

RESOLUTION NO. 4315

**A RESOLUTION OF THE CITY COUNCIL OF THE CITY OF SOLEDAD
AUTHORIZING THE CITY MANAGER TO EXECUTE A CONSULTING SERVICES
AGREEMENT WITH ZAG TECHNICAL SERVICES, INC. FOR INFORMATION
TECHNOLOGY MANAGEMENT SERVICES AND AUTHORIZATION FOR AN
ADDITIONAL BUDGET ALLOCATION OF \$26,150**

WHEREAS, in light of changes in the City's IT needs, due in part to the City's growth, the City's IT Committee prepared and sent out a request for proposals (RFP) for information technology management services in October 2008; and

WHEREAS, proposals were received from four companies; and

WHEREAS, the four proposals were reviewed by the IT Committee and after evaluating the firms on the basis of experience, customer support, cost, stability, quality of service and content of proposal, it has been determined that ZAG Technical Services, Inc. is best suited to meet the City's needs; and

WHEREAS, in order to pay for anticipated services during the remainder of Fiscal Year 2008-2009, the City will need to allocate an additional \$26,150 for IT Management Services from General Fund Reserves.

NOW THEREFORE, BE IT HEREBY RESOLVED by the City Council of the City of Soledad as follows:

Section 1. The City Council authorizes the City Manager to execute a Consulting Services Agreement for IT Management Service with ZAG Technical Services, Inc., in the form attached hereto as Exhibit A, and by this reference incorporated herein.

Section 2. The City Council authorizes an additional budget allocation of \$26,150 from General Fund Reserves for IT Management Services in Fiscal year 2008-2009.

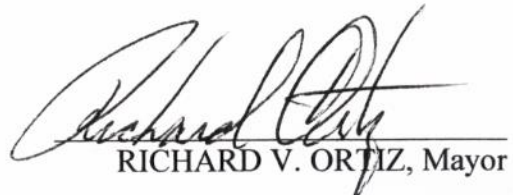
PASSED AND ADOPTED by the City Council of the City of Soledad at a regular meeting duly held on the 3rd of December 2008 by the following vote:

AYES, and in favor thereof, Councilmembers: Martha Camacho, Juan Saavedra, Patricia Stephens, Mayor Pro Tem Christopher Bourke, Mayor Richard Ortiz

NOES, Councilmembers: None

ABSENT, Councilmembers: None

ABSTAIN, Councilmembers: None


RICHARD V. ORTIZ, Mayor

ATTEST:

ADELA P. GONZALEZ, City Clerk

EXHIBIT A

CONSULTING SERVICES AGREEMENT BETWEEN THE CITY OF SOLEDAD AND ZAG TECHNICAL SERVICES, INC.

THIS AGREEMENT for consulting services is made by and between the City of Soledad ("City") and ZAG Technical Services, Inc. ("Consultant") as of December 3, 2008.

Section 1. SERVICES. Subject to the terms and conditions set forth in this Agreement, Consultant shall provide to City the services described in the Scope of Work attached as Exhibit A at the time and place and in the manner specified therein. In the event of a conflict in or inconsistency between the terms of this Agreement and Exhibit A, the Agreement shall prevail.

- 1.1 **Term of Services.** The term of this Agreement shall begin on the date first noted above and shall end on December 2, 2009, and Consultant shall complete the work described in Exhibit A prior to that date, unless the term of the Agreement is otherwise terminated or extended, as provided for in Section 8. The time provided to Consultant to complete the services required by this Agreement shall not affect the City's right to terminate the Agreement, as provided for in Section 8.
- 1.2 **Standard of Performance.** Consultant shall perform all services required pursuant to this Agreement in the manner and according to the standards observed by a competent practitioner of the profession in which Consultant is engaged in the geographical area in which Consultant practices its profession. Consultant shall prepare all work products required by this Agreement in a substantial, first-class manner and shall conform to the standards of quality normally observed by a person practicing in Consultant's profession.
- 1.3 **Assignment of Personnel.** Consultant shall assign only competent personnel to perform services pursuant to this Agreement. In the event that City, in its sole discretion, at any time during the term of this Agreement, desires the reassignment of any such persons, Consultant shall, immediately upon receiving notice from City of such desire of City, reassign such person or persons.
- 1.4 **Time.** Consultant shall devote such time to the performance of services pursuant to this Agreement as may be reasonably necessary to meet the standard of performance provided in Section 1.1 above and to satisfy Consultant's obligations hereunder.

Section 2. COMPENSATION. City hereby agrees to pay Consultant in accordance with the rates set forth in the "24x7 Support Plan" contained in Chapter VIII of Consultant's Response to RFP, contained in Exhibit A, namely, \$500 per month for 24x7 support and hourly at "Server- Normal Business Hours \$145/After Hours Support \$185; Desktop-Normal Business

Hours \$120/After Hours Support \$145, for services to be performed and reimbursable costs incurred under this Agreement. In the event of a conflict between this Agreement and Consultant's proposal, attached as Exhibit A, regarding the amount of compensation, the Agreement shall prevail. City shall pay Consultant for services rendered pursuant to this Agreement at the time and in the manner set forth herein. The payments specified below shall be the only payments from City to Consultant for services rendered pursuant to this Agreement. Consultant shall submit all invoices to City in the manner specified herein. Except as specifically authorized by City, Consultant shall not bill City for duplicate services performed by more than one person.

Consultant and City acknowledge and agree that compensation paid by City to Consultant under this Agreement is based upon Consultant's estimated costs of providing the services required hereunder, including salaries and benefits of employees and subcontractors of Consultant. Consequently, the parties further agree that compensation hereunder is intended to include the costs of contributions to any pensions and/or annuities to which Consultant and its employees, agents, and subcontractors may be eligible. City therefore has no responsibility for such contributions beyond compensation required under this Agreement.

2.1 Invoices. Consultant shall submit invoices, not more often than once a month during the term of this Agreement, based on the cost for services performed and reimbursable costs incurred prior to the invoice date. Invoices shall contain the following information:

- Serial identifications of progress bills; i.e., Progress Bill No. 1 for the first invoice, etc.;
- The beginning and ending dates of the billing period;
- A Task Summary containing the original contract amount, the amount of prior billings, the total due this period, the balance available under the Agreement, and the percentage of completion;
- At City's option, for each work item in each task, a copy of the applicable time entries or time sheets shall be submitted showing the name of the person doing the work, the hours spent by each person, a brief description of the work, and each reimbursable expense;
- The total number of hours of work performed under the Agreement by Consultant and each employee, agent, and subcontractor of Consultant performing services hereunder, as well as a separate notice when the total number of hours of work by Consultant and any individual employee, agent, or subcontractor of Consultant reaches or exceeds 800 hours, which shall include an estimate of the time necessary to complete the work described in Exhibit A;
- The Consultant's signature.

- 2.2 **Monthly Payment.** City shall make monthly payments, based on invoices received, for services satisfactorily performed, and for authorized reimbursable costs incurred. City shall have 30 days from the receipt of an invoice that complies with all of the requirements above to pay Consultant.
- 2.3 **Total Payment.** City shall pay for the services to be rendered by Consultant pursuant to this Agreement. City shall not pay any additional sum for any expense or cost whatsoever incurred by Consultant in rendering services pursuant to this Agreement. City shall make no payment for any extra, further, or additional service pursuant to this Agreement, unless agreed upon in writing signed by both Consultant and City.
- 2.4 **Hourly Fees.** Fees for work performed by Consultant within the agreed upon scope of work on an hourly basis shall not exceed the amounts shown on the "24x7 Support Plan" set forth in Exhibit A. Work that falls outside of the project scope, as set forth in Exhibit A, will be billed at the Normal Business Support Rate, also as set forth in Exhibit A.
- 2.5 **Reimbursable Expenses.** All reimbursable expenses must be approved in advance by City. City will pay for travel time, billed one way from Consultant's Salinas Office.
- 2.6 **Payment of Taxes.** Consultant is solely responsible for the payment of employment taxes incurred under this Agreement and any similar federal or state taxes.
- 2.7 **Payment upon Termination.** In the event that the City or Consultant terminates this Agreement pursuant to Section 8, the City shall compensate the Consultant for all outstanding costs and reimbursable expenses incurred for work satisfactorily completed as of the date of written notice of termination. Consultant shall maintain adequate logs and timesheets in order to verify costs incurred to that date.
- 2.9 **Authorization to Perform Services.** The Consultant is not authorized to perform any services or incur any costs whatsoever under the terms of this Agreement until receipt of authorization from the Contract Administrator.

Section 3. FACILITIES AND EQUIPMENT. Except as set forth herein, Consultant shall, at its sole cost and expense, provide all facilities and equipment that may be necessary to perform the services required by this Agreement. City shall make available to Consultant only the facilities and equipment listed in this section, and only under the terms and conditions set forth herein.

The Consultant will be provided with keys to the server room and City Hall in order to insure access to equipment. If these facilities need to be accessed after business hours, the Consultant will inform the City.

All services being provided to the Police Department must be scheduled and the personnel performing the work must:

- Must be a United States Citizen

All services being done in the Fire Department must be scheduled with the Fire Chief or assigned personnel.

Facilities list:

- City Hall, 248 Main St., Soledad California
- Police Department, 236 Main St., Soledad
- Fire Department, 525 Monterey St., Soledad
- Corporation Yard, 1060 State St., Soledad
- Wastewater Treatment Plant, 34520 Morisoli Rd., Soledad
- Server Room, 255 Soledad St., Soledad

Equipment List:

- All servers
- All Computers
- All Switches Routers
- All Printers
- All Copiers
- All Plotters

City shall furnish physical facilities such as desks, filing cabinets, and conference space, as may be reasonably necessary for Consultant's use while consulting with City employees and reviewing records and the information in possession of the City. The location, quantity, and time of furnishing those facilities shall be in the sole discretion of City. In no event shall City be obligated to furnish any facility that may involve incurring any direct expense, including but not limited to computer, long-distance telephone or other communication charges, vehicles, and reproduction facilities.

Section 4. INSURANCE REQUIREMENTS. Before beginning any work under this Agreement, Consultant, at its own cost and expense, shall procure "occurrence coverage" insurance against claims for injuries to persons or damages to property that may arise from or in connection with the performance of the work hereunder by the Consultant and its agents, representatives, employees, and subcontractors. Consultant shall provide proof satisfactory to City of such insurance that meets the requirements of this section and under forms of insurance satisfactory in all respects to the City. Consultant shall maintain the insurance policies required

by this section throughout the term of this Agreement. The cost of such insurance shall be included in the Consultant's bid. Consultant shall not allow any subcontractor to commence work on any subcontract until Consultant has obtained all insurance required herein for the subcontractor(s) and provided evidence thereof to City. Verification of the required insurance shall be submitted and made part of this Agreement prior to execution.

- 4.1 **Workers' Compensation.** Consultant shall, at its sole cost and expense, maintain Statutory Workers' Compensation Insurance and Employer's Liability Insurance for any and all persons employed directly or indirectly by Consultant. The Statutory Workers' Compensation Insurance and Employer's Liability Insurance shall be provided with limits of not less than ONE MILLION DOLLARS (\$1,000,000.00) per accident. In the alternative, Consultant may rely on a self-insurance program to meet those requirements, but only if the program of self-insurance complies fully with the provisions of the California Labor Code. Determination of whether a self-insurance program meets the standards of the Labor Code shall be solely in the discretion of the Contract Administrator. The insurer, if insurance is provided, or the Consultant, if a program of self-insurance is provided, shall waive all rights of subrogation against the City and its officers, officials, employees, and volunteers for loss arising from work performed under this Agreement.

An endorsement shall state that coverage shall not be canceled except after thirty (30) days' prior written notice by certified mail, return receipt requested, has been given to the City. Consultant shall notify City within 14 days of notification from Consultant's insurer if such coverage is suspended, voided or reduced in coverage or in limits.

4.2 **Commercial General and Automobile Liability Insurance.**

- 4.2.1 **General requirements.** Consultant, at its own cost and expense, shall maintain commercial general and automobile liability insurance for the term of this Agreement in an amount not less than ONE MILLION DOLLARS (\$1,000,000.00) per occurrence, combined single limit coverage for risks associated with the work contemplated by this Agreement. If a Commercial General Liability Insurance or an Automobile Liability form or other form with a general aggregate limit is used, either the general aggregate limit shall apply separately to the work to be performed under this Agreement or the general aggregate limit shall be at least twice the required occurrence limit. Such coverage shall include but shall not be limited to, protection against claims arising from bodily and personal injury, including death resulting therefrom, and damage to property resulting from activities contemplated under this Agreement, including the use of owned and non-owned automobiles.

4.2.2 **Minimum scope of coverage.** Commercial general coverage shall be at least as broad as Insurance Services Office Commercial General Liability occurrence form CG 0001 or GL 0002 (most recent editions) covering comprehensive General Liability and Insurance Services Office form number GL 0404 covering Broad Form Comprehensive General Liability. Automobile coverage shall be at least as broad as Insurance Services Office Automobile Liability form CA 0001 (ed. 12/90) Code 8 and 9. No endorsement shall be attached limiting the coverage.

4.2.3 **Additional requirements.** Each of the following shall be included in the insurance coverage or added as an endorsement to the policy:

- a. City and its officers, elected and appointed officials, employees, agents, and volunteers shall be covered as additional insureds with respect to each of the following: liability arising out of activities performed by or on behalf of Consultant, including the insured's general supervision of Consultant; products and completed operations of Consultant; premises owned, occupied, or used by Consultant; and automobiles owned, leased, or used by the Consultant. The coverage shall contain no special limitations on the scope of protection afforded to City or its officers, employees, agents, or volunteers.
- b. The insurance shall cover on an occurrence or an accident basis, and not on a claims-made basis.
- c. An endorsement must state that coverage is primary insurance with respect to the City and its officers, elected and appointed officials, employees and volunteers, and that no insurance or self-insurance maintained by the City shall be called upon to contribute to a loss under the coverage.
- d. Any failure of Consultant to comply with reporting provisions of the policy shall not affect coverage provided to City and its officers, elected and appointed officials, employees, agents, and volunteers.
- e. An endorsement shall state that coverage shall not be canceled except after thirty (30) days' prior written notice by certified mail, return receipt requested, has been given to the City. Consultant shall notify City within 14 days of notification from Consultant's insurer if such coverage is suspended, voided or reduced in coverage or in limits.

4.3 **Professional Liability Insurance.** Consultant, at its own cost and expense, shall maintain for the period covered by this Agreement professional liability insurance

for licensed professionals performing work pursuant to this Agreement in an amount not less than ONE MILLION DOLLARS (\$1,000,000) covering the licensed professionals' errors and omissions.

4.3.1 Any deductible or self-insured retention shall not exceed \$150,000 per claim.

4.3.2 An endorsement shall state that coverage shall not be suspended, voided, canceled by either party, reduced in coverage or in limits, except after thirty (30) days' prior written notice by certified mail, return receipt requested, has been given to the City.

4.3.3 The policy must contain a cross liability or severability of interest clause.

4.3.4 The following provisions shall apply if the professional liability coverages are written on a claims-made form:

a. The retroactive date of the policy must be shown and must be before the date of the Agreement.

b. Insurance must be maintained and evidence of insurance must be provided for at least five years after completion of the Agreement or the work, so long as commercially available at reasonable rates.

c. If coverage is canceled or not renewed and it is not replaced with another claims-made policy form with a retroactive date that precedes the date of this Agreement, Consultant must provide extended reporting coverage for a minimum of five years after completion of the Agreement or the work. The City shall have the right to exercise, at the Consultant's sole cost and expense, any extended reporting provisions of the policy, if the Consultant cancels or does not renew the coverage.

d. A copy of the claim reporting requirements must be submitted to the City prior to the commencement of any work under this Agreement.

4.4 **All Policies Requirements.**

4.4.1 **Acceptability of insurers.** All insurance required by this section is to be placed with insurers with a Bests' rating of no less than A:VII.

4.4.2 **Verification of coverage.** Prior to beginning any work under this Agreement, Consultant shall furnish City with certificates of insurance and with original endorsements effecting coverage required herein. The

certificates and endorsements for each insurance policy are to be signed by a person authorized by that insurer to bind coverage on its behalf. The City reserves the right to require complete, certified copies of all required insurance policies, at any time.

4.4.3 Subcontractors. Consultant shall include all subcontractors as insureds under its policies or shall furnish separate certificates and endorsements for each subcontractor. All coverages for subcontractors shall be subject to all of the requirements stated herein.

4.4.4 Variation. The City may approve a variation in the foregoing insurance requirements, upon a determination that the coverages, scope, limits, and forms of such insurance are either not commercially available, or that the City's interests are otherwise fully protected.

4.4.5 Deductibles and Self-Insured Retentions. Consultant shall disclose to and obtain the approval of City for the self-insured retentions and deductibles before beginning any of the services or work called for by any term of this Agreement.

During the period covered by this Agreement, only upon the prior express written authorization of Contract Administrator, Consultant may increase such deductibles or self-insured retentions with respect to City, its officers, elected and appointed officials, employees, agents, and volunteers. The Contract Administrator may condition approval of an increase in deductible or self-insured retention levels with a requirement that Consultant procure a bond, guaranteeing payment of losses and related investigations, claim administration, and defense expenses that is satisfactory in all respects to each of them.

4.4.6 Notice of Reduction in Coverage. In the event that any coverage required by this section is reduced, limited, or materially affected in any other manner, Consultant shall provide written notice to City at Consultant's earliest possible opportunity and in no case later than five days after Consultant is notified of the change in coverage.

4.5 Remedies. In addition to any other remedies City may have if Consultant fails to provide or maintain any insurance policies or policy endorsements to the extent and within the time herein required, City may, at its sole option exercise any of the following remedies, which are alternatives to other remedies City may have and are not the exclusive remedy for Consultant's breach:

- Obtain such insurance and deduct and retain the amount of the premiums for such insurance from any sums due under the Agreement;

- Order Consultant to stop work under this Agreement or withhold any payment that becomes due to Consultant hereunder, or both stop work and withhold any payment, until Consultant demonstrates compliance with the requirements hereof; and/or
- Terminate this Agreement.

Section 5. INDEMNIFICATION AND CONSULTANT'S RESPONSIBILITIES.

Consultant shall indemnify, defend with counsel selected by the City, and hold harmless the City and its officials, elected and appointed officers, employees, agents, and volunteers from and against any and all losses, liability, claims, suits, actions, damages, and causes of action arising out of any personal injury, bodily injury, loss of life, or damage to property, or any violation of any federal, state, or municipal law or ordinance, to the extent caused, in whole or in part, by the willful misconduct or negligent acts or omissions of Consultant or its employees, subcontractors, or agents, by acts for which they could be held strictly liable, or by the quality or character of their work. The foregoing obligation of Consultant shall not apply when (1) the injury, loss of life, damage to property, or violation of law arises wholly from the negligence or willful misconduct of the City or its officers, employees, agents, or volunteers and (2) the actions of Consultant or its employees, subcontractor, or agents have contributed in no part to the injury, loss of life, damage to property, or violation of law. It is understood that the duty of Consultant to indemnify and hold harmless includes the duty to defend as set forth in Section 2778 of the California Civil Code. Acceptance by City of insurance certificates and endorsements required under this Agreement does not relieve Consultant from liability under this indemnification and hold harmless clause. This indemnification and hold harmless clause shall apply to any damages or claims for damages whether or not such insurance policies shall have been determined to apply. By execution of this Agreement, Consultant acknowledges and agrees to the provisions of this Section and that it is a material element of consideration.

In the event that Consultant or any employee, agent, or subcontractor of Consultant providing services under this Agreement is determined by a court of competent jurisdiction or the California Public Employees Retirement System (PERS) to be eligible for enrollment in PERS as an employee of City, Consultant shall indemnify, defend, and hold harmless City for the payment of any employee and/or employer contributions for PERS benefits on behalf of Consultant or its employees, agents, or subcontractors, as well as for the payment of any penalties and interest on such contributions, which would otherwise be the responsibility of City.

Section 6. STATUS OF CONSULTANT.

- 6.1 **Independent Contractor.** At all times during the term of this Agreement, Consultant shall be an independent contractor and shall not be an employee of City. City shall have the right to control Consultant only insofar as the results of Consultant's services rendered pursuant to this Agreement and assignment of personnel pursuant to Subparagraph 1.3; however, otherwise City shall not have the right to control the means by which Consultant accomplishes services rendered pursuant to this Agreement. Notwithstanding any other City, state, or

federal policy, rule, regulation, law, or ordinance to the contrary, Consultant and any of its employees, agents, and subcontractors providing services under this Agreement shall not qualify for or become entitled to, and hereby agree to waive any and all claims to, any compensation, benefit, or any incident of employment by City, including but not limited to eligibility to enroll in the California Public Employees Retirement System (PERS) as an employee of City and entitlement to any contribution to be paid by City for employer contributions and/or employee contributions for PERS benefits.

6.2 Consultant No Agent. Except as City may specify in writing, Consultant shall have no authority, express or implied, to act on behalf of City in any capacity whatsoever as an agent. Consultant shall have no authority, express or implied, pursuant to this Agreement to bind City to any obligation whatsoever.

6.3 No Hire and Solicitation Requirements. During the term of this Agreement, and for a period of one year thereafter, City agrees not to hire, solicit, or attempt to solicit the services of any employee or subcontractor of Consultant without the prior written consent of Consultant. Violation of this provision shall, in addition to other relief, entitle Consultant to assert liquidated damages against City equal to fifty (50) percent of the solicited person's annual compensation.

Section 7. LEGAL REQUIREMENTS.

7.1 Governing Law. The laws of the State of California shall govern this Agreement.

7.2 Compliance with Applicable Laws. Consultant and any subcontractors shall comply with all laws applicable to the performance of the work hereunder.

7.3 Other Governmental Regulations. To the extent that this Agreement may be funded by fiscal assistance from another governmental entity, Consultant and any subcontractors shall comply with all applicable rules and regulations to which City is bound by the terms of such fiscal assistance program.

7.4 Licenses and Permits. Consultant represents and warrants to City that Consultant and its employees, agents, and any subcontractors have all licenses, permits, qualifications, and approvals of whatsoever nature that are legally required to practice their respective professions. Consultant represents and warrants to City that Consultant and its employees, agents, any subcontractors shall, at their sole cost and expense, keep in effect at all times during the term of this Agreement any licenses, permits, and approvals that are legally required to practice their respective professions. In addition to the foregoing, Consultant and any subcontractors shall obtain and maintain during the term of this Agreement valid Business Licenses from City.

- 7.5 **Nondiscrimination and Equal Opportunity.** Consultant shall not discriminate, on the basis of a person's race, religion, color, national origin, age, physical or mental handicap or disability, medical condition, marital status, sex, or sexual orientation, against any employee, applicant for employment, subcontractor, bidder for a subcontract, or participant in, recipient of, or applicant for any services or programs provided by Consultant under this Agreement. Consultant shall comply with all applicable federal, state, and local laws, policies, rules, and requirements related to equal opportunity and nondiscrimination in employment, contracting, and the provision of any services that are the subject of this Agreement, including but not limited to the satisfaction of any positive obligations required of Consultant thereby.

Consultant shall include the provisions of this Subsection in any subcontract approved by the Contract Administrator or this Agreement.

Section 8. TERMINATION AND MODIFICATION.

- 8.1 **Termination.** City may cancel this Agreement at any time and without cause upon written notification to Consultant.

Consultant may cancel this Agreement upon thirty (30) days' written notice to City and shall include in such notice the reasons for cancellation.

In the event of termination, Consultant shall be entitled to compensation for services performed to the effective date of termination; City, however, may condition payment of such compensation upon Consultant delivering to City any or all documents, photographs, computer software, video and audio tapes, and other materials provided to Consultant or prepared by or for Consultant or the City in connection with this Agreement.

- 8.2 **Extension.** City may, in its sole and exclusive discretion, extend the end date of this Agreement beyond that provided for in Subsection 1.1. Any such extension shall require a written amendment to this Agreement, as provided for herein. Consultant understands and agrees that, if City grants such an extension, City shall have no obligation to provide Consultant with compensation beyond the maximum amount provided for in this Agreement. Similarly, unless authorized by the Contract Administrator, City shall have no obligation to reimburse Consultant for any otherwise reimbursable expenses incurred during the extension period.

- 8.3 **Amendments.** The parties may amend this Agreement only by a writing signed by all the parties.

- 8.4 **Assignment and Subcontracting.** City and Consultant recognize and agree that this Agreement contemplates personal performance by Consultant and is based upon a determination of Consultant's unique personal competence, experience, and specialized personal knowledge. Moreover, a substantial inducement to City for entering into this Agreement was and is the professional reputation and competence of Consultant. Consultant may not assign this Agreement or any interest therein without the prior written approval of the Contract Administrator. Consultant shall not subcontract any portion of the performance contemplated and provided for herein, other than to the subcontractors noted in the proposal, without prior written approval of the Contract Administrator.
- 8.5 **Survival.** All obligations arising prior to the termination of this Agreement and all provisions of this Agreement allocating liability between City and Consultant shall survive the termination of this Agreement.
- 8.6 **Options upon Breach by Consultant.** If Consultant materially breaches any of the terms of this Agreement, City's remedies shall included, but not be limited to, the following:
- 8.6.1 Immediately terminate the Agreement;
 - 8.6.2 Retain the plans, specifications, drawings, reports, design documents, and any other work product prepared by Consultant pursuant to this Agreement;
 - 8.6.3 Retain a different consultant to complete the work described in Exhibit A not finished by Consultant; or
 - 8.6.4 Charge Consultant the difference between the cost to complete the work described in Exhibit A that is unfinished at the time of breach and the amount that City would have paid Consultant pursuant to Section 2 if Consultant had completed the work.

Section 9. KEEPING AND STATUS OF RECORDS.

- 9.1 **Records Created as Part of Consultant's Performance.** All reports, data, maps, models, charts, studies, surveys, photographs, memoranda, plans, studies, specifications, records, files, or any other documents or materials, in electronic or any other form, that Consultant prepares or obtains pursuant to this Agreement and that relate to the matters covered hereunder shall be the property of the City. Consultant hereby agrees to deliver those documents to the City upon termination of the Agreement. It is understood and agreed that the documents and other materials, including but not limited to those described above, prepared pursuant to this Agreement are prepared specifically for the City and are not necessarily suitable for any future or other use. City and Consultant agree that, until final

approval by City, all data, plans, specifications, reports and other documents are confidential and will not be released to third parties without prior written consent of both parties.

- 9.2 **Consultant's Books and Records.** Consultant shall maintain any and all ledgers, books of account, invoices, vouchers, canceled checks, and other records or documents evidencing or relating to charges for services or expenditures and disbursements charged to the City under this Agreement for a minimum of three (3) years, or for any longer period required by law, from the date of final payment to the Consultant to this Agreement.
- 9.3 **Inspection and Audit of Records.** Any records or documents that Section 9.2 of this Agreement requires Consultant to maintain shall be made available for inspection, audit, and/or copying at any time during regular business hours, upon oral or written request of the City. Under California Government Code Section 8546.7, if the amount of public funds expended under this Agreement exceeds TEN THOUSAND DOLLARS (\$10,000.00), the Agreement shall be subject to the examination and audit of the State Auditor, at the request of City or as part of any audit of the City, for a period of three (3) years after final payment under the Agreement.

Section 10 MISCELLANEOUS PROVISIONS.

- 10.1 **Attorneys' Fees.** If a party to this Agreement brings any action, including an action for declaratory relief, to enforce or interpret the provision of this Agreement, the prevailing party shall be entitled to reasonable attorneys' fees in addition to any other relief to which that party may be entitled. The court may set such fees in the same action or in a separate action brought for that purpose.
- 10.2 **Venue.** In the event that either party brings any action against the other under this Agreement, the parties agree that trial of such action shall be vested exclusively in the state courts of California in the County Monterey, or in the United States District Court with jurisdiction over Monterey County matters.
- 10.3 **Severability.** If a court of competent jurisdiction finds or rules that any provision of this Agreement is invalid, void, or unenforceable, the provisions of this Agreement not so adjudged shall remain in full force and effect. The invalidity in whole or in part of any provision of this Agreement shall not void or affect the validity of any other provision of this Agreement.
- 10.4 **No Implied Waiver of Breach.** The waiver of any breach of a specific provision of this Agreement does not constitute a waiver of any other breach of that term or any other term of this Agreement.

- 10.5 **Successors and Assigns.** The provisions of this Agreement shall inure to the benefit of and shall apply to and bind the successors and assigns of the parties.
- 10.6 **Use of Recycled Products.** Consultant shall prepare and submit all reports, written studies and other printed material on recycled paper to the extent it is available at equal or less cost than virgin paper.
- 10.7 **Conflict of Interest.** Consultant may serve other clients, but none whose activities within the corporate limits of City or whose business, regardless of location, would place Consultant in a "conflict of interest," as that term is defined in the Political Reform Act, codified at California Government Code Section 81000 *et seq.*

Consultant shall not employ any City official in the work performed pursuant to this Agreement. No officer or employee of City shall have any financial interest in this Agreement that would violate California Government Code Sections 1090 *et seq.*

Consultant hereby warrants that it is not now, nor has it been in the previous twelve (12) months, an employee, agent, appointee, or official of the City. If Consultant was an employee, agent, appointee, or official of the City in the previous twelve months, Consultant warrants that it did not participate in any manner in the forming of this Agreement. Consultant understands that, if this Agreement is made in violation of Government Code §1090 *et seq.*, the entire Agreement is void and Consultant will not be entitled to any compensation for services performed pursuant to this Agreement, including reimbursement of expenses, and Consultant will be required to reimburse the City for any sums paid to the Consultant. Consultant understands that, in addition to the foregoing, it may be subject to criminal prosecution for a violation of Government Code § 1090 and, if applicable, will be disqualified from holding public office in the State of California.

- 10.8 **Solicitation.** Consultant agrees not to solicit business at any meeting, focus group, or interview related to this Agreement, either orally or through any written materials.
- 10.9 **Contract Administration.** This Agreement shall be administered by Adela P. Gonzalez, City Manager ("Contract Administrator"). All correspondence shall be directed to or through the Contract Administrator or his or her designee.
- 10.10 **Notices.** Any written notice to Consultant shall be sent to:

ZAG Technical Services
2144 Bering Drive
San Jose, CA 95131

Any written notice to City shall be sent to:

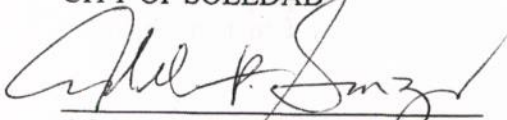
City of Soledad
248 Main Street
P. O. Box 156
Soledad, CA 93960

- 10.11 Professional Seal.** Where applicable in the determination of the contract administrator, the first page of a technical report, first page of design specifications, and each page of construction drawings shall be stamped/sealed and signed by the licensed professional responsible for the report/design preparation. The stamp/seal shall be in a block entitled "Seal and Signature of Registered Professional with report/design responsibility," as in the following example.

Seal and Signature of Registered Professional with
report/design responsibility.

- 10.12 Integration.** This Agreement, including the scope of work attached hereto and incorporated herein as Exhibit A, represents the entire and integrated agreement between City and Consultant and supersedes all prior negotiations, representations, or agreements, either written or oral.

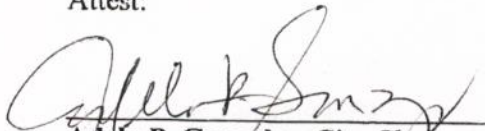
CITY OF SOLEDAD


Adela P. Gonzalez, City Manager

CONSULTANT


Greg Gatzke, Principal

Attest:


Adela P. Gonzalez, City Clerk

Approved as to Form:

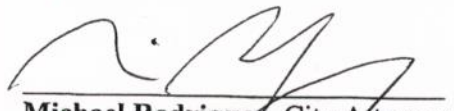

Michael Rodriguez, City Attorney

EXHIBIT A
SCOPE OF SERVICES

Chapter I – Proposal Summary

ZAG Technical Services, Inc. is pleased to respond to the City of Soledad's RFP for Information Technology Information Services. Our goal is to provide the City of Soledad with a secure and reliable network environment that will help increase the productivity of the City's staff and help the City better serve its Citizens. The City has made a major investment in their information technology. ZAG will help the City get the most use from the technology that the City currently owns.

We realize that in an environment like the City of Soledad it is necessary to provide support on multiple levels. Providing support entails not only maintaining the hardware and software but all includes helping users to understand how the technology can help them become more productive and helping the City plan for future needs. The following are some of the elements that we will use to support the City.

1. Daily End User Support

- i. **Scheduled On-site Visits.** Based on the number of hours that the current firm is using to support the City we are estimating that at the beginning of the contract we will have an Engineer on-site two days per week. The Engineer's schedule will be determined by the City. We expect that after a few months and the network is stabilized the need for on-site visits will decrease.
- ii. **Remote Support.** ZAG's Customer Support Center (CSC) is a well staffed help desk that the City's staff will be able to call for immediate help. Our CSC is staffed with high level Engineers who's goal is to solve the issue on the first call. The CSC staff uses tools to remotely control a user's computer to speed up the time to resolve an issue. Our CSC is staffed Monday through Friday from 4:00am to 5:00pm and Saturday and Sunday from 8:00am to 5:00pm.
- iii. **After Hours Support.** When a call is placed after hours our on-call Engineer is paged and they will respond to the call. We provide 24x7 coverage for a number of our clients.
- iv. **Ticketing System (Help Desk Software).** We use a help desk ticketing system that tracks all user requests. Each user request for help is entered into the system and as the request is resolved the ticket is updated to create custom knowledge base for the City. The ticketing system is available for the City to review the status of any request or to enter new requests.

2. Server and Network Maintenance

- i. **Documentation.** The first step will be to update the network documentation. It is necessary to complete an audit of the City's network and document the network infrastructure. This documentation will be provided to the City for your records.
- ii. **24x7 Network Monitoring.** In order to be proactive in maintaining the City's network we will be providing 25x7 network monitoring. Using Managed Workplace, a network monitoring tool by Level Platforms, we are able to monitor all IP based devices at our client's sites. Strong and reliable remote monitoring provided through Managed Workplace allows us to be proactive and eliminate problems before they occur.

Monitoring of all critical network components such as workstations, servers, applications, websites, network services, network devices (i.e. firewalls and routers) are all available through industry based standards and protocols used widely within a typical network environment.

3. **Communication and Planning.** It is important to ZAG that we communicate well with our clients. As the City continues to grow and expand their services to the community there will be a need to expand and better utilize technology to help the staff work more efficiently and serve the community

more efficiently. We plan on attending the Technology Committee meetings to help the City determine which technologies are available and will help meet the City's needs.

We will also schedule quarterly review meetings with the City. During these meetings we can review any network issues, the status of user requests, and discuss any needs the City may have.

Chapter II – Profile on Proposing Firm

Firm Description: ZAG Technical Services, Inc. was formed in October 1998. We have offices in San Jose, CA and Salinas, CA. We currently have a total staff of twenty-nine (29), with twenty-five (25) of those being employed as Engineers.

ZAG Technical Services, Inc. (ZAG) is an award winning IT consulting firm specializing in network infrastructure, security, disaster recovery and remote access. As a Microsoft Gold Certified Partner, ZAG provides Enterprise class business solutions that help companies reduce IT costs, increase productivity, and ensure security.

In 2008 ZAG was named as Microsoft's Partner of the Year, Northwest Region. The Northwest Region covers all of Northern California, Oregon, Washington, Idaho, and Alaska. We have a very close working relationship with Microsoft as well as many other industry leaders

ZAG has a staff of twenty-five (25) Engineers and three support staff. We will assign a primary Engineer to your account that will be responsible for the regularly scheduled visits and management your network. In addition to the primary Engineer we will assign a secondary Engineer who will cover your account in the event your primary Engineer is not available.

In addition to your primary Engineer you will have access to our help desk staff for additional support. Our help desk is staffed by senior level Engineers whose goal is to provide superior customer service and resolve as many support requests on the first call. Our help desk is staffed from 4:30am to 5:00pm Monday through Friday and 8:00 am to 5:00pm on Saturday and Sunday. Calls that are received outside of the staffed schedule are answered by an page to our on-call Engineer is contacted as necessary.

When you have an issue that cannot wait until the next scheduled visit for our Engineer you can reach our help desk at 888-924-9511. One of our help desk Engineers will create a service ticket in our service tracking system and will assist you.

Financial Status: ZAG has been profitable every year since its inception except for one year during the recession following the dot.com bust. We have been steadily growing our customer base as well as our staff resources. ZAG's growth philosophy is very conservative. In 1998 ZAG had a total of three members on staff and we have grown steadily to our current level of twenty-nine.

Lawsuits and Litigation: We have never been involved in any litigation initiated by any of our clients.

Sub-contractors: We do not normally work with sub-contractors and at this time we are not planning on involving any sub-contractors in our work with the City of Soledad.

Chapter III – Qualifications of the Firm

ZAG has been providing network support services for its clients since it was founded. For some companies, like the City of Soledad, we provide an entire range of services as well as on-going support. For others we provide support to their internal IT staff. The following are a few examples of our clients.

Taylor Fresh Foods – Complete IT Support

ZAG Technical Services was asked to support the infrastructure for a multi location manufacturing organization located in Salinas, California. We provide support at the desktop up to the enterprise applications. We manage desktops through a centralized product called Level Platforms. This product allows us to do complete inventories of the systems, including software installed, hardware, etc. It also allows us to push updates out and ensure the machines have the updates applied.

ZAG does much of the work remotely, but also visits locally to assist the users. Support is provided with the staffed help desk from 4am – 5pm Monday through Friday, and 8am – 5pm Saturday and Sunday. Outside of those hours, support is done through a paging system. The desktop support is performed on a fixed fee of \$45 per month per workstation and \$20 per month per thin client.

ZAG also manages the Wide Area Network of this multi State, multi national organization on a 7x24 basis. ZAG supports the WAN environment on a time and materials basis and has always met the customer's needs.

Finally, ZAG manages the enterprise servers to ensure they are up 7x24. ZAG controls access to the systems, maintenance and backups of the systems and resolves issues that arise. This work is also done under a guaranteed response support contract. ZAG has met all requirements of this customer.

Cost: Please refer this question to the client.
Project Time Frame: June 2005 - Present
Percentage of Work Provided: 100% of contracted work

Contact: Drew Burnham
Senior Business Applications Analyst
831-235-3669

The Hoffman Agency – On-Going Support

ZAG has provided support of the Hoffman Agency since 1998. ZAG manages the servers in this multinational organization. Among other things, ZAG manages Exchange, eRoom, file servers, backups, firewalls, etc. ZAG also provides desktop support to the end users.

This support is all done on a time and materials basis. ZAG is under a four hour support guarantee. ZAG has never come close to taking four hours to respond.

ZAG has performed project work with Hoffman, such as installing the Exchange server and file server. In these cases, ZAG has performed the work on budget and within schedule.

Cost: Please refer this question to the client.
Project Time Frame: 1998 - Present
Percentage of Work Provided: 100% of the contracted work. The Hoffman Agency has internal IT staff that does perform daily IT services.

Contact: Linda Wilson
Manager of Information Technology
720-394-1567

County of Santa Clara SCV/HHS/IS – Department of Alcohol and Drug Services (DADS)

Cost: Initial Project: \$ 27,046.60
On-going Support: \$ 10,000.00 annually
Project Time Frame: January 2003 – March 2003
On-going support: March 2003 – Present
Percentage of Work Provided: 95%

Contact: Cherie Silveira-Moliere
IS Manager
408-885-6490

The County needed to implement a solution that would provide remote access to a database for all of the vendors of the Department of Alcohol and Drug Services. We designed a remote access solution using Citrix Presentation Server and a SQL backend. As part of this project we worked with the County's internal IT staff to design the infrastructure required to run the database application and provide remote access. This was DADS first Windows network and we worked with them to design an Active Directory structure that would meet their current needs as well as planning for growth. Since patient's data would be entered into the database a security was a major concern in this design. We built both the back end servers and the remote access servers for this project and worked with the County's security team to implement the security.

We have been providing on-going weekly support for DADS since 2003 when the project was completed.

The project was completed within the scheduled timeframe and within budget. We have been under budget on the on-going support every year since we began providing weekly support since 2003.

Chapter IV – Work Plan

We want to make the transition from your existing vendor to ZAG as smooth as possible. One of our first items will be to meet with the appropriate City staff to get our direction and determine which items are high on the City's priority list. We will also to meet with your existing vendor's team to gather information on the network and any existing network documentation. As soon as we have the information from the existing vendor we will want to secure the network. One of the first items in securing the network is to change all of the passwords on the network, including user accounts.

Support Team Responsibilities

Account Executive

The Account Executive (AE) will be the primary contact for all administrative issues. The AE will be the liaison between the City and ZAG if any issues arise.

Project Manager

The Project Manager will be primary contact for all day to day issues. The Project Manager will review the service requests on a weekly basis and ensure that all requests are completed on a timely basis. The project manger will attend the City's Technology Committee meetings on a regular basis.

Primary and Secondary Engineers

These Engineers will provide the majority of the support for the City. They will be responsible for the regularly scheduled on-site visits and for resolving the majority of the help requests.

Customer Support Center Engineers

The Customer Support Center (CSC) Engineers are the first line of support when a user needs help and one of our Engineers is not on-site. Our CSC Engineers are high level Engineers and strive for resolution of issues on the first call. If an issue cannot be resolved on the first call the service ticket will be escalated to the Primary or Secondary Engineer for resolution.

Timetable

A. Week 1

- a. Introduce support team to City staff (Entire Support Team)
- b. Work with LiveWire to acquire network information. (Primary and Secondary Engineers)
 - i. Passwords to all network equipment
 - ii. Licensing owned by the City
 1. Microsoft
 2. Symantec
 3. All applications being run in each department
- c. Review user accounts with City Staff (Primary and Secondary Engineers)
 - i. Verify that each account is a valid account
 - ii. Remove all accounts that are no longer valid
 - iii. Verify that there is a policy in place to insure secure passwords.
- d. Change passwords (Primary and Secondary Engineers)
 - i. Network equipment
 - ii. Administrator accounts
 - iii. All user accounts
- e. Review remote access policies (Primary and Secondary Engineers)
 - i. Secure network from unauthorized access.
- f. Change wireless WEP key (Primary and Secondary Engineers)
- g. Begin network documentation (Primary and Secondary Engineers)

B. Week 2

- a. Implement 24x7 network monitoring (ZAG Customer Support Center Staff)
- b. Implement Windows Software Update Services (Primary and Secondary Engineers)
- c. Change Backup Exec Email notification to insure proper personnel are informed of backup job status. (Primary and Secondary Engineers)
- d. Begin regular scheduled visits by support staff (Primary and Secondary Engineers)

C. Week 3 and Forward

- a. Continue regular scheduled visits by support staff (Primary and Secondary Engineers)

Chapter V – Proposed Innovations

The following items are recommendations that we feel the City will benefit from.

Microsoft Windows Software Update Services

To help reduce ongoing costs for the City and to help keep the workstations updated with the latest security patches we are recommending that the City utilize Windows Software Update Services (WSUS). WSUS is available from Microsoft as a free download so the only cost to the City is the labor to install it.

24x7 Network Monitoring

Using Managed Workplace, a network monitoring tool by Level Platforms, we are able to monitor all IP based devices at our client's sites. Strong and reliable remote monitoring provided through Managed Workplace allows us to be proactive and eliminate problems before they occur.

Monitoring of all critical network components such as workstations, servers, applications, websites, network services, network devices (i.e. firewalls and routers) are all available through industry based standards and protocols used widely within a typical network environment.

Feature Overview:

- Fully featured monitor set (i.e. events, services, applications, logs, syslog, SNMP, WMI, websites, etc) that allows for the monitoring of any entity that falls within your service agreement
- Extensible alert rules and thresholds that provide optimum flexibility and ease of use
- Performance and availability monitoring for devices, services, software and websites
- Integrated monitoring and alerting against Managed Workplace features (i.e. Patch Management and Microsoft Baseline Security Analyzer (MBSA))
- Over 100 predefined best-practice management templates help realize immediate ROI and takes the burden away of researching optimal monitoring practices
- Highly configurable to suit your needs including customizable alerts, alert categories, views and groups

City Intranet using Windows SharePoint Services

The need to improve collaboration and improve productivity among staff members is a common issue. We are recommending that the City use Windows SharePoint Services to create a City Intranet. The City already owns the licensing for SharePoint Services so there will not be any additional purchases necessary to implement this option.

Windows SharePoint Services helps teams stay connected and productive by providing easy access to the people, documents, and information they need to make more informed decisions and get the job done.

- Provide a single workspace for teams to coordinate schedules, organize documents, and participate in discussions within the organization.
- Easily author and manage documents, and help to ensure their integrity with enhanced features including the option to require document checkout before editing, the ability to view past revisions and restore to previous versions, and the ability to set document-specific security.
- Help people and teams stay on task with a variety of communication features that let users know when actions are required or important changes are made to existing information or documentation, including announcements, sophisticated alerts, surveys, and discussion boards.
- Provide creative forums for brainstorming ideas, building knowledge bases, or simply gathering information in an easy-to-edit format with new templates for implementing blogs (also known as

weblogs) and wikis (Web sites that can be quickly edited by team members—no special technical knowledge required).

- Stay productive while mobile with enhanced support for offline synchronization through Microsoft Office Outlook 2007 that users can use to manage document libraries, lists, calendars, contacts, tasks, and discussion boards even offline, and to synchronize changes when reconnected to the network.
- The City is considering adding two servers that each runs a separate SCADA system (Supervisory Control and Data Acquisition) system for water and wastewater treatment, both running Wonderware.

There would not be any increased costs to the monthly maintenance fee. Since we charge on a time and material basis some of the estimated monthly cost would be used for the setup and implementation of the new SCADA systems but this would be included in the monthly charges. ZAG has found that most SCADA systems we have been involved in to date have not been significant in the management required to support them.

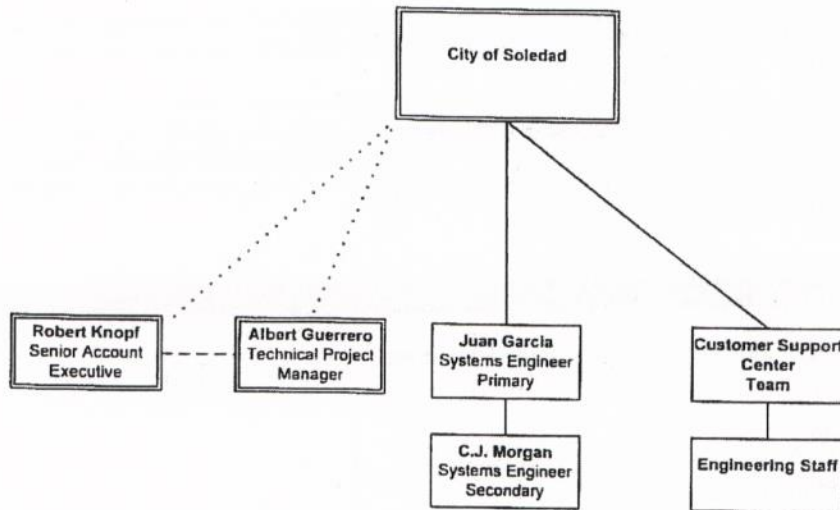
Chapter VI – Project Staffing

The support team will consist of the following positions and personnel.

1. Account Executive
 - a. Robert Knopf
2. Project Manager
 - a. Albert Guerrero
3. Primary Engineer
 - a. Juan Garcia
4. Secondary Engineer
 - a. C.J. Morgan
5. Customer Support Center Engineers

ZAG Technical Services, Inc.

Support Organization for the City of Soledad



Resumes of Team Members

Robert S. Knopf (Account Executive)

EXPERIENCE:

Present -
April 2002

ZAG Technical Services, San Jose, CA (408) 383-2004

Senior Account Executive

Responsible for finding and beginning relationships with new clients, sales, marketing and account management. Implemented a sales and lead tracking system. Started and managed relationships with partners such as Microsoft, Citrix and Novell. Microsoft Gold Partner

April 2002 -
December 1999

ZAG Technical Services, San Jose, CA

Systems Engineer

Performed systems administration tasks as required in Windows and NetWare environments. Installed and supported WAN/Internet connectivity hardware. Performed network design functions for small (20+users) to medium (150+users) customers, including network operation system selection and deployment. Provided project management for various IT related tasks (moves, upgrades, new installations, etc.)

December 1999 -
October 1996

City of Seaside, Seaside, CA

Computer Systems Coordinator (831) 899-6700

Accountable for all aspects of information systems. Provide support and training for 150 users in six locations. Manage and administer a mixed Novell 4.11 and NT wide area network consisting of 16 servers. Diagnose and repair hardware and software problems. Work with each department to evaluate their information systems needs and provide needed solutions. Manage backup of all file servers. Maintain the City's website and respond to citizen's comments and suggestions. Maintain a documentation library. Performed a Y2K evaluation on all software and hardware and initiated needed fixes. Designed and upgraded entire wide area network, including cabling, communication devices, file servers and user workstations. Responsible for maintaining telephone systems and analyzing monthly phone bills.

**Community
Involvement**

Hands On Bay Area, Mountain View, CA – Project Manager	2002 - Present
Random Acts of Genealogical Kindness Volunteer	2005 - Present
San Jose Silicon Valley Chamber of Commerce – Ambassador	2002 – 2006
2 nd Harvest Food Bank – Team Leader	2004 - 2005
Novell Users International – Board of Directors	2004 - 2005
Silicon Valley Novell Users Group – President	2000 - 2003

San Jose Silicon Valley Chamber of Commerce – Ambassador of the Year – 2004

Albert Guerrero (Project Manager)

2007- Present ZAG Technical Services, Inc. San Jose, CA
Technical Account Manager

Project Manage SBM and Enterprise level accounts implementing upgrades to Computer, Database and Networks. Working with engineering staff in planning and design requirements specific to customer request. Utilizing Microsoft Products, HP, Dell, Juniper, Cisco, WLAN components as required. Perform Customer Site Surveys to determine needs specified by our customer.

2006- 2007 JustWorks San Jose, CA
Engineering Manager

Provide managerial support to customers and technical staff as part of the Engineering/Customer Services team. Responsibilities range from the development of staff to project management, account management, and the development of the company's services.

Key areas of responsibility are:

- Customer Service Management
- Staff Development
- Vendor Management

2004-Present A+S Enterprises San Jose, CA
Director of Business Solutions (A personal business venture)

- Started 2004 with the idea of offering IT Services for small businesses.
- Provide technical support services to small businesses.
- Create marketing brochures & generate sales leads to my clients. My client base is diverse, such as Construction, Painting, Window/Door replacements, Hand Held Software Solution, Precision Sheetmetal, RealEstate & Banking.

2005-2005 Cal Coast Telecom San Jose, CA
Project Manager

- Three Month Project.
- Project manage telecommunications installations for data, voice, audio, video.
- Perform Site Surveys as required for potential and existing customers. Duties included client interview to determine scope of work and budget requirements.
- Assist with internal documentation maintenance including all activities necessary to deliver a project on schedule and within budget while satisfying agreed-upon customer requirements and specifications within the scope of the project. The primary responsibilities are to manage scope, schedule and cost. Identify & assemble resources from all disciplines (Engineering & other departments) as required.

2000-2003 E.piphany, Inc. San Mateo, CA
IT Manager/Project Manager Remote Sites

Accomplishments:

- Coordinated the opening or relocation of 12 Offices/Buildings worldwide. Documentation of remote office networks and coordination of remote office with corporate IT activity. Assess the cost and requirements for implementing a Video Conference System within our local and remote offices. My yearend evaluation on a scale of High, Medium or Low, for "Corporate Core Values" and "Corporate Results", I rated High in both categories.

Responsibilities:

- Ensure that IT functions are consistent in method and quality for E.piphany throughout the world. Supporting our remote sales and engineering staff, ensuring technical support and network access available and operable. Request and review RFP & RFQ for IT Projects involving moves and upgrades. Additionally fill the role of project manager for internal moves and special projects.
- Project Lead for new site build outs, US and International (AT&T,SBC, Bell South Verizon, BT, MyTelecom Australia)

- Concurrently, Project and IT Manage new large site build outs for Chicago, Boston, UK, Sydney Australia. As well as smaller satellite locations, in , U.S., Canada, Latin America, Asia, and Europe, occupying Executive Suites.
- Coordinate meetings with departments involved in support of new site infrastructure, Networks, Architects, Real Estate Director, and Server Team, local and abroad.
- Manage and hire Technical Support personnel for remote sites.
- Review and compare infrastructure hardware, select vendors for global deployment of hardware. Building a homogenous environment.
- Hold weekly IT Support meetings with remote site Technical Support Team members.
- Audit / Review Telecom Charges worldwide for Data and Voice connections.

1996-2000 SAP Labs, Inc.
 Manager, IS Enterprise Systems

Palo Alto, CA

- Manage staff of 5, server administrative individuals. Responsible for maintenance and administrative support of NT domain servers, web servers internal and external, MS Exchange server etc. Provide direction to and mentor new management staff, i.e. National IT Manager and Telecommunications Manager on the processes and policies of SAP Labs IT operations.

National IT Manager

- Established and managed IT support for local and satellite development sites, sales and engineering staff. Request and review RFP & RFQ for IT Projects involving moves and upgrades. Hire and manage a staff of 16 technical support engineers. Satellite Sites located in Texas, Redmond Washington, Chicago, Wash, D.C., Boston, Philadelphia, Detroit.
- Responsible for managing support team to service 500+ personnel, training sites local and satellite and technical conferences.
- Establish procedures for new hire training and develop a local Help Desk Support team. Create specifications for web interface to be utilized in help desk database history call log.
- Managed hardware procurement for all sites, workstations and servers.
- Initiated teams to provide remote support, project support for ongoing testing of new hardware and testing prior to campus deployment.
- Initiate and negotiate with vendors, best pricing and short-term product beta testing for hardware, from wireless products to high volume servers to laptops and desktops. Teams were assigned to evaluate and report back to me with technical analysis and data on suitability for campus use and client acceptance.
- Worked closely with development groups to provide direction for new products, competitive needs.
- Championed support team to achieve high standard of productivity and professionalism as well as team effectiveness, which resulted in receiving high accolades as "the best" support team in all of SAP global. A statement made directly by Vice President of SAP Labs development, Palo Alto. Our Motto – Individuals win trophies, teams win championships!

Juan Garcia (Primary Engineer)

SKILLS

Operating systems /Applications

MS Windows 2008, 2003, 2000 AD, GPO, ISA 2004 Server, MS Windows XP/2000, MS Office 2000/3 Suite, Visio 2003, Terminal Services, MS Exchange Server, Backup Exec, CA Arc Serve, Cisco TACACS, What's UP! MRTG, VNC, CAI E-Policy Server, Crystal Reports. DELL/HP Servers, CA Unicenter TNG, ISO 12.1

Networking Technologies

LAN: TCP/IP, 802.X, DNS, VLAN, NAT, VOIP, STP, PVST+,SNMP, POP3, ISDN, LT2P, PPTP, IPSec, Cisco Catalyst: 2900, 3500, 4605, PIX515, NAI SNIFFER, NetScreen FW/VPN, Checkpoint FW/VPN, Cisco 3005 VPN,
WAN: T1, Frame Relay, OSPF, EIGRP, PPTP, L2TP, BGP, ISDN, Cisco Routers: 3640, 2620, and 4506

EXPERIENCE

ZAG Technical Services, Inc.

Systems Engineer

October 2007 - Present

Finnovative Inc.

System Network Engineer 2004 - October 2007

- Primary responsibility is managing and supporting in house and existing client's IT infrastructures on site or remotely.
- Provide technical consulting, auditing, fine tuning and reporting of network environments for new clients focusing on security, reliability and disaster recovery.
- Recommend, procurement and configuration of client's network, servers and desktop hardware yielding high availability of services
- Facilitate the management, troubleshooting and proactive monitoring of all in-house and client's network services
- Provide experienced technical guidance during planning and implementation of key client IT infrastructure related projects.
- Define and document network, services providers, contracts, inventory, licenses, escalation procedures and IT policies.
- Research and evaluation of hardware and software products per client business requirements.
- Manage all clients' user request for prompt and efficient resolution.
- Time tracking for bill back to clients

UTStarcom Inc.

Sr. IT Engineer 2001- 2003

- Responsible for LAN and WAN stability and operability for corporate HQ and satellite offices. 24/7 on-call support.
- Managed and maintained corporate network security: Firewall, DMZ, VPN concentrator (site-to-site and remote users), Windows 2000 AD, Cisco ACL, Anti-Virus server and desktops.
- Managed IT integration of company's acquisitions of small companies to corporate policies and standards within proposed deadlines: LAN, WAN, hardware, security and application standards
- Deployed and maintained network and mission critical applications monitoring tools for 24/7 notification.
- Maintained close collaboration and communication with local and regional IT team members, management and service providers on new corporate IT policies, procedures, application rollouts, new networks, and network issues.
- Created and implemented procedures and policies for data backups, off-site data storage, data disaster recovery, new/exiting employees, network security, server hardware and configuration
- Manage helpdesk "Track IT" application and provided Level 2 support to software, hardware and network related issues.

Projects managed/lead:

- Campus' LAN overhaul incorporating strong network security, core redundancy, manageability and fault tolerant hardware utilizing two Multilayer Cisco 4506 catalyst switches
- NT 4.0 site domain migration to Windows 2000 AD (root)
- NorStar PBX system migration to AVAYA Definity system with VOIP

MedChannel Inc.

Systems Network Administrator 1999-2001

- Designed, installed and maintained new corporate LAN, WAN and VPN.
- Incorporated Dell server and desktop hardware brand as company hardware standard.
- Performed software and hardware support to staff and consultants.
- Evaluated and maintained co-location site hosting corporate business.

Project managed:

- New office voice and data wiring; computer room built out with the adequate mechanical amenities

Acer America Inc.

Systems Network Administrator 1997-1999

- Managed and maintained campus LAN, and WAN servicing over 800 employees
- Managed and maintained campus Novell 3.12, MS NT4. 0 and 16+ Lotus Notes servers
- Evaluated and deployed CA Unicenter TNG allowing the monitoring of all critical applications and hardware in real time based on server agent technology.

Projects Managed/Lead:

- Designed and built new campus server farm to house over 160+ servers with the adequate mechanical amenities
- Campus wide user migration from cc: Mail to Lotus Notes during after hours to minimize business interruption.
- Deployed campus wide desktop FAX solution.
- Managed and supervised campus wide topology change from 10base2 to 10/100BaseT: network hardware install, pre-wire of every desktop, configured desktop to new medium after hours.

Helpdesk Support Lead

1994-1997

- Managed and filtered all IT user request forms for helpdesk staff by prioritizing tasks based on type of request and issue severity.
- Provided technical support to users on a variety of software, hardware and LAN related issues.
- Performed new desktop install, replacement and upgrades
- Responsible for network and voice connectivity to new office expansion

Sprint/La Conection Familiar

Network Administrator 1992-1994

- Supported and maintained 120+ users in a server/client environment.
- Administered Novell 3.11 Servers and PC hardware purchases and configuration
- Provided network connectivity to new expansion areas.
- Managed and processed the import of Telemarketing leads on to NEC system
- Supervised office computer systems relocation.

Certifications/Training: MCSE 2003, CCNP, NAI SNIFFER, CA Unicenter TNG, Solaris System Administration, CNE, Computer Operations

C.J. Morgan (Secondary Engineer)

FedEx Freight, Inc. – Viking Freight, Inc. San Jose, CA

Systems Administrator

- Administrator of 500 plus NT/2000/2003 Servers in 5 Active Directory Domains, using equipment from Hewlett Packard, Dell, EMC and IBM located in approximately 375 remote locations across the United States, Mexico & Canada
- Administrator of 2 Exchange 5.5/2000 servers in one Organization
- Backup Administrator using Veritas Netbackup Enterprise
- Terminal Services running on Windows 2000 and Windows 2003.
- Minor liS 4.0, 5.0 & 6.0 experience
- Minor Unix administration experience
- Moderate SOL 7,2000 & 2005 Administration
- Security for all NT systems including Security Patching/auditing and user group account creations. This included our liS Intranet servers.
- Research/buying recommendations of equipment for NT Systems including Servers, NAS/SAN, Tape Drives.
- Experience in administering, upgrading & deploying Computer
- Associates Unicenter DSM (Desktop & Server Management) r11.2 suite
- Experience in administering Computer Associates Unicenter NSM r11.2
- Experience with Point of Sale systems
- Setup and Administration of Distributed File System using Microsoft Windows 2000

DOC (Dedicated On-Site Consulting) (Contracted to Viking Freight, Inc.)

NT Systems Administrator

- Administrator of 60 NT/2000 Servers in 2 NT Domains
- Administrator of 2 Exchange 5.5 servers in one Organization
- Backup Administrator using Veritas Netbackup Data Center
- Minor liS 4.0 & 5.0 experience
- Minor SOL 7.0 & 2000 experience
- Security for all NT systems including Security Patching/auditing and user group account creations.
- Responsible of all backups of all servers using Veritas Netbackup Datacenter, 2 Tape Stacker units, 1 Tape library, and 2 standalone drives.

Paisano Publications, Inc.

Agoura Hills, CA

Information Systems Manager

- Administrator of 5 NT and 1 Unix RS6000 servers domain
- 65 PC & 40 Mac node network
- Add/Maintain user accounts including RAS Dialup accounts
- Backup Maintenance of servers
- Installation of Software
- Minor hardware upgrades
- Administrator of Email & Web access server via T1 line
- Installed & configured Outlook 97/98 as email client
- Add/Maintain user accounts
- Maintain Proxy & firewall on entry level
- Backup Maintenance
- Troubleshoot email & internet access problems
- Administrator of Lucent Definity phone system and Call Accounting
- System from Lucent Technologies
- Add, move, maintain phone stations
- Coverage path & hunt group setup and maintenance

Chapter VII – Proposal Exceptions

We have no exceptions to any portion of the City's RFP.

Chapter VIII – Proposal Costs Sheet and Rates

ZAG Technical Services offers three different support options:

- As Needed Support
- Normal Business Hours Support - Prepaid Monthly Support Agreement
- 24x7 Support - Prepaid Monthly Support Agreement

The Normal Business Hours and 24x7 pre-paid support agreements will provide you with the following benefits:

- Scheduled maintenance visits
- Guaranteed response times
- Discounted hourly rates

Hourly Rates:

As Needed Support

	Server	Desktop
Normal Business Hours	\$ 165.00	\$ 120.00
After Hours Support	\$ 220.00	\$ 165.00

Normal Business Hours Support - (Monday through Friday 8 a.m. to 5 p.m.)

- Guaranteed 2 hour response during normal business hours

	Server	Desktop
Normal Business Hours	\$ 145.00	\$ 120.00
After Hours Support	\$ 185.00	\$ 145.00

24x7 Support

- Guaranteed 2 hour response 24x7

	Server	Desktop
Normal Business Hours	\$ 145.00	\$ 120.00
After Hours Support	\$ 185.00	\$ 145.00
24x7 Support	Minimum - Additional \$500.00 per month	

We have been informed that the current vendor providing IT Management Services is spending about twenty hours a week at the City. We are confident that after we have had a chance to stabilize the network we will be able to reduce the amount of time required to satisfactorily service the City's IT needs. ZAG works on a time and material basis so the City will only pay for the service they receive.

For budgeting purposes we are providing two rate structures for the City, one for the first quarter of support while the transition occurs and the network is stabilized and one for continuing support after the first quarter.

Based on our experience with other companies that are comparable in size to the City we are estimating that once the network is stabilized the support will require approximately forty (40) hours per month.

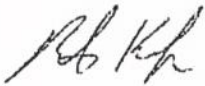
Budgetary Amounts	Hours per Month	Amount	24x7 Support	Total:
First Month	80	\$9,600.00	\$ 500.00	\$ 10,100.00
On-Going Support (Price per month)	40	\$ 4,800.00	\$ 500.00	\$ 5,300.00

Based on the amounts listed above we are recommending that the City enter into a 24x7 support agreement for forty (40) hours per month but budget for the additional amount for the first month. This will give us an opportunity to take care of some of the issues that have been ignored previously and ensure the security of the network is protected. By doing this the City will benefit from paying a reduced pre-paid amount, a reduced rate structure, and guaranteed response time. Any time used above the forty hours will be billed at the reduced rates and invoiced separately.

Please do not hesitate to contact me at 408-383-2004 if you have any questions or if there is anything else we can do for you. You can also reach me via email me at robert@zagtech.com.

Sincerely,

ZAG TECHNICAL SERVICES, INC.



Robert Knopf
Senior Account Executive

ZAG Technical Services, Inc. Terms and Conditions

- A PO# or signed contract will be in place before any work is performed.
- Payment is Net 30 Days.
- This quote is valid for a period of 30 days.
- There will be a 15% restocking fee for all returned software and equipment.
- All shipping charges are to be paid by the customer and will be added to each invoice.
- ZAG personnel will be granted all necessary access to facilities as required.
- All work that falls outside of project scope will be conducted, with customer's approval, at ZAG's normal Time and Material billing rates.
- Trip charges only apply if travel outside of the Bay Area and are approved by the customer. Travel expenses will be passed at through at cost.
- Travel time will be billed one way.
- ZAG assumes that backups are functional. ZAG will not be responsible for the loss of data resulting from failed backups that ZAG did not perform.
- ZAG will be provided with any Administrator/Admin passwords required.
- During the Term and for a period of one (1) year thereafter, customer agrees not to hire, solicit, nor attempt to solicit the services of any employee or subcontractor of ZAG Technical Services, Inc. without the prior written consent of ZAG. Violation of this provision shall, in addition to other relief, entitle ZAG to assert liquidated damages against customer equal to fifty (50) percent of the solicited person's annual compensation.
- E-Waste Recycling Fees per Senate Bill 90
 - Screen Size, measured diagonally
 - Greater than 4 inches but less than 15 inches \$ 6.00
 - Greater than or equal to 15 inches but less than 35 inches \$ 8.00
 - Great than or equal to 35 inches \$ 10.00

CONTACT INFORMATION

ZAG Technical Services, Inc.
945 S. Main Street, Suite 205
Salinas, CA 93902

Phone: 831-422-3100
FAX: 408-383-2001

ZAG Technical Services, Inc.
2144 Bering Drive
San Jose, CA 95131

Phone: 408-383-2000
FAX: 408-383-2001

Robert Knopf
Senior Account Executive

Phone: 831-422-3055
Cell: 408-455-2913
Email: robert@zagtech.com

Albert Guerrero
Technical Project Manager

Phone: 408-383-2017
Cell: 408-219-9375
Email: albert@zagtech.com

Juan Garcia
Engineer

Phone: 408-383-2027
Cell: 408-416-1559
Email: jgarcia@zagtech.com

C. J. Morgan
Engineer

Phone: 408-383-2035
Cell: 408-476-5540
Email: cj@zagtech.com



Memorandum

TO: Mike Rodriquez, City Attorney
FROM: Veronica Fernandez, Management Analyst *VJ*
SUBJECT: ZAG Technical Services
DATE: January 21, 2009

Enclosed please find the contract for ZAG Technical Services for your signature. Please return signed contract for the City Manager's signature.

Thank for all your help with this contract!

*We need the insurance certificates attached
to the contract.*

ACORD**CERTIFICATE OF LIABILITY INSURANCE**OP ID GZ
ZAGTE-4DATE (MM/DD/YYYY)
03/25/09

PRODUCER

Barlocker Ins. Svs-SanJose-FL
Lic.# 0580438
1330 S Bascom Ave
San Jose CA 95128
Phone: 408-288-6262 Fax: 408-298-7635

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.

INSURED

Zag Technical Services, Inc.
2144 Bering Dr
San Jose CA 95131

INSURERS AFFORDING COVERAGE

NAIC

INSURER A: Travelers Casualty and Surety

19038

INSURER B: Hartford Casualty Ins. Co.

29424

INSURER C:

INSURER D:

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 LTR	ADD'L INSRD	TYPE OF INSURANCE	POLICY NUMBER	POLICY EFFECTIVE DATE (MM/DD/YY)	POLICY EXPIRATION DATE (MM/DD/YY)	LIMITS
B	X	GENERAL LIABILITY ☒ COMMERCIAL GENERAL LIABILITY ☐ CLAIMS MADE ☒ OCCUR GEN'L AGGREGATE LIMIT APPLIES PER: ☒ POLICY ☐ PRO-JECT ☐ LOC	57UUNIO2405	09/01/08	09/01/09	EACH OCCURRENCE \$ 1,000,000 DAMAGE TO RENTED PREMISES (Ea occurrence) \$ 300,000 MED EXP (Any one person) \$ 10,000 PERSONAL & ADV INJURY \$ 1,000,000 GENERAL AGGREGATE \$ 2,000,000 PRODUCTS - COM/OP AGG \$ 2,000,000
B	X	AUTOMOBILE LIABILITY ☒ ANY AUTO ☐ ALL OWNED AUTOS ☐ SCHEDULED AUTOS ☐ HIRED AUTOS ☐ NON-OWNED AUTOS	57UUNIO2405	09/01/08	09/01/09	COMBINED SINGLE LIMIT (Ea accident) \$ 1000000 BODILY INJURY (Per person) \$ BODILY INJURY (Per accident) \$ PROPERTY DAMAGE (Per accident) \$
		GARAGE LIABILITY ☐ ANY AUTO				AUTO ONLY - EA ACCIDENT \$ OTHER THAN AUTO ONLY: EA ACC \$ AGG \$
B	X	EXCESSUMBRELLA LIABILITY ☒ OCCUR ☐ CLAIMS MADE DEDUCTIBLE ☒ RETENTION \$ 10000	57RHUIO2111	09/01/08	09/01/09	EACH OCCURRENCE \$ 2000000 AGGREGATE \$ 2000000 \$ \$ \$
A		WORKERS COMPENSATION AND EMPLOYERS' LIABILITY ANY PROPRIETOR/PARTNER/EXECUTIVE OFFICER/MEMBER EXCLUDED? If yes, describe under SPECIAL PROVISIONS below	HACRUB2582N87709	03/18/09	03/18/10	☒ WC STATU-TORY LIMITS ☐ OTH-ER E.L. EACH ACCIDENT \$ 1000000 E.L. DISEASE - EA EMPLOYEE \$ 1000000 E.L. DISEASE - POLICY LIMIT \$ 1000000
B		OTHER Property Section	57UUNIO2405	09/01/08	09/01/09	

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

City of Soledad and its officers, elected and appointed officials, employees, agents and volunteers are named as additional insured with respects to work performed by the named insured as required by written contract per attached form HG0001005. Primary wording applies.

*Subject to 10 day N.O.C. for non-payment of premium.

CERTIFICATE HOLDER

SOLEDA

City of Soledad
Attn: Veronica Fernandez
248 Main Street
Soledad CA 93960

CANCELLATION

SHOULD ANY OF THE ABOVE DESCRIBED POLICIES BE CANCELLED BEFORE THE EXPIRATION

DATE THEREOF, THE ISSUING INSURER WILL ENDEAVOR TO MAIL

30* DAYS WRITTEN

NOTICE TO THE CERTIFICATE HOLDER NAMED TO THE LEFT, BUT FAILURE TO DO SO SHALL

IMPOSE NO OBLIGATION OR LIABILITY OF ANY KIND UPON THE INSURER, ITS AGENTS OR

REPRESENTATIVES.

AUTHORIZED REPRESENTATIVE

IMPORTANT

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

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

DISCLAIMER

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



COMMERCIAL GENERAL LIABILITY COVERAGE FORM

Various provisions in this policy restrict coverage. Read the entire policy carefully to determine rights, duties and what is and is not covered.

Throughout this policy the words "you" and "your" refer to the Named Insured shown in the Declarations, and any other person or organization qualifying as a Named Insured under this policy. The words "we", "us" and "our" refer to the stock insurance company member of The Hartford providing this insurance.

The word "insured" means any person or organization qualifying as such under Section II – Who Is An Insured.

Other words and phrases that appear in quotation marks have special meaning. Refer to Section V – Definitions.

SECTION I – COVERAGES

COVERAGE A BODILY INJURY AND PROPERTY DAMAGE LIABILITY

1. Insuring Agreement

- a. We will pay those sums that the insured becomes legally obligated to pay as damages because of "bodily injury" or "property damage" to which this insurance 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 for "bodily injury" or "property damage" to which this insurance does not apply. We may, at our discretion, investigate any "occurrence" and settle any claim or "suit" that may result. But:

- (1) The amount we will pay for damages is limited as described in Section III – Limits Of Insurance; and
- (2) Our right and duty to defend ends when we have used up the applicable limit of insurance in the payment of judgments or settlements under Coverages A or B or medical expenses under Coverage C.

No other obligation or liability to pay sums or perform acts or services is covered unless explicitly provided for under Supplementary Payments – Coverages A and B.

- b. This insurance applies to "bodily injury" and "property damage" only if:

- (1) The "bodily injury" or "property damage" is caused by an "occurrence" that takes place in the "coverage territory";

- (2) The "bodily injury" or "property damage" occurs during the policy period; and

- (3) Prior to the policy period, no insured listed under Paragraph 1. of Section II – Who Is An Insured and no "employee" authorized by you to give or receive notice of an "occurrence" or claim, knew that the "bodily injury" or "property damage" had occurred, in whole or in part. If such a listed insured or authorized "employee" knew, prior to the policy period, that the "bodily injury" or "property damage" occurred, then any continuation, change or resumption of such "bodily injury" or "property damage" during or after the policy period will be deemed to have been known prior to the policy period.

- c. "Bodily injury" or "property damage" will be deemed to have been known to have occurred at the earliest time when any insured listed under Paragraph 1. of Section II – Who Is An Insured or any "employee" authorized by you to give or receive notice of an "occurrence" or claim:

- (1) Reports all, or any part, of the "bodily injury" or "property damage" to us or any other insurer;
- (2) Receives a written or verbal demand or claim for damages because of the "bodily injury" or "property damage"; or
- (3) Becomes aware by any other means that "bodily injury" or "property damage" has occurred or has begun to occur.

- d. Damages because of "bodily injury" include damages claimed by any person or organization for care, loss of services or death resulting at any time from the "bodily injury".

e. Incidental Medical Malpractice

- (1) "Bodily injury" arising out of the rendering of or failure to render professional health care services as a physician, dentist, nurse, emergency medical technician or paramedic shall be deemed to be caused by an "occurrence", but only if:
 - (a) The physician, dentist, nurse, emergency medical technician or paramedic is employed by you to provide such services; and
 - (b) You are not engaged in the business or occupation of providing such services.

- (2) For the purpose of determining the limits of insurance for incidental medical malpractice, any act or omission together with all related acts or omissions in the furnishing of these services to any one person will be considered one "occurrence".

2. Exclusions

This insurance does not apply to:

a. Expected Or Intended Injury

"Bodily injury" or "property damage" expected or intended from the standpoint of the insured. This exclusion does not apply to "bodily injury" or "property damage" resulting from the use of reasonable force to protect persons or property.

b. Contractual Liability

"Bodily injury" or "property damage" for which the insured 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:

- (1) That the insured would have in the absence of the contract or agreement; or
- (2) Assumed in a contract or agreement that is an "insured contract", provided the "bodily injury" or "property damage" occurs subsequent to the execution of the contract or agreement. Solely for the purposes of liability assumed in an "insured contract", reasonable attorney fees and necessary litigation expenses incurred by or for a party other than an insured are deemed to be damages because of "bodily injury" or "property damage", provided:
 - (a) Liability to such party for, or for the cost of, that party's defense has also been assumed in the same "insured contract"; and
 - (b) Such attorney fees and litigation expenses are for defense of that party against a civil or alternative dispute resolution proceeding in which damages to which this insurance applies are alleged.

c. Liquor Liability

"Bodily injury" or "property damage" for which any insured may be held liable by reason of:

- (1) Causing or contributing to the intoxication of any person;
- (2) The furnishing of alcoholic beverages to a person under the legal drinking age or under the influence of alcohol; or
- (3) Any statute, ordinance or regulation relating to the sale, gift, distribution or use of alcoholic beverages.

This exclusion applies only if you are in the business of manufacturing, distributing, selling, serving or furnishing alcoholic beverages.

d. Workers' Compensation And Similar Laws

Any obligation of the insured under a workers' compensation, disability benefits or unemployment compensation law or any similar law.

e. Employer's Liability

"Bodily injury" to:

- (1) An "employee" of the insured arising out of and in the course of:
 - (a) Employment by the insured; or
 - (b) Performing duties related to the conduct of the insured's business; or
- (2) The spouse, child, parent, brother or sister of that "employee" as a consequence of Paragraph (1) above.

This exclusion applies:

- (1) Whether the insured may be liable as an employer or in any other capacity; and
- (2) To any obligation to share damages with or repay someone else who must pay damages because of the injury.

This exclusion does not apply to liability assumed by the insured under an "insured contract".

f. Pollution

- (1) "Bodily injury" or "property damage" arising out of the actual, alleged or threatened discharge, dispersal, seepage, migration, release or escape of "pollutants":
 - (a) At or from any premises, site or location which is or was at any time owned or occupied by, or rented or loaned to, any insured. However, this subparagraph does not apply to:
 - (i) "Bodily injury" if sustained within a building and caused by smoke, fumes, vapor or soot produced by or originating from equipment that is used to heat, cool or dehumidify the building, or equipment that is used to heat water for personal use, by the building's occupants or their guests;
 - (ii) "Bodily injury" or "property damage" for which you may be held liable, if you are a contractor and the owner or lessee of such premises, site or location has been added to your policy as an additional insured with respect to your ongoing operations performed for that additional insured at that premises, site or location and such premises, site or location is not and never was owned or occupied by, or rented or loaned to, any insured, other than that additional insured; or

- (iii) "Bodily injury" or "property damage" arising out of heat, smoke or fumes from a "hostile fire";
- (b) At or from any premises, site or location which is or was at any time used by or for any insured or others for the handling, storage, disposal, processing or treatment of waste;
- (c) Which are or were at any time transported, handled, stored, treated, disposed of, or processed as waste by or for:
 - (i) Any insured; or
 - (ii) Any person or organization for whom you may be legally responsible;
- (d) At or from any premises, site or location on which any insured or any contractors or subcontractors working directly or indirectly on any insured's behalf are performing operations if the "pollutants" are brought on or to the premises, site or location in connection with such operations by such insured, contractor or subcontractor. However, this subparagraph does not apply to:
 - (i) "Bodily injury" or "property damage" arising out of the escape of fuels, lubricants or other operating fluids which are needed to perform the normal electrical, hydraulic or mechanical functions necessary for the operation of "mobile equipment" or its parts, if such fuels, lubricants or other operating fluids escape from a vehicle part designed to hold, store or receive them. This exception does not apply if the "bodily injury" or "property damage" arises out of the intentional discharge, dispersal or release of the fuels, lubricants or other operating fluids, or if such fuels, lubricants or other operating fluids are brought on or to the premises, site or location with the intent that they be discharged, dispersed or released as part of the operations being performed by such insured, contractor or subcontractor;
 - (ii) "Bodily injury" or "property damage" sustained within a building and caused by the release of gases, fumes or vapors from materials brought into that building in connection with operations being performed by you or on your behalf by a contractor or subcontractor; or
 - (iii) "Bodily injury" or "property damage" arising out of heat, smoke or fumes from a "hostile fire"; or

- (e) At or from any premises, site or location on which any insured or any contractors or subcontractors working directly or indirectly on any insured's behalf are performing operations if the operations are to test for, monitor, clean up, remove, contain, treat, detoxify or neutralize, or in any way respond to, or assess the effects of, "pollutants".

(2) Any loss, cost or expense arising out of any:

- (a) Request, demand, order or statutory or regulatory requirement that any insured or others test for, monitor, clean up, remove, contain, treat, detoxify or neutralize, or in any way respond to, or assess the effects of, "pollutants"; or
- (b) Claim or suit by or on behalf of a governmental authority for damages because of testing for, monitoring, cleaning up, removing, containing, treating, detoxifying or neutralizing, or in any way responding to, or assessing the effects of, "pollutants".

However, this paragraph does not apply to liability for damages because of "property damage" that the insured would have in the absence of such request, demand, order or statutory or regulatory requirement, or such claim or "suit" by or on behalf of a governmental authority.

g. Aircraft, Auto Or Watercraft

"Bodily injury" or "property damage" arising out of the ownership, maintenance, use or entrustment to others of any aircraft, "auto" or watercraft owned or operated by or rented or loaned to any insured. Use includes operation and "loading or unloading".

This exclusion applies even if the claims against any insured allege negligence or other wrongdoing in the supervision, hiring, employment, training or monitoring of others by that insured, if the "occurrence" which caused the "bodily injury" or "property damage" involved the ownership, maintenance, use or entrustment to others of any aircraft, "auto" or watercraft that is owned or operated by or rented or loaned to any insured.

This exclusion does not apply to:

- (1) A watercraft while ashore on premises you own or rent;
- (2) A watercraft you do not own that is:
 - (a) Less than 51 feet long; and
 - (b) Not being used to carry persons for a charge;
- (3) Parking an "auto" on, or on the ways next to, premises you own or rent, provided the "auto" is not owned by or rented or loaned to you or the insured;