

OFFICE OF THE CITY ATTORNEY
ROBERT E. SHANNON, City Attorney
333 West Ocean Boulevard, 11th Floor
Long Beach, CA 90802-4664

AGREEMENT

31169

THIS AGREEMENT is made and entered, in duplicate, as of June 24, 2009 for reference purposes only, pursuant to a minute order adopted by the City Council of the City of Long Beach at its meeting on March 24, 2009, by and between SHI INTERNATIONAL CORP., a New Jersey corporation ("SHI") located at 33 Knightsbridge Road, Piscataway, New Jersey 08854 and the CITY OF LONG BEACH, a municipal corporation ("Client").

WHEREAS, Client desires to engage SHI to provide professional computer related services in support of IBM Client Agreement No. 21587 and SHI desires to be engaged by Client, on the terms and conditions of this Agreement; and

WHEREAS, Client selected SHI in accordance with Client's policies and procedures, after evaluation of its competitive proposal;

NOW, THEREFORE, in consideration of the mutual terms and conditions herein, the parties agree as follows:

1. AMOUNT: The amount of this Agreement shall not exceed One-Hundred Ten Thousand Dollars (\$110,000.00) during the term.

2. TERM: The term of this Agreement shall commence at midnight on April 1, 2009, and shall terminate at 11:59 p.m. on March 31, 2010. Client's City Manager shall have the discretion of renewing this Agreement for two (2) additional terms of one (1) year. This Agreement may be terminated by Client for cause or convenience on two (2) weeks prior notice without penalty or further obligation after Client has paid for services rendered through the date of termination.

3. INDEPENDENT CONTRACTOR STATUS: With respect to the services provided by SHI, SHI is and shall act as an independent contractor and not an employee, representative, or agent of Client. SHI acknowledges and agrees that:

A. Client will not withhold taxes of any kind from SHI's compensation;

1 B. Client will not secure workers' compensation or pay
2 unemployment insurance to, for or on SHI's behalf; and

3 C. Client will not provide and SHI is not entitled to any of the
4 usual and customary rights, benefits or privileges of Client's employees. SHI
5 expressly warrants that neither SHI nor any of SHI 's employees or agents shall
6 represent themselves to be employees or agents of Client.

7 4. INVOICES: SHI shall submit monthly invoices to Client for services
8 rendered by Workers for the number of hours that services were provided by Workers in
9 the previous calendar month.

10 5. PAYMENT DEFAULT: Client agrees to pay the invoices of SHI within
11 thirty (30) days after receipt of a valid invoice by having such payment delivered to SHI at
12 33 Knightsbridge Road, Piscataway, NJ 08854 or such other location or manner as SHI
13 shall hereafter direct in writing.

14 6. RESTRICTIVE COVENANT CONVERSION: Client acknowledges
15 that SHI incurs great expense in providing services to its clients, including without
16 limitation recruiting, screening and training costs.

17 Neither party will actively solicit for hire, nor knowingly allow its employees
18 to solicit for hire, any employee of the other party associated with this Agreement during
19 the term of this Agreement and for a period of twelve (12) months after its expiration.
20 This provision shall not restrict in any way the right of either party to solicit generally in
21 the media for required personnel, and shall not restrict employees, contractors, or
22 representatives of either party. The parties agree that hiring of an employee will subject
23 the former employer to liquidated damages from the hiring party, consisting of an amount
24 equal to one (1) year's salary for each person hired or retained.

25 7. LIMITATION OF LIABILITY: SHI does not warrant or guarantee that
26 the Workers placed with Client pursuant to this Agreement will produce any particular
27 result or any solution to Client's particular needs. Accordingly, Client acknowledges and
28 agrees that SHI is not responsible for any of the Worker's work or the Client's project,

1 including, without limitation, compliance with any deadlines or work product requirements.
2 SHI shall not be liable for (l) any claims, costs, expenses, damages, obligations or losses
3 arising from or in connection with the acts or omission of any Worker.

4 Neither party will be liable for any special, punitive, indirect, incidental or
5 consequential damages including, but not limited to, loss of or damage to data, loss of
6 anticipated revenue or profits, work stoppage or impairment of other assets, provided,
7 that, for the avoidance of doubt, any of the foregoing damages arising in connection with
8 obligations of indemnification or confidentiality hereunder shall be deemed to be "direct"
9 damages for which recovery shall not be barred by this paragraph. Except in the case of
10 breach of each party's liability for personal injury/property damage under article entitled,
11 "indemnification", either party's total cumulative liability to the other in connection with this
12 agreement, whether in contract, tort or other theory, will not exceed the total amount of
13 fees actually paid or payable by client to SHI under this agreement for the year previous
14 to the incident which gave cause for such liability. Client acknowledges that such amount
15 reflects the allocation of risk set forth in this agreement and that SHI would not enter into
16 this agreement without these limitations on its liability.

17 8. CLIENT PROPERTY:

18 A. Work Product:

19 i. Unless otherwise specifically agreed to in an Order,
20 any and all Deliverables created and developed by SHI, its employees or
21 Subcontractors shall be deemed a "work for hire" for the sole benefit of and
22 belonging exclusively to Client. All other intellectual property rights and
23 other proprietary rights in and to the Services, and information, know-how
24 and processes developed by SHI, or anyone acting on SHI's behalf, arising
25 from the Services performed hereunder shall be the sole and exclusive
26 property of SHI and shall not be claimed to be owned by Client or their
27 employees.

28 ii. To the extent any Deliverable is not deemed a "work for

1 hire" by operation of law, SHI hereby irrevocably assigns, transfers and
2 conveys to Client all of its right, title and interest in all Deliverables under
3 the Order, including, but not limited to, all rights of patent, copyright, trade
4 secret or other proprietary rights in such Deliverable.

5 iii. SHI shall provide to Client all Commercially
6 Reasonable assistance, execute such documents, and take all such other
7 actions, which may be reasonably required to perfect the foregoing rights to
8 the Deliverable (including, but not limited to, directing its employees to
9 execute all applications for patents and/or copyrights, assignments, and
10 other papers necessary to secure and enforce Client's rights to such
11 Deliverable).

12 iv. Notwithstanding the foregoing, SHI shall retain
13 ownership rights to (1) all of its previously existing intellectual property,
14 including any derivatives, modifications and enhancements thereto, (2)
15 Confidential Information of SHI, and (3) any tools or scripting applications
16 used, developed or created by SHI or its third party licensors during the
17 performance of this Agreement.

18 B. Confidentiality: SHI and Client recognizes that while
19 performing its duties under this Agreement, SHI and its Workers and Client
20 respectively may be granted access to certain proprietary and confidential
21 information regarding Client's business, Clients, and employees. SHI and Client
22 respectively shall keep such information confidential (unless compelled to reveal
23 such information by court), and the obligations of this paragraph shall survive the
24 termination of this Agreement. This paragraph does not apply to information that
25 was previously known or information that is available in the public domain.

26 9. NOTICES:

27 A. Manner: Any notice or other communication required or
28 permitted under this Agreement shall be in writing and either delivered personally

1 or sent by overnight courier, or U.S. certified or registered mail, postage prepaid,
2 return receipt requested.

3 B. Addressee: Notice shall be addressed to:

4 SHI: Software House International ("SHI")
5 33 Knightsbridge Road
6 Piscataway, NJ 08854

7 Client: City of Long Beach
8 333 W. Ocean Boulevard
9 Long Beach, CA 90802
10 Attn: City Manager

11 With a copy to: City of Long Beach
12 333 W. Ocean Boulevard, 12th Floor
13 Long Beach, CA 90802
14 Attn: Jack Ciulla

15 C. Delivery: Notice delivered personally shall be deemed given
16 only if acknowledged in writing by the person to whom it is given. Notice sent by
17 overnight courier shall be deemed given on the date shown on the courier's
18 records. Notice that is sent by U.S. certified mail or registered mail shall be
19 deemed given on the date shown on the return receipt.

20 D. Changes: Either party may designate, by notice to the other,
21 other substitute addressees, addresses for notices, and thereafter, notices
22 are to be directed to those substitute addresses.

23 10. INSURANCE:

24 A. As a condition precedent to the effectiveness of this
25 Agreement, Consultant shall procure and maintain, at Consultant's expense for the
26 duration of this Agreement, from insurance companies that are admitted to write
27 insurance in California and have ratings of or equivalent to A:V by A.M. Best
28 Company or from authorized non-admitted insurance companies subject to

1 Section 1763 of the California Insurance Code and that have ratings of or
2 equivalent to A:VIII by A.M. Best Company, the following insurance:

3 (a) Commercial general liability insurance (equivalent in scope to
4 ISO form CG 00 01 11 85 or CG 00 01 10 93) in an amount not less than
5 One Million Dollars (\$1,000,000.00) per each occurrence and Two Million
6 Dollars (\$2,000,000.00) general aggregate. This coverage shall include
7 but not be limited to broad form contractual liability, cross liability,
8 independent contractors liability, and products and completed operations
9 liability. City, its boards and commissions, and their officials, employees
10 and agents shall be named as additional insureds by endorsement (on
11 City's endorsement form or on an endorsement equivalent in scope to ISO
12 form CG 20 10 11 85 or CG 20 26 11 85), and this insurance shall contain
13 no special limitations on the scope of protection given to City, its boards
14 and commissions, and their officials, employees and agents. This policy
15 shall be endorsed to state that the insurer waives its right of subrogation
16 against City, its boards and commissions, and their officials, employees
17 and agents.

18 (b) Workers' Compensation insurance as required by the California
19 Labor Code and employer's liability insurance in an amount not less than
20 One Million Dollars (\$1,000,000.00). This policy shall be endorsed to
21 state that the insurer waives its right of subrogation against City, its boards
22 and commissions, and their officials, employees and agents.

23 (c) Professional liability or errors and omissions insurance in an
24 amount not less than One Million Dollars (\$1,000,000.00) per claim.

25 (d) Commercial automobile liability insurance (equivalent in scope
26 to ISO form CA 00 01 06 92), covering Auto Symbol 1 (Any Auto) in an
27 amount not less than Five Hundred Thousand Dollars (\$500,000.00)
28 combined single limit per accident.

1 B. Any self-insurance program, self-insured retention, or
2 deductible must be separately approved in writing by City's Risk Manager or
3 designee and shall protect City, its officials, employees and agents in the same
4 manner and to the same extent as they would have been protected had the policy
5 or policies not contained retention or deductible provisions.

6 C. Each insurance policy shall be endorsed to state that
7 coverage shall not be reduced, non-renewed or canceled except after thirty (30)
8 days prior written notice to City, shall be primary and not contributing to any other
9 insurance or self-insurance maintained by City, and shall be endorsed to state that
10 coverage maintained by City shall be excess to and shall not contribute to
11 insurance or self-insurance maintained by Consultant. Consultant shall notify City
12 in writing within five (5) days after any insurance has been voided by the insurer or
13 cancelled by the insured.

14 D. If this coverage is written on a "claims made" basis, it must
15 provide for an extended reporting period of not less than one hundred eighty (180)
16 days, commencing on the date this Agreement expires or is terminated, unless
17 Consultant guarantees that Consultant will provide to City evidence of
18 uninterrupted, continuing coverage for a period of not less than three (3) years,
19 commencing on the date this Agreement expires or is terminated.

20 E. Consultant shall require that all subconsultants or contractors
21 that Consultant uses in the performance of these services maintain insurance in
22 compliance with this Section unless otherwise agreed in writing by City's Risk
23 Manager or designee.

24 F. Prior to the start of performance, Consultant shall deliver to
25 City certificates of insurance and the endorsements for approval as to sufficiency
26 and form. In addition, Consultant shall, within thirty (30) days prior to expiration of
27 the insurance, furnish to City certificates of insurance and endorsements
28 evidencing renewal of the insurance. City reserves the right to require complete

1 certified copies of all policies of Consultant and Consultant's subconsultants and
2 contractors, at any time. Consultant shall make available to City's Risk Manager
3 or designee all books, records and other information relating to this insurance,
4 during normal business hours.

5 G. Any modification or waiver of these insurance requirements
6 shall only be made with the approval of City's Risk Manager or designee. Not
7 more frequently than once a year, City's Risk Manager or designee may require
8 that Consultant, Consultant's subconsultants and contractors change the amount,
9 scope or types of coverages required in this Section if, in his or her sole opinion,
10 the amount, scope or types of coverages are not adequate.

11 H. The procuring or existence of insurance shall not be
12 construed or deemed as a limitation on liability relating to Consultant's
13 performance or as full performance of or compliance with the indemnification
14 provisions of this Agreement.

15 11. INDEMNIFICATION: Each party shall protect, indemnify, defend and
16 hold harmless the other from and against all claims and actions, losses and all expenses
17 (including legal and investigation fees) incidental to such claims or actions arising out of
18 damage to property and/or injury, sickness, or disease to persons (including death),
19 infringement of civil rights or other tortious acts based on the negligent acts or omissions
20 or willful misconduct of either party or anyone acting under the direction or control or on
21 the behalf of the indemnifying party in the course of this Agreement.

22 The foregoing indemnity shall include all claims made or threatened by, or
23 in the name of or on behalf of the indemnifying party's employees for personal injuries
24 (including death) which arise in the course of their employment; but it shall not apply to
25 any liability ultimately determined to be based upon the negligence of indemnified party.
26 The indemnifying party hereby waives any defense it may otherwise have under
27 applicable Workers Compensation laws.

28 A. Patent and Copyright Indemnity:

1
2
3
4
5
6
7
8
9
10
11
12
13
14
15
16
17
18
19
20
21
22
23
24
25
26
27
28

i. SHI shall, at its own expense, protect, indemnify, defend and hold harmless Client from and against all claims and actions, losses and all expenses (including legal and investigation fees) incidental to such claims or actions and shall pay any award of damages and/or costs assessed against in such claims or actions or proceedings insofar as they are based on any claim or allegation that the Deliverables or the Services provided under this Agreement infringe on any proprietary right, patent or copyright.

ii. Remedy: If in any action or proceeding, the Deliverable or any portion thereof is held to constitute an infringement, then SHI shall, at its expense and within a reasonable time, either

(a) secure for Client the right to use the Services or Deliverable or any portion thereof which is said to be infringing by procuring for Client a license or otherwise, or

(b) replace the Service or Deliverable or such portion thereof with non infringing Service or Deliverable, or

(c) if remedies a. or b. are not commercially reasonable, remove such infringing Services Deliverable or such portion thereof, and refund the sums paid therefore by Client.

The indemnified party shall have the right, at its sole discretion, on its own behalf, to participate in such defense to whatever extent it deems necessary to protect its own interest and shall cooperate fully with the indemnifying party in any such participation.

The indemnified party shall notify the other of all claims, demands, suits, actions and proceedings for which the indemnifying party has, or potentially has, indemnification responsibility under this Agreement, and shall furnish the indemnifying party all information, authority and assistance needed to enable it to defend the same.

The indemnifying party's defense shall be through counsel selected by it.

OFFICE OF THE CITY ATTORNEY
ROBERT E. SHANNON, City Attorney
333 West Ocean Boulevard, 11th Floor
Long Beach, CA 90802-4664

1 Such counsel shall be subject to the indemnified party's approval, which shall not be
2 unreasonably withheld.

3 iii. Product Indemnification:

4 (a) SHI is a value added reseller ("VAR") of Product,
5 not the OEM or licensor, and therefore disclaims any indemnification
6 responsibility regarding Product provided under this Agreement. SHI
7 shall forward the indemnifications to Client which are provided to SHI
8 by the OEM of the Product and to the extent granted by the OEM,
9 Client shall be the beneficiary of the OEM's indemnifications with
10 respect to the Product. SHI is not a party to any such terms between
11 Client and OEM and Client agrees to look solely to the OEM for
12 satisfaction of any and all indemnification claims related to that
13 OEM's Product.

14 (b) The Client acknowledges that no employee of
15 the SHI or its affiliates is authorized to make any representation or
16 warranty or indemnification on behalf of the SHI or any of its affiliates
17 that is not in this Agreement.

18 iv. Software License. Software Products resold under this
19 Agreement, as well as related maintenance or support services, will be
20 governed by either the license agreement between Client and the OEM or,
21 if no such agreement exists, the OEM's standard license and support
22 agreements, which SHI shall forward to Client at the time of delivery of the
23 Products, when provided to SHI by the manufacturer. SHI is not a party to
24 any such terms between Client and manufacturer and Client agrees to look
25 solely to the OEM for satisfaction of any and all license and support claims
26 or obligations related to that OEM's Product. Client has made and will make
27 its own selection of the software Products to be ordered hereunder based
28 on its own evaluation of the character of such Products and use needs. SHI

1 shall forward to Client all associated documentation provided or made
2 available by the OEM at no additional cost, such as operator/user manuals,
3 training materials, guides, and functional/technical specifications, whether in
4 writing, electronic means or otherwise, (collectively "Documentation").

5 12. RETURN POLICY:

6 A. General:

7 i. For a Product to be eligible for return, it must be in
8 Resale Condition (one hundred percent (100%) complete, including all
9 original boxes, packing materials, manuals, blank warranty cards, and other
10 accessories provided by the OEM, and the seal on disks intact), and
11 received within the time periods described in this policy.

12 ii. If the Product is a special order item or not in Resale
13 Condition, then SHI will accept the return only if the OEM will accept the
14 return from SHI.

15 iii. Unless otherwise stated herein, shipping, and if
16 applicable, OEM restocking fees, shall be at Client's cost.

17 iv. If return is due to SHI's error, and the return request is
18 made by Client within thirty (30) calendar days of receipt of Product, then
19 SHI will accept the return at no additional cost to Client.

20 v. If Client ordered the incorrect Product or has decided
21 that it no longer wants the Product, then SHI will accept the return from
22 Client, provided the OEM will accept the return from SHI. OEM charges, if
23 any, will pass to Client. Shipping shall be at Client's cost.

24 B. Non-Conforming Product: If Client determines in its
25 reasonable discretion that Products are not in conformance with the description in
26 the Order, then Client may at its option, either:

27 i. Request that SHI promptly initiate an order to replace
28 the non-conforming Product at no cost to Client, in which case SHI will

1
2
3
4
5
6
7
8
9
10
11
12
13
14
15
16
17
18
19
20
21
22
23
24
25
26
27
28

order a replacement unit within one (1) business day of notice of non-conformance from Client. Client shall return the Product to SHI, at no cost to Client; or

ii. Terminate the non-conforming portion of the applicable Order. Client shall return the Product to SHI at no cost to Client, and SHI, upon receipt of the Product, shall promptly refund to Client any payments made to SHI therefore,

Provided that the request for such return was made within thirty (30) calendar days of receipt of Product by Client, and that the return will be made in accordance with SHI's RMA process, described below.

C. Software License Returns: The OEM's return policy will govern license returns.

D. Damage, Defects and DOA: If the Product has concealed damage (i.e. there is no evident damage to external packaging), is defective, or dead on arrival (DOA), SHI will accept the return from Client, provided the OEM will accept the return from SHI; in any event, the OEM's policies (which may include processing as a warranty claim) will apply. SHI will order a replacement unit within one (1) business day of notice of damage, defect or DOA from Client.

E. Shipping Damage: If a package containing Product purchased from SHI arrives at Client Order's ship-to address with external damage, Client should refuse to accept delivery from the carrier. If Client does accept delivery of such a package, Client must:

i. note the damage on the carrier's delivery record so that SHI may file a claim;

ii. save, as is, the merchandise and the original box and packaging it arrived in; and

iii. promptly notify SHI in writing within fifteen (15) calendar days of delivery acceptance to arrange for carrier's inspection and

1
2
3
4
5
6
7
8
9
10
11
12
13
14
15
16
17
18
19
20
21
22
23
24
25
26
27
28

pickup of the damaged merchandise.

If Client does not comply with the above requirements, Client will be deemed to have accepted the Product as if it had arrived undamaged, and SHI's regular return policy, as described herein, and all OEM warranties and restrictions will apply.

F. RMA Process: In order for SHI to accept any returns, Client must first obtain from SHI and apply an RMA (Returned Merchandise Authorization) to the returned Product. If a Product is shipped directly to the OEM, distributor, or SHI without an RMA, then SHI shall not be responsible for accepting such return, Product replacement or refund, and such return may void any Client claims on the Product.

13. FORCE MAJEURE: Neither party to this Agreement shall be liable to the other for any failure or delay in performing its obligations hereunder, or for any loss or damage resulting therefrom, due to:

A. Acts of God or public enemy, acts of government, riots, terrorism, fires, floods, strikes, lock outs, epidemics, act or failure to act by the other party, or unusually severe weather affecting Client, SHI or its subcontractors, or

B. Causes beyond their reasonable control and which are not foreseeable. In the event of any such failure or delay, the date of delivery or performance shall be extended for a period equal to the time lost by reason of the delay. The party experiencing the delay shall be prompt in restoring normal conditions, establishing new schedules and resuming operations as soon as the event causing the failure or delay has ceased. SHI shall notify Client promptly of any such delay and shall specify the effect on the Product as soon as practical.

14. MISCELLANEOUS:

A. SHI hereby represents and warrants to Client that for the term of this Agreement:

1
2
3
4
5
6
7
8
9
10
11
12
13
14
15
16
17
18
19
20
21
22
23
24
25
26
27
28

i. SHI shall perform the Services in a timely manner and with a high degree of professional skill and care using customarily accepted good and sound professional practices and procedures in the industry.

ii. SHI will maintain all necessary local, state, and federal licenses and certifications that may be required in order to legally deliver the Product and Deliverables described in the Order(s). SHI understands and acknowledges that SHI is wholly responsible for ensuring compliance with all federal, state, and local laws associated with the delivery of all Services associated with this Agreement and associated Order(s).

iii. SHI has all rights, approvals, and/or authorizations necessary to perform the Services hereunder, and provide the Product and/or Deliverables.

iv. SHI is authorized to execute this Agreement, is qualified to perform the Services, and has good title to the materials, supplies and equipment constituting the Services, free from all liens, encumbrances and claims of others.

v. The Services and any Deliverables will not contain any computer instructions, circuitry or other technological means whose purpose is to disrupt, damage or interfere with Client's use of the Services, Deliverables or its computer and telecommunications facilities.

B. Remedy: If a defect occurs or appears in the Deliverables or Services provided hereunder, it shall be presumed that SHI failed to meet such standards, and SHI shall promptly and at its own expense, correct or re-perform any such Services which fail to meet such standards within a reasonable time frame acceptable to Client at no additional cost.

C. Warranty of Product:

i. SHI is a value added reseller ("VAR") of Product, not the OEM or licensor, and therefore disclaims any warranty responsibility

1 regarding Product provided under this Agreement. SHI shall forward the
2 warranties to Client which are provided to SHI from the OEM of the Product,
3 and to the extent granted by the OEM, Client shall be the beneficiary of the
4 OEM's warranties with respect to the Product. SHI is not a party to any
5 such terms between Client and OEM and Client agrees to look solely to the
6 OEM for satisfaction of any and all warranty claims related to that OEM's
7 Product.

8 ii. Client has made and will make its own selection of the
9 Products to be ordered hereunder based on its own evaluation of the
10 character of such Product and its use needs.

11 Except as otherwise expressly provided in this agreement
12 and/or any order issued hereunder, SHI and its affiliates hereby expressly disclaim all
13 warranties either express or implied, including, but not limited to, any warranty of
14 merchantability or fitness for a particular purpose, warranty of non-infringement, or any
15 warranty relating to third party services. the disclaimer contained in this paragraph does
16 not affect the terms of any warranty provided by an OEM.

17 15. No party shall transfer or assign any or all of its rights or interests
18 under this Agreement or delegate any of its obligations without the prior written consent
19 of the other party; which consent shall not be unreasonably withheld.

20 16. This Agreement shall be governed by and construed pursuant to the
21 laws of the State of California (except those provisions of California law pertaining to
22 conflicts of laws). Any action involving this Agreement shall be brought in the Los
23 Angeles County Superior Court, Long Beach Judicial District.

24 17. This Agreement constitutes the entire understanding between the
25 parties hereto and supersedes all other agreements, whether oral or written, with respect
26 to the subject matter herein.

27 18. In the event that there is any legal proceeding between the parties to
28 enforce or interpret this Agreement or to protect or establish any rights or remedies

OFFICE OF THE CITY ATTORNEY
ROBERT E. SHANNON, City Attorney
333 West Ocean Boulevard, 11th Floor
Long Beach, CA 90802-4664

1 hereunder, the prevailing party shall be entitled to its costs and expenses, including
2 reasonable attorneys' fees.

3 19. Subject to applicable laws, rules, and regulations, neither Client nor
4 MIS shall discriminate in the performance of this Agreement on the basis of race, color,
5 religion, national origin, sex, sexual orientation, AIDS, and AIDS related condition, age,
6 disability or handicap, disabled or veteran status.

7 20. The acceptance of the services or the payment of any money by
8 Client shall not operate as a waiver of any provision of, this Agreement, or of any right to
9 damages or indemnity stated in this Agreement. The waiver of any breach of this
10 Agreement shall not constitute a waiver of any other or subsequent breach of this
11 Agreement.

12 21. Termination or expiration of this Agreement shall not affect rights or
13 liabilities of the parties which accrued pursuant prior to such termination or expiration.

14 22. SHI shall not use the name of the City of Long Beach, its officials or
15 employees in any advertising or solicitation for business, nor as a reference, without the
16 prior approval of Client's City Manager or designee.

17 ///
18 ///
19 ///
20 ///
21 ///
22 ///
23 ///
24 ///
25 ///
26 ///
27 ///
28 ///

1 IN WITNESS WHEREOF, the parties have caused this document to be duly
2 executed with all formalities required by law as of the date first stated above.

3
4 SHI INTERNATIONAL CORP., a New Jersey
corporation

5 June 24th, 2009

6 By [Signature]
President
7 Joseph Smith
Type or Print Name

8 _____, 2009
By _____
Secretary
9 _____
Type or Print Name

10 "SHI"

11 CITY OF LONG BEACH, a municipal
12 corporation

13 June 25, 2009

14 By [Signature] Assistant City Manager
City Manager
15 "City" [Signature]
**EXECUTED PURSUANT
TO SECTION 301 OF
THE CITY CHARTER.**

16 This Agreement is approved as to form on June 24, 2009.

17
18 ROBERT E. SHANNON, City Attorney

19
20 By [Signature]
21 Deputy
22
23
24
25
26
27
28

OFFICE OF THE CITY ATTORNEY
ROBERT E. SHANNON, City Attorney
333 West Ocean Boulevard, 11th Floor
Long Beach, CA 90802-4664