifications.

In witness whereof, this instrument has been duly executed by the Principal and surety above named, on August 11, 2010. (SEAL)

America West Landscape, Inc.

(Contractor)

[Signature]
(Signature)

(Seal and Notarial Acknowledgment of
Surety)

First Sealord Surety, Inc.

(Surety)

BY: Cynthia J. Young
(Signature)

Cynthia J. Young
Attorney-in-Fact

Address: 160 North Riverview Dr. Ste 200
Anaheim Hills, CA 92808

Telephone (714) 820-4562

CALIFORNIA ALL-PURPOSE CERTIFICATE OF ACKNOWLEDGMENT

State of California

County of San Bernardino

On 8/16/10 before me, Raymond Brabiesca Notary Public
(Here insert name and title of the officer)

personally appeared Diane Green

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.

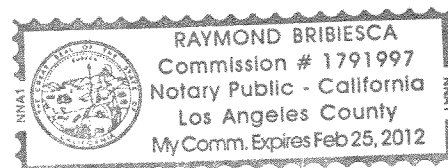
I certify under PENALTY OF PERJURY under the laws of the State of California that the foregoing paragraph is true and correct.

WITNESS my hand and official seal.

[Signature]

Signature of Notary Public

(Notary Seal)



ADDITIONAL OPTIONAL INFORMATION

INSTRUCTIONS FOR COMPLETING THIS FORM

Any acknowledgment completed in California must contain verbiage exactly as appears above in the notary section or a separate acknowledgment form must be properly completed and attached to that document. The only exception is if a document is to be recorded outside of California. In such instances, any alternative acknowledgment verbiage as may be printed on such a document so long as the verbiage does not require the notary to do something that is illegal for a notary in California (i.e. certifying the authorized capacity of the signer). Please check the document carefully for proper notarial wording and attach this form if required.

- State and County information must be the State and County where the document signer(s) personally appeared before the notary public for acknowledgment.
- Date of notarization must be the date that the signer(s) personally appeared which must also be the same date the acknowledgment is completed.
- The notary public must print his or her name as it appears within his or her commission followed by a comma and then your title (notary public).
- Print the name(s) of document signer(s) who personally appear at the time of notarization.
- Indicate the correct singular or plural forms by crossing off incorrect forms (i.e. ~~he/she/they~~ is /are) or circling the correct forms. Failure to correctly indicate this information may lead to rejection of document recording.
- The notary seal impression must be clear and photographically reproducible. Impression must not cover text or lines. If seal impression smudges, re-seal if a sufficient area permits, otherwise complete a different acknowledgment form.
- Signature of the notary public must match the signature on file with the office of the county clerk.
 - ❖ Additional information is not required but could help to ensure this acknowledgment is not misused or attached to a different document.
 - ❖ Indicate title or type of attached document, number of pages and date.
 - ❖ Indicate the capacity claimed by the signer. If the claimed capacity is a corporate officer, indicate the title (i.e. CEO, CFO, Secretary).
- Securely attach this document to the signed document

DESCRIPTION OF THE ATTACHED DOCUMENT

(Title or description of attached document)

(Title or description of attached document continued)

Number of Pages _____ Document Date _____

(Additional information)

CAPACITY CLAIMED BY THE SIGNER

- ☐ Individual (s)
☐ Corporate Officer

(Title)

- ☐ Partner(s)
☐ Attorney-in-Fact
☐ Trustee(s)
☐ Other _____

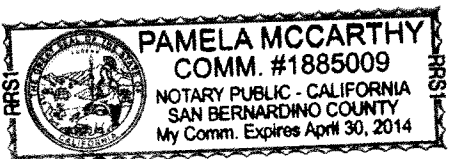
CALIFORNIA ALL-PURPOSE ACKNOWLEDGEMENT

State of California }
County of San Bernardino } ss.

On August 11, 2010 before me, Pamela McCarthy, Notary Public
Name and Title of Officer (e.g., "Jane Doe, Notary Public")

personally appeared Cynthia J. Young
Name(s) of Signer(s)

who proved to me on the basis of satisfactory evidence to be the person whose name is subscribed to the within instrument and acknowledged to me that she executed the same in her authorized capacity, and that by her signature on the instrument the person, or the entity upon behalf of which the person 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.

Pamela McCarthy
Signature of Notary Public

OPTIONAL

Though the information below is not required by law, it may prove valuable to persons relying on the document and could prevent fraudulent removal and reattachment of this form to another document.

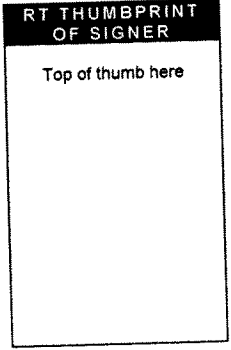
Description of Attached Document

Title or Type of Document: _____
Document Date: _____ Number of Pages: _____
Signer(s) Other Than Named Above: _____

Capacity(ies) Claimed by Signer(s)

Signer's Name: _____

- ☐ Individual
- ☐ Corporate Officer
Title _____
- ☐ Partner -- ☐ Limited ☐ General
- ☒ Attorney-in-Fact
- ☐ Trustee
- ☐ Guardian or Conservator
- Other: _____



Signer is Representing:

First Sealord Surety, Inc.
Power of Attorney

Power No: ACA-0699-10-14139

KNOW ALL MEN BY THESE PRESENTS: That First Sealord Surety, Inc., a corporation of the Commonwealth of Pennsylvania, (hereinafter the "Company") has made, constituted and appointed, and by these presents does make, constitute and appoint

Jay P. Freeman, Pamela McCarthy, Cynthia J. Young and/or Laurie B. Druck all of San Bernardino, California

its true and lawful Attorney-in-Fact, to make, execute and deliver on its behalf insurance policies, surety bonds, undertakings and other instruments of a similar nature as follows:

***** **Not To Exceed Five Million Dollars**-----**(\$5,000,000.00)** *****

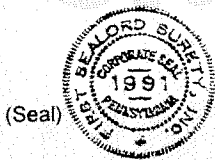
Such insurance policies, surety bonds, undertakings and instruments for said purposes, when duly executed by the aforesaid Attorney-in-Fact, shall be binding upon the said Corporation as fully and to the same extent as if signed by the duly authorized officers of the Corporation and sealed with its corporate seal; and all the acts of said Attorney-in-Fact, pursuant to the authority hereby given, are hereby ratified and confirmed.

This appointment is made pursuant to the following By-Laws which were duly adopted by the Board of Directors of the said Corporation on April 7, 2003 with all Amendments thereto and are still in full force and effect:

"Article XII: Policies, Bonds, Recognitions, Stipulations, Consents of Surety, Underwriting Undertakings, and Instruments Relating Thereto.

Section 12-1. Insurance policies, bonds, recognitions, stipulations, consents of surety and underwriting undertakings of the Corporation, and releases, agreements and other writings relating in any way thereto or to any claim or loss thereunder, shall be signed in the name and on behalf of the Corporation: a) by the Chairman of the Board, the President or a Vice President, and by the Secretary or an Assistant Secretary; or b) by an Attorney-in-Fact for the Corporation appointed and authorized by the Chairman of the Board, the President, or a Vice President to make such signature; or c) by such other officers or representatives as the Board may from time to time determine. The seal of the Corporation shall if appropriate be affixed thereto by any such officer, Attorney-in-Fact or representative. The authority of such Attorney-in-Fact and Agents shall be as prescribed in the instrument evidencing their appointment. Any such appointment and all authority granted thereby may be revoked at any time by the Board of Directors or by any person empowered to make such appointment."

IN WITNESS WHEREOF, First Sealord Surety, Inc. has caused these presents to be duly signed and its corporate seal to be hereunto affixed and duly attested this 20th day of January, 2004.



Commonwealth of Pennsylvania
County of Montgomery

Attest:

Gary L. Bragg, Secretary

First Sealord Surety, Inc.

By:

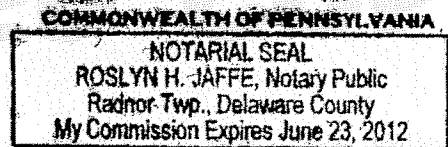
Joel D. Cooperman, Vice President

On this 22nd day of April, 2010, before me personally appeared Joel D. Cooperman, Vice President of First Sealord Surety, Inc., satisfactorily proven to be the person whose name is subscribed to this instrument (driver's license), who, being by me duly sworn, said that he resides in the Commonwealth of Pennsylvania, that he is Vice President of First Sealord Surety, Inc., the corporation described in and which executed the foregoing instrument; that he knows the corporate seal of the said Corporation; that the seal affixed to said instrument is such corporate seal; that it was so affixed by order of the Board of Directors of said Corporation; and that he signed his name thereto as Vice President of said

State of Pennsylvania
County of Delaware

- Notary Public

CERTIFICATE



I, the undersigned Secretary of First Sealord Surety, Inc. do hereby certify that the original Power of Attorney of which the foregoing is a full, true and correct copy, is in full force and effect on the date of this Certificate and I do further certify that the Officer who executed the said Power of Attorney was one of the Officers authorized by the Board of Directors to appoint an Attorney-in-Fact as provided in Section 12-1 of the By-Laws of First Sealord Surety, Inc. This Certificate may be signed and sealed by facsimile under and by authority of the following provisions of the By-Laws of First Sealord Surety, Inc.:

"Section 12-2. The use of a printed facsimile of the corporate seal of the Corporation and of the signature of the Secretary or an Assistant Secretary on any certification of the correctness of a copy of an instrument executed by an authorized person pursuant to Article XII, Section 12-1 of the By-Laws appointing and authorizing an Attorney-in-Fact to sign in the name and on behalf of the Corporation surety bonds, underwriting undertakings, or other instruments described in said Section 12-1, with like effect as if such seal and such signature had been manually affixed and made."

In Witness Whereof, I have hereunto set my hand and affixed the corporate seal of the Corporation to these presents

this 11th day of August, 2010.

This power of attorney is void unless the Bond number is inserted in this paragraph (insert Bond # here 10-08509-PP), the bond number is the same number as on the original bond, and the bond number has been inserted by an officer or employee of the Company or by the agent.

(seal)

Gary L. Bragg, Secretary

LABOR AND MATERIAL BOND

Whereas, the City Council of the City of Redlands, State of California, and America West Landscape, Inc. (hereinafter designated as "Principal") have entered into an agreement whereby Principal agrees to install and complete certain designated public improvements, which said agreement, dated August 3, 2010, and identified as **THE STATE STREET PLANTERS RETROFIT BETWEEN ORANGE STREET AND REDLANDS BLVD., PROJECT NO. 11008** is hereby referred to and made a part hereof; and

Whereas, under the terms of said agreement, Principal is required before entering upon the performance of the work, to file a good and sufficient payment bond with the City of Redlands to secure the claims to which reference is made in Title 15 (commencing with Section 3082) of Part 4 of Division 3 of the Civil Code of the State of California.

Now, therefore, said Principal and the undersigned as corporate surety, are held firmly bound unto the City of Redlands and all contractors, subcontractors, laborers, material men and other persons employed in the performance of the aforesaid agreement and referred to in the aforesaid Code of Civil Procedure in the sum of Seventy Seven Thousand One Hundred Twenty Eight and 39/100 Dollars (\$77,128.39) for materials furnished or labor thereon of any kind, or for amounts due under the Unemployment Insurance Act with respect to such work or labor, that said surety will pay the same in an amount not exceeding the amount hereinabove set forth, and also in case suit is brought upon this bond, will pay, in addition to the face amount thereof, costs and reasonable expenses and fees, including reasonable attorney's fees, incurred by the City of Redlands in successfully enforcing such obligation, to be awarded and fixed by the court, and to be taxed as costs and to be included in the judgment therein rendered.

It is hereby expressly stipulated and agreed that this bond shall insure to the benefit of any and all persons, companies and corporations entitled to file claims under Title 15 (commencing with Section 3082) of Part 4 of Division 3 of the Civil Code, so as to give a right of action to them or their assigns in any suit brought upon this bond.

Should the condition of this bond be fully performed, then this obligation shall become null and void, otherwise it shall be and remain in full force and effect.

The surety hereby stipulates and agrees that no change, extension of time, alteration or addition to the terms of said agreement or the specifications accompanying the same shall in any manner affect its obligations on this bond, and it does hereby waive notice of any such change, extension of time, alteration or addition.

In witness whereof, this instrument has been duly executed by the Principal and surety above named, on August 11, 2010.

America West Landscape, Inc. (SEAL)
[Signature] (Contractor)
[Signature] (Signature)

(Seal and Notarial Acknowledgment of Surety)

First Sealord Surety, Inc. (SEAL)
BY: [Signature] (Surety)
Cynthia D. Young, (Signature)
Attorney-in-Fact
Address: 160 North Riverview Drive, Ste 200
Anaheim Hills, CA 92808
Telephone (714) 820-4562

CALIFORNIA ALL-PURPOSE CERTIFICATE OF ACKNOWLEDGMENT

State of California

County of San Bernardino

On 8/16/10 before me, Raymond Bribiesca Notary Public
(Here insert name and title of the officer)

personally appeared Diane Green

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.

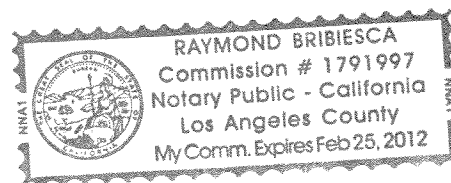
I certify under PENALTY OF PERJURY under the laws of the State of California that the foregoing paragraph is true and correct.

WITNESS my hand and official seal.

[Signature]

Signature of Notary Public

(Notary Seal)



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- The notary public must print his or her name as it appears within his or her commission followed by a comma and then your title (notary public).
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- Signature of the notary public must match the signature on file with the office of the county clerk.
 - ❖ Additional information is not required but could help to ensure this acknowledgment is not misused or attached to a different document.
 - ❖ Indicate title or type of attached document, number of pages and date.
 - ❖ Indicate the capacity claimed by the signer. If the claimed capacity is a corporate officer, indicate the title (i.e. CEO, CFO, Secretary).
- Securely attach this document to the signed document

DESCRIPTION OF THE ATTACHED DOCUMENT

(Title or description of attached document)

(Title or description of attached document continued)

Number of Pages _____ Document Date _____

(Additional information)

CAPACITY CLAIMED BY THE SIGNER

- ☐ Individual (s)
☐ Corporate Officer

(Title)

- ☐ Partner(s)
☐ Attorney-in-Fact
☐ Trustee(s)
☐ Other _____

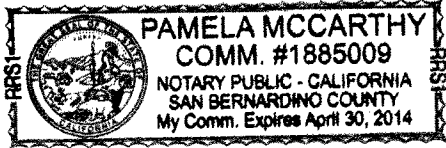
CALIFORNIA ALL-PURPOSE ACKNOWLEDGEMENT

State of California }
County of San Bernardino } ss.

On August 11, 2010 before me, Pamela McCarthy, Notary Public
Name and Title of Officer (e.g., "Jane Doe, Notary Public")

personally appeared Cynthia J. Young
Name(s) of Signer(s)

who proved to me on the basis of satisfactory evidence to be the person whose name is subscribed to the within instrument and acknowledged to me that she executed the same in her authorized capacity, and that by her signature on the instrument the person, or the entity upon behalf of which the person 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.

Pamela McCarthy
Signature of Notary Public

OPTIONAL

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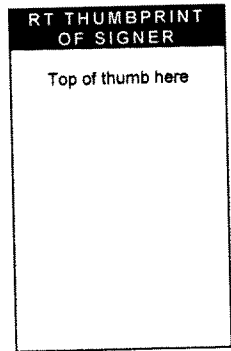
Title or Type of Document: _____
Document Date: _____ Number of Pages: _____
Signer(s) Other Than Named Above: _____

Capacity(ies) Claimed by Signer(s)

Signer's Name: _____

- ☐ Individual
- ☐ Corporate Officer
Title _____
- ☐ Partner -- ☐ Limited ☐ General
- ☒ Attorney-in-Fact
- ☐ Trustee
- ☐ Guardian or Conservator
- Other: _____

Signer is Representing: _____



**First Sealord Surety, Inc.
Power of Attorney**

Power No: ACA-0699-10-14140

KNOW ALL MEN BY THESE PRESENTS: That First Sealord Surety, Inc., a corporation of the Commonwealth of Pennsylvania, (hereinafter the "Company") has made, constituted and appointed, and by these presents does make, constitute and appoint

Jay P. Freeman, Pamela McCarthy, Cynthia J. Young and/or Laurie B. Druck all of San Bernardino, California

its true and lawful Attorney-in-Fact, to make, execute and deliver on its behalf insurance policies, surety bonds, undertakings and other instruments of a similar nature as follows:

***** **Not To Exceed Five Million Dollars** ----- (\$5,000,000.00) *****

Such insurance policies, surety bonds, undertakings and instruments for said purposes, when duly executed by the aforesaid Attorney-in-Fact, shall be binding upon the said Corporation as fully and to the same extent as if signed by the duly authorized officers of the Corporation and sealed with its corporate seal; and all the acts of said Attorney-in-Fact, pursuant to the authority hereby given, are hereby ratified and confirmed.

This appointment is made pursuant to the following By-Laws which were duly adopted by the Board of Directors of the said Corporation on April 7, 2003 with all Amendments thereto and are still in full force and effect:

"Article XII: Policies, Bonds, Recognitions, Stipulations, Consents of Surety, Underwriting Undertakings, and Instruments Relating Thereto.

Section 12-1. Insurance policies, bonds, recognitions, stipulations, consents of surety and underwriting undertakings of the Corporation, and releases, agreements and other writings relating in any way thereto or to any claim or loss thereunder, shall be signed in the name and on behalf of the Corporation: a) by the Chairman of the Board, the President or a Vice President, and by the Secretary or an Assistant Secretary; or b) by an Attorney-in-Fact for the Corporation appointed and authorized by the Chairman of the Board, the President, or a Vice President to make such signature; or c) by such other officers or representatives as the Board may from time to time determine. The seal of the Corporation shall if appropriate be affixed thereto by any such officer, Attorney-in-Fact or representative. The authority of such Attorney-in-Fact and Agents shall be as prescribed in the instrument evidencing their appointment. Any such appointment and all authority granted thereby may be revoked at any time by the Board of Directors or by any person empowered to make such appointment."

IN WITNESS WHEREOF, First Sealord Surety, Inc. has caused these presents to be duly signed and its corporate seal to be hereunto affixed and duly attested this 20th day of January, 2004.



(Seal)

Attest:

Gary L. Bragg, Secretary

First Sealord Surety, Inc.

By:

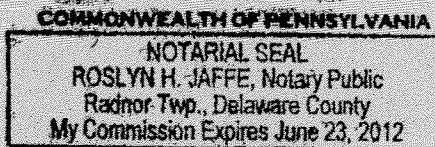
Joel D. Cooperman, Vice President

Commonwealth of Pennsylvania
County of Montgomery

On this 22nd day of April, 2010, before me personally appeared Joel D. Cooperman, Vice President of First Sealord Surety, Inc., satisfactorily proven to be the person whose name is subscribed to this instrument (driver's license), who, being by me duly sworn, said that he resides in the Commonwealth of Pennsylvania, that he is Vice President of First Sealord Surety, Inc., the corporation described in and which executed the foregoing instrument; that he knows the corporate seal of the said Corporation; that the seal affixed to said instrument is such corporate seal; that it was so affixed by order of the Board of Directors of said Corporation; and that he signed his name thereto as Vice President of said

State of Pennsylvania
County of Delaware

- Notary Public



(Seal)

CERTIFICATE

I, the undersigned Secretary of First Sealord Surety, Inc. do hereby certify that the original Power of Attorney of which the foregoing is a full, true and correct copy, is in full force and effect on the date of this Certificate and I do further certify that the Officer who executed the said Power of Attorney was one of the Officers authorized by the Board of Directors to appoint an Attorney-in-Fact as provided in Section 12-1 of the By-Laws of First Sealord Surety, Inc. This Certificate may be signed and sealed by facsimile under and by authority of the following provisions of the By-Laws of First Sealord Surety, Inc.:

"Section 12-2. The use of a printed facsimile of the corporate seal of the Corporation and of the signature of the Secretary or an Assistant Secretary on any certification of the correctness of a copy of an instrument executed by an authorized person pursuant to Article XII, Section 12-1 of the By-Laws appointing and authorizing an Attorney-in-Fact to sign in the name and on behalf of the Corporation surety bonds, underwriting undertakings, or other instruments described in said Section 12-1, with like effect as if such seal and such signature had been manually affixed and made."

In Witness Whereof, I have hereunto set my hand and affixed the corporate seal of the Corporation to these presents

this 11th day of August, 2010

This power of attorney is void unless the Bond number is inserted in this paragraph (insert Bond # here 10-08509-PP), the bond number is the same number as on the original bond, and the bond number has been inserted by an officer or employee of the Company or by the agent.

(seal)

Gary L. Bragg, Secretary



CERTIFICATE OF LIABILITY INSURANCE

OP ID KG
AMERI-4

08/09/10

PRODUCER
Alliant Insurance Services, Inc
(Lic-0C36861)
735 Carnegie Drive, Ste 200
San Bernardino CA 92408
Phone: 909-886-9861 Fax: 909-886-2013

INSURED

America West Landscape Inc
15086 La Palma Drive
Chino CA 91710

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

INSURERS AFFORDING COVERAGE

NAIC #

INSURER A: Netherlands Insurance Company

INSURER B: Peerless Insurance Company

INSURER C: Scottsdale Insurance Company

INSURER D: Delos Insurance Company

INSURER E:

COVERAGES

THE POLICIES OF INSURANCE LISTED BELOW HAVE BEEN ISSUED TO THE INSURED NAMED ABOVE FOR THE POLICY PERIOD INDICATED. NOTWITHSTANDING
ANY REQUIREMENT, TERM OR CONDITION OF ANY CONTRACT OR OTHER DOCUMENT WITH RESPECT TO WHICH THIS CERTIFICATE MAY BE ISSUED OR
MAY PERTAIN, THE INSURANCE AFFORDED BY THE POLICIES DESCRIBED HEREIN IS SUBJECT TO ALL THE TERMS, EXCLUSIONS AND CONDITIONS OF SUCH
POLICIES. AGGREGATE LIMITS SHOWN MAY HAVE BEEN REDUCED BY PAID CLAIMS.

INSR ADD'L LTR INSRD	TYPE OF INSURANCE	POLICY NUMBER	POLICY EFFECTIVE DATE (MM/DD/YYYY)	POLICY EXPIRATION DATE (MM/DD/YYYY)	LIMITS
B X	☒ GENERAL LIABILITY ☒ COMMERCIAL GENERAL LIABILITY CLAIMS MADE ☒ OCCUR ☒ \$5,000 BI & PD Ded. per Occ. GEN'L AGGREGATE LIMIT APPLIES PER: ☐ POLICY ☒ PRO-JECT ☐ LOC	GL8725480	11/08/09	11/08/10	EACH OCCURRENCE \$1,000,000 DAMAGE TO RENTED PREMISES (Ea occurrence) \$500,000 MED EXP (Any one person) \$10,000 PERSONAL & ADV INJURY \$1,000,000 GENERAL AGGREGATE \$2,000,000 PRODUCTS - COMP/OP AGG \$2,000,000
A X	☒ AUTOMOBILE LIABILITY ☒ ANY AUTO ALL OWNED AUTOS SCHEDULED AUTOS ☒ HIRED AUTOS ☒ NON-OWNED AUTOS	BA8226109	11/08/09	11/08/10	COMBINED SINGLE LIMIT (Ea accident) \$1,000,000 BODILY INJURY (Per person) \$ BODILY INJURY (Per accident) \$ PROPERTY DAMAGE (Per accident) \$ AUTO ONLY - EA ACCIDENT \$ OTHER THAN AUTO ONLY: EA ACC \$ AGG \$
C	☒ EXCESS / UMBRELLA LIABILITY ☒ OCCUR ☐ CLAIMS MADE DEDUCTIBLE ☒ RETENTION \$None	XLS0063153	11/08/09	11/08/10	EACH OCCURRENCE \$10,000,000 AGGREGATE \$10,000,000 \$ \$ \$
D	WORKERS COMPENSATION AND EMPLOYERS' LIABILITY ANY PROPRIETOR/PARTNER/EXECUTIVE OFFICER/MEMBER EXCLUDED? (Mandatory in NH) If yes, describe under SPECIAL PROVISIONS below OTHER	01DKRM12008850	05/01/10	05/01/11	☒ WC STATU-TORY LIMITS ☐ 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 / EXCLUSIONS ADDED BY ENDORSEMENT / SPECIAL PROVISIONS

Job #217 State St. Planters Retrofit between Orange St. and Redlands Blvd.
The City of Redlands, its elected officials, officers, employees and
Volunteers and Consultant are add'l insd/prim wrdg/waiver as respects gen'l
liab per end'ts CG2010 07/04, CG2037 07/04, 22-111 01/07 & GECG602 0904;
add'l insd/waiver **SEE ATTACHED HOLDER NOTES**

CERTIFICATE HOLDER

CIRED01

City of Redlands
Attn: Rosemary Hoerning
PO Box 3005
Redlands CA 92373

CANCELLATION

SHOULD ANY OF THE ABOVE DESCRIBED POLICIES BE CANCELLED BEFORE THE EXPIRATION
DATE THEREOF, THE ISSUING INSURER WILL ~~UNDERWRITERS MAIL~~ 30* DAYS WRITTEN
NOTICE TO THE CERTIFICATE HOLDER NAMED TO THE LEFT, ~~OUT PRESENT TO BE SO CHANGED~~

AUTHORIZED REPRESENTATIVE

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IMPORTANT

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

If SUBROGATION IS WAIVED, subject to the terms and conditions of the policy, certain policies may require an endorsement. A statement on this certificate does not confer rights to the certificate holder in lieu of such endorsement(s).

DISCLAIMER

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

NOTEPAD:

HOLDER CODE CIRED01
INSURED'S NAME America West Landscape Inc

AMERI-4
OP ID KG

PAGE 3
DATE 08/09/10

as respects auto liab per end't GECA701 0107; Work Comp Blanket Waiver per
end't WC040306. *30 day N O C except 10 day for non-payment of premium.
XX LTR



COMMERCIAL GROUP

August 9, 2010

Re: Insured: America West Landscape Inc
Policy Number: GL8725480
Policy Period: 11/08/09 to 11/08/10
Policy Number: BA8226109
Policy Period: 11/08/09 to 11/08/10
Policy Number: XLS0063153
Policy Period: 11/08/09 to 11/08/10
Policy Number: 01DKRM12008850
Policy Period: 05/01/10 to 05/01/11

Certificate Holder: City of Redlands
PO Box 3005
Redlands, CA 92373
Certificate Date: 08/09/10

To Whom it may Concern:

Certificate Holders for certain jobs performed by the above captioned Insured require the cancellation wording for their certificate of insurance be amended to exclude the "endeavor to.....but failure to....." wording contained in the cancellation clause.

It is agreed and understood that, in the event of cancellation and Alliant Insurance Services, Inc. is notified, we will advise Certificate Holder of said change and will not be the responsibility of the Insurance Company.

Sincerely,


Authorized Signature

8/9/10
Date

KG

Policy Number: GL 8725480	
Coverage Is Provided In PEERLESS INSURANCE COMPANY - A STOCK COMPANY	
Named Insured: AMERICA WEST LANDSCAPE INC	Agent: ALLIANT INSURANCE SERVICES INC
Agent Code: 4292810 Agent Phone: (909)-886-9861	

THIS ENDORSEMENT CHANGES THE POLICY. PLEASE READ IT CAREFULLY.

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

This endorsement modifies insurance provided under the following:

COMMERCIAL GENERAL LIABILITY COVERAGE PART

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

SCHEDULE

Name Of Additional Insured Person(s) Or Organization(s):

ANY PERSON OR ORGANIZATION WHEN YOU AND SUCH PERSON OR ORGANIZATION HAVE AGREED IN WRITING IN A CONTRACT, AGREEMENT OR PERMIT THAT SUCH PERSON OR ORGANIZATION BE ADDED AS AN ADDITIONAL INSURED ON YOUR POLICY TO PROVIDE INSURANCE SUCH AS IS AFFORDED UNDER THIS COVER

Location And Description Of Completed Operations:

ANY LOCATION AT WHICH YOU PREFORMD WORK DESCRIBED IN WRITING IN THE CONTRACTO, AGREEMENT OR PERMIT FOR A PERSON OR ORGANIZATION THAT HAS BEEN QUALIFIED AS AN ADDITIONAL INSURED IN THIS ENDORSEMENT.

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

Policy Number: GL 8725480	
Coverage Is Provided In PEERLESS INSURANCE COMPANY - A STOCK COMPANY	
Named Insured: AMERICA WEST LANDSCAPE INC	Agent: ALLIANT INSURANCE SERVICES INC Agent Code: 4292810 Agent Phone: (909)-886-9861

THIS ENDORSEMENT CHANGES THE POLICY. PLEASE READ IT CAREFULLY.

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

This endorsement modifies insurance provided under the following:

COMMERCIAL GENERAL LIABILITY COVERAGE PART

SCHEDULE

Name Of Additional Insured Person(s) Or Organization(s):	Location(s) Of Covered Operations
ANY PERSON OR ORGANIZATION WHEN YOU AND SUCH PERSON OR ORGANIZATION HAVE AGREED IN WRITING IN A CONTRACT, AGREEMENT OR PERMIT THAT SUCH PERSON OR ORGANIZATION BE ADDED AS AN ADDITIONAL INSURED ON YOUR POLICY TO PROVIDE INSURANCE SUCH AS IS AFFORDED UNDER THIS COVERAGE PART.	
Information required to complete this Schedule, if not shown above, will be shown in the Declarations.	

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

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

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

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

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

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

THIS ENDORSEMENT CHANGES THE POLICY. PLEASE READ IT CAREFULLY.

AMENDMENT OF OTHER INSURANCE CONDITION

This endorsement modifies insurance provided under the following:

COMMERCIAL GENERAL LIABILITY COVERAGE PART

A. The following is added to provision a. Primary Insurance of paragraph 4. Other Insurance under SECTION IV – COMMERCIAL GENERAL LIABILITY CONDITIONS:

However, when an additional insured has been added to this Coverage Part by attachment of an endorsement, we will not seek contribution from the "additional insured's own insurance" provided that:

- (1) You and the additional insured have agreed in a written contract that this insurance is primary and non-contributory; and
- (2) The "bodily injury" or "property damage" occurs, or the "personal and advertising injury" is committed, subsequent to the execution of such contract.

B. For the purposes of this endorsement the following is added to SECTION V – DEFINITIONS:

"Additional insured's own insurance" means other insurance for which the additional insured is designated as a Named Insured.

COMMERCIAL LIABILITY GOLD ENDORSEMENT

THIS ENDORSEMENT CHANGES THE POLICY. PLEASE READ IT CAREFULLY.

This endorsement modifies insurance provided under the following:

COMMERCIAL GENERAL LIABILITY COVERAGE PART

SECTION I – COVERAGES

COVERAGE A. BODILY INJURY AND PROPERTY DAMAGE LIABILITY

2. Exclusions

Item 2.g. 2) is replaced with the following:

2.g. 2) A watercraft you do not own that is:

- a) less than 50 feet long; and
- b) Not being used to carry persons or property for a charge.

Item 2.g. 6) is added:

- 6) An aircraft in which you have no ownership interest and that you have chartered with crew.

The last paragraph of 2. Exclusions is replaced with the following:

Exclusions c. through n. do not apply to damage by fire, explosion, sprinkler leakage, or lightning to premises while rented to you, temporarily occupied by you with the permission of the owner, or managed by you under a written agreement with the owner. A separate limit of insurance applies to this coverage as described in **Section III – Limits of Insurance**.

SECTION I – COVERAGES

COVERAGE C. MEDICAL PAYMENTS

If Medical Payments Coverage is provided under this policy, the following is changed:

3. Limits

The medical expense limit provided by this policy shall be the greater of:

- a. \$10,000; or
- b. The amount shown in the declarations.

Coverage C. Medical Payments is primary and not contributing with any other insurance, even if that other insurance is also primary.

The following is added:

COVERAGE D. PRODUCT RECALL NOTIFICATION EXPENSES

Insuring Agreement

We will pay "product recall notification expenses" incurred by you for the withdrawal of your products, provided that:

- a. Such withdrawal is required because of a determination by you during the policy period, that the use or consumption of your products could result in "bodily injury" or "property damage"; and
- b. The "product recall notification expenses" are incurred and reported to us during the policy period.

The most we will pay for "product recall notification expenses" during the policy period is \$100,000.

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SUPPLEMENTARY PAYMENTS – COVERAGES A AND B

Item b. and d. are replaced with:

- b. The cost of bail bonds required because of accidents or traffic law violations arising out of the use of any vehicle to which the Bodily Injury Liability Coverage applies. We do not have to furnish these bonds.
- 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 \$500 a day because of time off from work.

SECTION II – WHO IS AN INSURED

Item 4. is replaced with:

- 4. Any subsidiaries, companies, corporations, firms, or organizations you acquire or form during the policy period over which you maintain a controlling interest of greater than 50% of the stock or assets, will qualify as a Named Insured if:
 - a) you have the responsibility of placing insurance for such entity; and
 - b) coverage for the entity is not otherwise more specifically provided; and
 - c) the entity is incorporated or organized under the laws of the United States of America.

However; coverage under this provision does not apply to "bodily injury" or "property damage" that occurred before you acquired or formed the entity, or "personal injury" or "advertising injury" arising out of an offense committed before you acquired or formed the entity.

Coverage under this provision is afforded only until the end of the policy period, or the twelve (12) month anniversary of the policy inception date whichever is earlier.

SECTION III – LIMITS OF INSURANCE

Paragraph 2 is amended to include:

The General Aggregate Limit of Insurance applies separately to each "location" owned by you, rented to you, or occupied by you with the permission of the owner.

Paragraph 6. is replaced with the following:

- 6. Subject to 5. above, the Fire Damage Limit is the most we will pay under Coverage A for damages because of "property damage" to premises while rented to you, temporarily occupied by you with permission of the owner, or managed by you under a written agreement with the owner, arising out of any one fire, explosion or sprinkler leakage incident.

The Fire Damage Limit provided by this policy shall be the greater of:

- a. \$500,000. or
- b. The amount shown in the Declarations.

SECTION IV – COMMERCIAL GENERAL LIABILITY CONDITIONS

Item 2. a.is replaced with:

2. Duties In The Event of Occurrence, Offense, Claim or Suit

- a. You must promptly notify us. Your duty to promptly notify us is effective when any of your executive officers, partners, members, or legal representatives is aware of the "occurrence", offense, claim, or "suit". Knowledge of an "occurrence", offense, claim or "suit" by other employee(s) does not imply you also have such knowledge. To the extent possible, notice to us should include:
 - 1) How, when and where the "occurrence" or offense took place;
 - 2) The names and addresses of any injured persons and witnesses; and
 - 3) The nature and location of any injury or damage arising out of the "occurrence", offense, claim or "suit".

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Item 4. b. 1) b) is replaced with:

b. Excess Insurance

- 1)b) That is Fire, Explosion or Sprinkler Leakage insurance for premises while rented to you, temporarily occupied by you with permission of the owner, or managed by you under a written agreement with the owner; or

Item 6. is amended to include:

6. Representations

- d. If you unintentionally fail to disclose any hazards existing at the inception date of your policy, we will not deny coverage under this Coverage Part because of such failure. However, this provision does not affect our right to collect additional premium or exercise our right of cancellation or non-renewal.

Item 8. is replaced with:

8. Transfer of Rights Of Recovery Against Others To Us

- a. If the insured has rights to recover all or part of any payment we have made under this Coverage Part, those rights are transferred to us. The insured must do nothing after loss to impair them. At our request, the insured will bring suit or transfer those rights to us and help us enforce them.
- b. If required by a written "insured contract", we waive any right of recovery we may have against any person or organization because of payments we make for injury or damage arising out of your ongoing operations or "your work" done under that written "insured contract" for that person or organization and included in the "products-completed operations hazard".

Item 10. and Item 11. are added:

10. Cancellation Condition

If we cancel this policy for any reason other than nonpayment of premium we will mail or deliver written notice of cancellation to the first Named Insured at least 60 days prior to the effective date of cancellation.

11. Liberalization

If we adopt a change in our forms or rules which would broaden your coverage without an extra charge, the broader coverage will apply to this policy. This extension is effective upon the approval of such broader coverage in your state.

SECTION V – DEFINITIONS

The following definitions are added or changed:

9. "Insured contract"

a. Is changed to:

- a. A contract for a lease of premises. However, that portion of the contract for a lease of premises that indemnifies any person or organization for damage by fire, explosion or sprinkler leakage to premises while rented to you, or temporarily occupied by you with permission of the owner, or managed by you under a written agreement with the owner is not an "insured contract".

23 and 24 are added:

23. "Location" means premises involving the same or connecting lots, or premises whose connection is interrupted only by a street, roadway, waterway or right-of-way of a railroad.
24. "Product recall notification expenses" means the reasonable additional expenses (including, but not limited to, cost of correspondence, newspaper and magazine advertising, radio or television announcements and transportation cost), necessarily incurred in arranging for the return of products, but excluding costs of the replacement products and the cash value of the damaged products.

The following Provisions are also added to this Coverage Part:

A. ADDITIONAL INSURED – BY CONTRACT, AGREEMENT OR PERMIT

1. Paragraph 2. under **SECTION II – WHO IS AN INSURED** is amended to include as an insured any person or organization when you and such person or organization have agreed in writing in a contract, agreement or permit that such person or organization be added as an additional insured on your policy to provide insurance such as is afforded under this Coverage Part. Such person or organization is not entitled to any notices that we are required to send to the Named Insured and is an additional insured only with respect to liability arising out of:

- a. Your ongoing operations performed for that person or organization; or
- b. Premises or facilities owned or used by you.

With respect to provision 1.a. above, a person's or organization's status as an insured under this endorsement ends when your operations for that person or organization are completed.

With respect to provision 1.b. above, a person's or organization's status as an insured under this endorsement ends when their contract or agreement with you for such premises or facilities ends.

2. This endorsement provision **A.** does not apply:

- a. Unless the written contract or agreement has been executed, or permit has been issued, prior to the "bodily injury", "property damage" or "personal and advertising injury";
- b. To "bodily injury" or "property damage" occurring after:
 - (1) All work, including materials, parts or equipment furnished in connection with such work, in the project (other than service, maintenance or repairs) to be performed by or on behalf of the additional insured(s) at the site of the covered operations has been completed; or
 - (2) That portion of "your work" out of which the injury or damage arises has been put to its intended use by any person or organization other than another contractor or subcontractor engaged in performing operations for a principal as a part of the same project;
- c. To the rendering of or failure to render any professional services including, but not limited to, any professional architectural, engineering or surveying services such as:
 - (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;
- d. To "bodily injury", "property damage" or "personal and advertising injury" arising out of any act, error or omission that results from the additional insured's sole negligence or wrongdoing;
- e. To any person or organization included as an insured under provision **B.** of this endorsement;
- f. To any person or organization included as an insured by a separate additional insured endorsement issued by us and made a part of this policy.

B. ADDITIONAL INSURED – VENDORS

Paragraph 2. under **SECTION II – WHO IS AN INSURED** is amended to include as an insured any person or organization (referred to below as "vendor") with whom you agreed, in a written contract or agreement to provide insurance such as is afforded under this policy, but only with respect to "bodily injury" or "property damage" arising out of "your products" which are distributed or sold in the regular course of the vendor's business, subject to the following additional exclusions:

1. The insurance afforded the vendor does not apply to:
- a. "Bodily injury" or "property damage" for which the vendor is obligated to pay damages by reason of the assumption of liability in a contract or agreement. This exclusion does not apply to liability for damages that the vendor would have in the absence of the contract or agreement;
 - b. Any express warranty unauthorized by you;
 - c. Any physical or chemical change in the product made intentionally by the vendor;

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- d. Repackaging, unless unpacked solely for the purpose of inspection, demonstration, testing, or substitution of parts under instructions from the manufacturer, and then repackaged in the original container;
 - e. Any failure to make such inspections, adjustments, tests or servicing as the vendor has agreed to make or normally undertakes to make in the course of business, in connection with the distribution or sale of the products;
 - f. Demonstration, installation, servicing or repair operations, except such operations performed at the vendor's premises in connection with the sale of the product;
 - g. Products which, after distribution or sale by you, have been labeled or relabeled or used as a container, part or ingredient of any other thing or substance by or for the vendor; or
 - h. To "bodily injury" or "property damage" arising out of any act, error or omission that results from the additional insured's sole negligence or wrongdoing.
2. This insurance does not apply to any insured person or organization, from whom you have acquired such products, or any ingredient, part or container, entering into, accompanying or containing such products.

COMMERCIAL AUTO GOLD ENDORSEMENT

THIS ENDORSEMENT CHANGES THE POLICY. PLEASE READ IT CAREFULLY.

This endorsement modifies insurance provided under the following:

BUSINESS AUTO COVERAGE FORM

SECTION II - LIABILITY COVERAGE

A. COVERAGE

1. WHO IS AN INSURED

The following is added:

- d. Any organization, other than a partnership or joint venture, over which you maintain ownership or a majority interest on the effective date of this Coverage Form, if there is no similar insurance available to that organization.
- e. Any organization you newly acquire or form other than a partnership or joint venture, and over which you maintain ownership of a majority interest. However, coverage under this provision does not apply:
 - (1) If there is similar insurance or a self-insured retention plan available to that organization; or
 - (2) To "bodily injury" or "property damage" that occurred before you acquired or formed the organization.
- f. Any volunteer or employee of yours while using a covered "auto" you do not own, hire or borrow in your business or your personal affairs. Insurance provided by this endorsement is excess over any other insurance available to any volunteer or employee.
- g. Any person, organization, trustee, estate or governmental entity with respect to the operation, maintenance or use of a covered "auto" by an insured, if:
 - (1) You are obligated to add that person, organization, trustee, estate or governmental entity as an additional insured to this policy by:
 - (a) an expressed provision of an "insured contract", or written agreement; or
 - (b) an expressed condition of a written permit issued to you by a governmental or public authority.
 - (2) The "bodily injury" or "property damage" is caused by an "accident" which takes place after:
 - (a) You executed the "insured contract" or written agreement; or
 - (b) the permit has been issued to you.

2. COVERAGE EXTENSIONS

a. Supplementary Payments.

Subparagraphs (2) and (4) are amended as follows:

- (2) Up to \$2500 for cost of bail bonds (including bonds for related traffic law violations) required because of an "accident" we cover. We do not have to furnish these bonds.
- (4) All reasonable expenses incurred by the "Insured" at our request, including actual loss of earning up to \$500 a day because of time off from work.

SECTION III - PHYSICAL DAMAGE COVERAGE

A. COVERAGE

The following is added:

5. Hired Auto Physical Damage

or a. Any "auto" you lease, hire, rent or borrow from someone other than your employees or partners members of their household is a covered "auto" for each of your physical damage coverages.

b. The most we will pay for "loss" in any one "accident" is the smallest of:

- (1) \$50,000
- (2) The actual cash value of the damaged or stolen property as of the time of the "loss"; or
- (3) The cost of repairing or replacing the damaged or stolen property with other property of like kind and quality.

If you are liable for the "accident", we will also pay up to \$500 per "accident" for the actual loss of use to the owner of the covered "auto".

c. Our obligation to pay for, repair, return or replace damaged or stolen property will be reduced by an amount that is equal to the amount of the largest deductible shown for any owned "auto" for that coverage. However, any Comprehensive Coverage deductible shown in the Declarations does not apply to "loss" caused by fire or lightning.

d. For this coverage, the insurance provided is primary for any covered "auto" you hire without a driver and excess over any other collectible insurance for any covered "auto" that you hire with a driver.

6. Rental Reimbursement Coverage

based on the rental of a comparable vehicle, which in many cases may be substantially less than \$75 per day, and will only be allowed for a period of time it should take to repair or replace the vehicle with reasonable speed and similar quality, up to a maximum of 30 days. We will also pay up to \$500 for reasonable and necessary expenses incurred by you to remove and replace your materials and equipment from the covered "auto".

If "loss" results from the total theft of a covered "auto" of the private passenger type, we will pay under this coverage only that amount of your rental reimbursement expenses which is not already provided under paragraph 4. **Coverage Extension.**

7. Lease Gap Coverage

If a long-term leased "auto" is a covered "auto" and the lessor is named as an Additional Insured - Lessor, In the event of a total loss, we will pay your additional legal obligation to the lessor for any difference between the actual cash value of the "auto" at the time of the loss and the "outstanding balance" of the lease.

"Outstanding balance" means the amount you owe on the lease at the time of loss less any amounts representing taxes; overdue payments; penalties, interest or charges resulting from overdue payments; additional mileage charges; excess wear and tear charges; and lease termination fees.

B. EXCLUSIONS

The following is added to Paragraph 3

The exclusion for "loss" caused by or resulting from mechanical or electrical breakdown does not apply to the accidental discharge of an airbag.

Paragraph 4 is replaced with the following:

4. We will not pay for "loss" to any of the following:

- a. Tapes, records, disks or other similar audio, visual or data electronic devices designed for use with audio, visual or data electronic equipment.
- b. Equipment designed or used for the detection or location of radar.
- c. Any electronic equipment that receives or transmits audio, visual or data signals.

Exclusion 4.c does not apply to:

- (1) Electronic equipment that receives or transmits audio, visual or data signals, whether or not designed solely for the reproduction of sound, if the equipment is permanently installed in the covered "auto" at the time of the "loss" and such equipment is designed to be solely operated by use of the power from the "auto's" electrical system, in or upon the covered "auto"; or
- (2) Any other electronic equipment that is:
 - (a) Necessary for the normal operation of the covered "auto" or the monitoring of the covered "auto's" operating system; or
 - (b) An integral part of the same unit housing any sound reproducing equipment described in (1) above and permanently installed in the opening of the dash or console of the covered "auto" normally used by the manufacturer for installation of a radio.

D. DEDUCTIBLE

The following is added: No deductible applies to glass damage if the glass is repaired rather than replaced.

SECTION IV. BUSINESS AUTO CONDITIONS

A. LOSS CONDITIONS

Item 2.a. and b. are replaced with: ✓

2. Duties In The Event of Accident, Claim, Suit, or Loss

- a. You must promptly notify us. Your duty to promptly notify us is effective when any of your executive officers, partners, members, or legal representatives is aware of the accident, claim, "suit", or loss. Knowledge of an accident, claim, "suit", or loss, by other employee(s) does not imply you also have such knowledge.
- b. To the extent possible, notice to us should include:
 - (1) How, when and where the accident or loss took place;
 - (2) The names and addresses of any injured persons and witnesses; and
 - (3) The nature and location of any injury or damage arising out of the accident or loss.

The following is added to 5.

We waive any right of recovery we may have against any additional insured under **Coverage A. 1. Who Is An Insured g.**, but only as respects loss arising out of the operation, maintenance or use of a covered "auto" pursuant to the provisions of the "insured contract", written agreement, or permit.

B. GENERAL CONDITIONS

9. is added

9. UNINTENTIONAL FAILURE TO DISCLOSE HAZARDS

Your unintentional failure to disclose any hazards existing at the effective date of your policy will not prejudice the coverage afforded. However, we have the right to collect additional premium for any such hazard.

COMMON POLICY CONDITIONS

2.b. is replaced by the following:

- b. 60 days before the effective date of cancellation if we cancel for any other reason.

**WAIVER OF OUR RIGHT TO RECOVER FROM OTHERS ENDORSEMENT -
CALIFORNIA**

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

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

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

SCHEDULE**PERSON OR ORGANIZATION****JOB DESCRIPTION**

ANY PERSON OR ORGANIZATION FOR WHOM BLANKET WAIVER OF SUBROGATION
THE NAMED INSURED HAS AGREED BY
WRITTEN CONTRACT TO FURNISH THIS
WAIVER

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 05/01/2009 Policy No.

Endorsement No. 001

Insured America West Landscape, Inc.

Premium \$ INCL.

Insurance Company Northern Insurance Company of NY

Countersigned By _____

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