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# CITY OF LOS ANGELES

CALIFORNIA



ERIC GARCETTI  
MAYOR



INFORMATION TECHNOLOGY AGENCY

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LOS ANGELES, CA 90012  
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[ita.lacity.org](http://ita.lacity.org)

January 11, 2019

REF: FAS-008-19

Honorable Eric Garcetti  
Mayor, City of Los Angeles  
Room 303, City Hall  
Los Angeles, CA 90012

Attention: Mandy Morales, Legislative Coordinator

Subject: **REQUEST APPROVAL FOR 5<sup>TH</sup> RESTATED PERSONAL SERVICES AGREEMENT (NINETEENTH AMENDMENT) – HESS & ASSOCIATES, INC. (C-105458)**

Dear Mayor Garcetti:

Attached for your review and approval is a draft of the 5<sup>th</sup> Restated personal services agreement (Nineteenth Amendment) with Hess & Associates, Inc. (C-105458) to extend the term of the contract for three (3) years through December 1, 2021 with two one-year options to extend through December 1, 2023 for PaySR production support as well as PaySR support during the testing/transition phase to the Human Resources Payroll (HRP) project and increase the cap of the contract by an additional \$2,625,000.

## Background

As reported by the City Administrative Officer, with City Council approval, the City Controller entered into contract C-100240 with Hess & Associates, Inc. in July 2000 to recommend a payroll replacement strategy, replace the legacy payroll system and provide enhancements to the new system. Hess & Associates, Inc. was selected from a list of prescreened companies by a Personnel Department Executive Search.

On August 11, 2003, the City Controller entered into a second contract, C-105458, with Hess & Associates, Inc., to continue work on the PaySR Project. Since this contract was a sole source contract, proposals were not requested. To date, the contract has been amended eighteen times to extend the period of performance, to increase the compensation and/or to change deliverables as follows:

Amendment #	Who Managed the Contract	Term	Amount	New Contract Ceiling	Comments
1 <sup>st</sup>	CTR	8/1/03 – 7/31/04	\$935,000	\$935,000	
2 <sup>nd</sup>	CTR	8/1/04 – 7/31/05	\$935,000	\$1,870,000	
3 <sup>rd</sup>	CTR	8/1/04 – 7/31/05	\$0	\$1,870,000	Amend to change deliverable
4 <sup>th</sup>	CTR	8/1/04 – 7/31/05	\$0	\$1,870,000	Amend to change deliverable
5 <sup>th</sup>	CTR	8/1/05 – 7/31/06	\$935,000	\$2,805,000	
6 <sup>th</sup>	CTR	8/1/05 – 7/31/06	\$25,000	\$2,830,000	Transfer \$25,000 Contingency Funds to Hess Contract
7 <sup>th</sup>	CTR	8/1/06 – 7/31/07	\$935,000	\$3,765,000	
8 <sup>th</sup>	CTR	8/1/07 – 7/31/08	\$935,000	\$4,700,000	
9 <sup>th</sup>	CTR	8/1/07 – 7/31/08	\$0	\$4,700,000	Amend to eliminate annual payment cap
10 <sup>th</sup>	CTR	8/1/08 – 7/31/09	\$935,000	\$5,635,000	
11 <sup>th</sup>	ITA	8/1/09 – 7/31/10	\$100,000	\$5,735,000	For FMS-related work; contract moved to ITA budget in FY 09-10
12 <sup>th</sup>	ITA	8/1/09 – 7/31/10	\$935,000	\$6,670,000	
13 <sup>th</sup>	ITA	8/1/10 – 7/31/11	\$841,500	\$7,511,500	
14 <sup>th</sup>	ITA	8/1/11 – 7/31/13	\$1,683,000	\$9,194,500	
15 <sup>th</sup>	ITA	8/1/13 – 7/31/15	\$1,683,000	\$10,877,500	
16 <sup>th</sup>	ITA	8/1/13 – 7/31/15	\$245,000	\$11,122,500	Change statement of work and payment schedule
17 <sup>th</sup>	ITA	8/1/15 – 7/31/17	\$2,300,000	\$13,422,500	
18 <sup>th</sup>	ITA	8/1/17 – 11/30/18	\$875,000	\$14,297,500	To complete Baseline project (PaySR Risk Mitigation)

Extending the current contract is necessary and will be beneficial for the following reasons:

- 1) The Contractor can continue to program, consult and provide oversight on the development, production implementation and work to support PaySR; provide on-call support for production problems.
- 2) The Contractor can provide technical assistance to the City during the HRP project and transition from PaySR to HRP such as data cleansing, data migration, data conversion and data verification/validation testing.
- 3) The Contractor can complete work identified by PaySR Governance Committee or ITOC on mandatory compliance requirements, risk mitigation projects.

The Contractor's compliance documentation status is as follows:

The new Disclosure Ordinance form was completed and uploaded by the Contractor on November 15, 2018 and verified by the Bureau of Contract Administration November 27, 2018.

The Equal Benefits/First Source Hiring Ordinance affidavit expires February 24, 2020.

Contractor has the Iran Contracting Act of 2010 Compliance Affidavit on file.

In its 1022 Report for this amendment, the Personnel Department determined that City employees cannot perform the work.

A revised form CEC 55 was filed with the Ethics Commission on 11/26/18.

The Contractor has a valid BTRC.

Risk Management has accepted the insurance certificate which will expire in 2019.

The headquarter address is as follows:

Headquarter Address: 17853 Santiago Blvd. #107-506  
Villa Park, CA 92861

Percentage of Workforce Residing in Los Angeles: 20%

The 5<sup>th</sup> Restated Professional Services Agreement (Nineteenth Amendment) has been reviewed as to form by the City Attorney.

### **Fiscal Impact**

Funding for this contract is budgeted at \$475,000 annually in ITA's Contractual Services Account 3040.

### **Recommendation**

That the City Council approve, and authorize the General Manager of the Information Technology Agency, or his designee, to execute the Fifth Restated Professional Services Agreement Number C-105458 (Nineteenth Amendment) with Hess & Associates, Inc. to a) increase funding by \$2,625,000 for a total contract amount not-to-exceed \$16,922,500, b) extend the term of the agreement by three years, c) allow the General Manager of the Information Technology Agency, at his sole discretion to extend the term of this contract for an additional two years in one year increments via written notification to Contractor, and d) allow the General Manager of the Information Technology Agency to approve any additions, deletions or modifications to Attachment 1 without going through a contract amendment process so long as the addition(s), deletion(s) or modification(s) does not

Honorable Eric Garcetti  
January 11, 2019  
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materially affect the scope of work under this Contract provided the PaySR Steering Committee approves the addition(s), deletions) or modification(s).

Please contact Ms. Laura Ito at (213) 978-3322 with any additional questions.

Respectfully submitted,

A handwritten signature in black ink, appearing to read "Ted Ross".

Ted M. Ross  
General Manager and Chief Technology Officer

Attachment

ec: Trina Unzicker, CAO  
Jonathan Biton, ITA  
Tita Zara, ITA  
Irene Mayeda, ITA



**5th RESTATED PROFESSIONAL SERVICES AGREEMENT NUMBER C-105458**

**(NINETEENTH AMENDMENT)**

**BETWEEN**

**THE CITY OF LOS ANGELES  
AND  
HESS & ASSOCIATES, INC.**

**(as of Oct 23, 2018)**

This 5th Restated Professional Services Agreement (Nineteenth Amendment) to the City Contract No. C-105458 (the "Contract" or "Agreement") is entered into between the City of Los Angeles, a municipal corporation, (hereinafter referred to as the "City"), and Hess and Associates, Inc., (hereinafter referred to as "Contractor").

**WITNESSETH**

1. WHEREAS, the City and Contractor entered into City Contract No. C-105458 for the implementation and maintenance of a new payroll system (PaySR), effective August 1, 2003; and
2. WHEREAS, between August 1, 2003 and July, 2013, Contract No. C-105458 was amended fourteen (14) times to add funding, increase program functionality beyond what the original payroll system could perform, extend the term, and provide for additional services as requested by the City; and
3. WHEREAS, on or about August 1, 2013 the parties entered into the 1<sup>st</sup> Restatement of Contract No. C-105458 to clarify the general obligations of the parties, extend the term to July 31, 2015, and add Technical Projects 1 through 4 and Functional Projects 1 and 2; and
4. WHEREAS, on or about June 9, 2014 the parties entered into the 2<sup>nd</sup> Restatement of Contract No. C-105458 to increase total funding under the Contract to an amount not to exceed \$11,122,500 and provide for additional Personnel Department deliverables; and
5. WHEREAS, on or about June 30, 2015, the parties entered into the 3<sup>rd</sup> Restatement of Contract No. C-105458 to increase the total funding under the Contract to an amount not to exceed \$13,422,500 and extend the term for two (2) more years; and

6. WHEREAS, between August 1, 2013 and now the City has elected to reprioritize and reschedule projects, and ultimately changed its philosophy as to how to manage the programming, development, and maintenance of its payroll system; and
7. WHEREAS, the City and Contractor have agreed to amend and restate the Agreement in order to require the Contractor to provide additional programming services for software modifications of the PaySR system and knowledge transfer to the City PaySR support staff; and
8. WHEREAS, on or about July 13, 2017, the parties entered into the 4th Restatement of Contract No. C-105458 to increase the total funding under the Contract to an amount not to exceed \$14,297,500 to perform the work required in Section II.C of the Agreement; and
9. WHEREAS, the City is in the process of replacing the payroll system and anticipates that this effort will take three years, therefore requiring Contractor support for the PaySR system for that duration, with an option to extend two additional years in the event that replacement is delayed; and
10. WHEREAS, the annual cost of the support of PaySR beginning December 1, 2018 shall not exceed \$525,000, and shall not exceed \$2,625,000 should the Agreement be extended for the full five years; and,
11. WHEREAS, all projects and their commensurate cost estimates must be approved by the "PaySR Governance Committee" prior to the Contractor commencing any additional projects; and
12. WHEREAS, additions to the Statement of Work in Section II.D. and a new Payment Schedule in Section IV.D. are required to complete these work; and
13. WHEREAS, this 5th Restated Professional Services Agreement contains all of the current obligations of the parties;

NOW THEREFORE, in consideration of the premises and of the terms, covenants, and conditions set forth herein, the parties hereby covenant, represent, and agree as follows:

## **I. Statement of City Responsibilities**

### **A. The City is responsible to:**

1. Perform Level 1 support for PaySR – staff a Help Desk which will receive calls and Service Now Tickets, and attempt to resolve problems/requests by doing analysis and offering user training.
2. Perform Level 2 and 3 support for PaySR – staff a team of PaySR functional experts which will review Service Now Tickets that Level 1

- could not resolve, and do additional analysis to determine if it is an application problem, infrastructure/technical problem, or an enhancement. Refer confirmed problems to Level 2 and 3 support.
3. After Phase 1 and 2 transition of “baselined code” to City staff is complete, perform Level 3 support for the PaySR modules. For these modules, review Service Now Tickets that Level 2 (City staff) could not resolve, and provide bug fixes for all confirmed problems. Engage Hess and Associates in all Level 3 support issues and request assistance in training the technical staff and resolving issues. Engage Hess and Associates in all Level 3 support issues and request assistance in providing the solution to time sensitive critical tickets.
  4. Perform Project management.
  5. Prioritize the Projects and the Service Now Tickets that the Contractor will work on.
  6. Perform systems analysis and, with support and assistance as required from the Contractor, finalize the scope definition of modifications.
  7. Document the City’s business rules as needed.
  8. Develop Functional Requirements documents, if desired by the City for documentation.
  9. Develop Functional Design documents, if desired by the City for documentation.
  10. Document Test Plans.
  11. Test all code delivered by Contractor.
  12. Review and determine acceptance of deliverables in a timely manner.
  13. Implement approved code to production.
  14. Perform System Security Administration.
  15. Perform System Change Management.
  16. Develop and maintain User Manuals.
  17. Develop Training materials and perform user training.
  18. Maintain PaySR documentation once modules are moved to production.
  19. Maintain the PaySR infrastructure environment.

## **II. Statement of Work**

### **A. Effective August 1, 2013 through July 31, 2015:**

**The Contractor shall provide the services required to:**

#### **For Modification Projects:**

1. Provide input during the planning, discovery, and requirements analysis for new projects. This input may include estimated level

- of effort, technical feasibility and considerations based on the contractor's business and system knowledge.
2. Develop and document the high-level and detailed system solution, to be approved by the City before coding.
  3. Develop Functional Requirements documents as assigned.
  4. Develop Functional Design documents as assigned.
  5. Develop Technical Design documents, to be approved by the City before coding.
  6. Estimate level of effort to code and unit test the accepted Functional and Technical designs.
  7. Complete coding and unit testing within five percent (5%) of the estimated level of effort.
  8. Provide input to the City for the development of User Manuals.
  9. Provide input to the City for the development of the integrated and user acceptance test strategies, plans and scripts.
  10. Provide a Deliverable Package for each delivered project which includes confirmation that development and unit testing are complete, the name of the environment Contractor used for testing, and instructions for City staff to follow to install the project to other environments.
  11. Provide documentation of the actual screens, batch job streams, major processes, and inputs/outputs of the modified module, before projects are implemented in production.
  12. Provide technical support and code remediation for City testing in a timely manner, to support the testing schedule.
  13. Assist the City in successfully implementing these projects into production.
  14. Provide the first month of production support for new projects implemented into production, and then facilitate a smooth transition to the Production Support team for ongoing support.

For PaySR Production Support:

1. Provide on-call support for production problems.
2. Develop bug fixes and small modifications to production modules. The City will identify the work orders to be assigned to Contractor, and the priority order for them to be performed.

Delivered Code:

Delivered code should be in a production-ready state, completely meeting the requirements and design as documented in the approved Requirements Document and Functional and Technical Design Documents, or in the case of Production Support, the Work Order. Changes to these documents must be approved by the City's PaySR Project Manager before the Contractor codes them. The prototyping approach should be used only on an exception basis; if the Contractor would like to use a prototyping approach

during development of a project, approval must be obtained from the PaySR Project Manager in advance.

Knowledge Transfer:

The Contractor will provide specific Knowledge Transfer deliverables for the purpose of training City staff on the architecture and processing of the existing PaySR system, to prepare City staff to perform Production Support on all modules in the system without the Contractor's assistance. These deliverables will be paid on a per-deliverable basis, according to the Section IV Payment Schedule. No additional payments (including hourly time) will be paid for work on these deliverables.

The following are the specific deliverables:

**Technical Documentation and Training Sessions for the following:**

Technical Deliverable 1: High-Level Payroll Flow

Document the major work the system does in the Biweekly, Monthly, and Retro payrolls; inventory the job streams (7-10); and describe what each job stream does, including where the major inputs/outputs (including interfaces) come from or go to. Provide eight (8) hours of training sessions to walk City staff through the documentation.

**Functional Documentation and Training Sessions for the following:**

Functional Deliverable 1: Control Tables – Part 1

Document one-quarter of the control tables in the system, including what each controls, and what effect the different values have on PaySR. Greatest emphasis is on the control tables that affect Gross Pay. Provide eight (8) hours of training sessions to walk City staff through the documentation.

**B. Effective August 1, 2015 through July 31, 2017:**

**The Contractor shall provide the following services:**

Complete the Baseline PaySR Functionality:

This project is designed to allow the Contractor to deliver the remaining "baseline" PaySR functionality, and make the system fully usable by the operating departments through configuration (i.e. without intervention from technical staff). This project is divided into two (2) Phases, each with a duration of one (1) year:

- Phase 1: Controller-defined tasks to complete payroll functionality.  
Phase 2: Personnel-defined tasks to complete HR functionality.

The planned tasks for Phases 1 and 2 are listed in Attachment 1. Only the PaySR Steering Committee can approve changes to the planned tasks in Phases 1 and 2.

For each phase, Contractor shall:

1. Confirm that the list of remaining functionality to be completed during that phase is achievable within the one-year timeframe.
2. During the last three (3) months of the Phase, provide documentation and training to City functional and technical staff to allow the City to operate the baseline PaySR functionality entirely through configuration (i.e. without technical intervention). Documentation must include descriptions of what can be configured.

For each item of functionality, Contractor shall:

1. Meet with the designated expert users to gather requirements.
2. Provide input during the requirements discussion. This input may include estimated level of effort, technical feasibility and considerations based on the Contractor's business and system knowledge.
3. Deliver a high-level scope document, so there is consensus about what is included.
4. Develop the high-level system solution.
5. Develop the functionality iteratively, meeting with the designated expert users to demonstrate prototypes and refine requirements.
6. Receive testing feedback directly from the testers, for use in building the next prototype.
7. Provide a demonstration of the finished product.
8. Provide a code delivery package (SRF) which describes what is being delivered, and instructions for City staff to follow to install the project to other environments.
9. Provide technical support and code remediation for City testing in a timely manner, to support the testing schedule.
10. Assist the City in successfully implementing this functionality into production.

Provide PaySR Production Support:

1. Perform Level 3 support for PaySR – review SOS tickets that Level 2 (City staff) could not resolve, and provide bug fixes for all confirmed problems with production modules.
2. Provide on-call Level 3 support for production problems.

3. Provide a code delivery package (SRF) which describes what is being delivered, and instructions for City staff to follow to install the project to other environments.
4. Assist the City in successfully implementing this functionality into production.

**C. Effective August 1, 2017 through November 30, 2018:**

**The Contractor shall provide the following services:**

Complete the baseline PaySR Functionality requested by Controller's Office and Personnel for FY 2016-2017, complete the other risk mitigation projects to help the City avoid financial risks and for the sustainability of the PaySR System. Provide training to Controller's Office and ITA staff for the Risk Mitigation projects for them to be able to support Level 1 and 2 and 3:

Part of the risk mitigation effort is designed to allow the Contractor to make the system fully usable by the operating departments through configuration (i.e. without intervention from technical staff) and provide risk mitigation training to City staff.

The planned tasks for this risk mitigation project are listed in Attachment 1.

Only the Information Technology Oversight Committee (ITOC) can approve changes to the list of planned tasks as included in Attachment 1. The Information Technology Agency may direct the Contractor to perform work not included in Attachment 1 prior to gaining approval of the ITOC if a) there is a significant system issue that would result in the system's inability to process payroll and/or b) the revision to the list of tasks will not impact the completion of the tasks listed under the "Mandatory Compliance" or "PaySR Risk Mitigation Projects" categories by the required completion date, or by the July 31, 2017 if the task does not have a required completion date listed in Attachment 1. However, the ITA must submit a request to the ITOC within two weeks of directing the Contractor to perform tasks which deviate from the list, requesting ITOC's approval of the revised list of tasks. In addition, the ITA, in consultation with the Personnel Department and Controller's Office, may submit recommendations to the ITOC to amend the list of planned tasks, to be considered by the ITOC in a timely fashion.

For each phase, Contractor shall:

1. Confirm that the list of remaining functionality to be completed during that phase is achievable within the one (1) year and four (4) months timeframe.
2. During the last three (3) months of the project, provide documentation and training to City functional and technical staff to allow the City to operate the baseline PaySR functionality entirely through configuration (i.e. without technical intervention).

Documentation must include descriptions of what can be configured.

For each item of functionality, Contractor shall:

1. Meet with the designated expert users to gather requirements.
2. Provide input during the requirements discussion. This input may include estimated level of effort, technical feasibility and considerations based on the contractor's business and system knowledge.
3. Deliver a high-level scope document, so there is consensus about what is included.
4. Develop the high-level system solution.
5. Develop the functionality iteratively, meeting with the designated expert users to demonstrate prototypes and refine requirements.
6. Receive testing feedback directly from the testers, for use in building the next prototype.
7. Provide a demonstration of the finished product.
8. Provide a code delivery package which describes what is being delivered, and instructions for City staff to follow to install the project to other environments.
9. Provide technical support and code remediation for City testing in a timely manner, to support the testing schedule.
10. Assist the City in successfully implementing this functionality into production.

Provide PaySR Production Support:

1. Provide training to Controller's Office and ITA staff for the Risk Mitigation effort.
2. Perform Level 2 and 3 support for PaySR – review service tickets that Level 2 (City staff) could not resolve, and provide bug fixes for all confirmed problems with production modules.
3. Provide on-call Level 3 support for production problems.
4. Provide a code delivery package which describes what is being delivered, and instructions for City staff to follow to install the project to other environments.
5. Assist the City in successfully implementing this functionality into production.

**D. Effective December 1, 2018 through December 1, 2023:**

**The Contractor shall provide the following:**

**1. PaySR Production Support:**



- a) Provide PaySR production program fixes and modifications to PaySR modules. The City will identify the work to be assigned to the Contractor, and the priority order. All production tickets will be tracked and recorded using SNOW (Service Now) and updated by the contractor in Service Now for the hours of worked done for billing purposes. Provide documentation for all the program fixes and modifications in Service Now.
- b) Provide on-call support for production problems.  
Complete the work listed in Attachment 1 requested by Controller's Office and Personnel and complete other risk mitigation projects, current and future, to help the City avoid financial risks and for the sustainability of the PaySR System. Only the PaySR Steering Committee can approve changes to the work listed in Attachment 1. The parties to this Contract may mutually agree to add, delete or modify items listed in Attachment 1 without going through a contract amendment process so long as the addition, deletion or modification does not materially affect the scope of work under this Contract.
- c) Provide training to Controller's Office and ITA staff for the work listed in Attachment 1 to enable City staff to provide Level 1 and 2 and 3 support:

Delivered Code:

Delivered code should be in a production-ready state, completely meeting the requirements and design as documented in the approved Requirements Document and Functional and Technical Design Documents, or in the case of production support request, the incidents in SNOW (Service Now).

For each item of delivery, Contractor shall:

1. Provide a demonstration of the finished product.
2. Provide a code delivery package which describes what is being delivered, and instructions for City staff to follow on how to install the product
3. Provide system and technical documentation to be entered in Service Now.
4. Provide technical support and code remediation during City testing in a timely manner and support the testing schedule.
5. Assist the City in successfully implementing into production following the mandatory Change Management procedure implemented by ITA.

**2. PaySR Support during the HR and Payroll (HRP) conversion project:**

- a) Provide technical assistance to the City during the HRP project as it relates to PaySR data and functionality.
- b) Provide technical support and consultation assistance to the City as functional and business documents are created on specialized payroll processes in PaySR as these are needed for the configuration and/or customization of the new HR and Payroll system
- c) Provide support in the data cleansing, data migration, data conversion and data verification/validation testing from PaySR to the HRP project
- d) Provide support in the testing phase of the HRP project
- e) Provide technical support in the data cleansing effort to be done before the start of the HRP project.

**III. Term of the Agreement**

The full term of this Agreement is from August 1, 2003 to December 31, 2023 and continues for not less than three (3) years. The General Manager or his designee has the option, at his sole discretion to extend the term of this contract for an additional two (2) years, in one year increments via written notification to Contractor at least sixty (60) days of the renewal prior to the expiration of the current term so long as funds have been allocated for this purpose.

**IV. Payment Schedule**

**A. Effective August 1, 2013 through July 31, 2015:**

#	Task	Payment Amount	Target Due Date
1	Bob Hess' time - providing oversight of development, production implementation, and support, as well as development work.	\$15,000 / month	Monthly
2	Technical Knowledge Transfer – Tech Deliverable 1	\$13,760	July 31, 2015
3	Functional Knowledge Transfer – Func Deliverable 1	\$11,180	July 31, 2015
4	Production Support – Staff time other than work performed under deliverables 2 through 17	Hourly Rate per Developer	To be agreed upon with City Project Manager
5	Modification Projects – Staff time other than work performed under deliverables 2 through 17	Hourly Rate per Developer	Each project to be agreed upon with City Project Manager

The Contractor will invoice the City fifteen thousand dollars (\$15,000) a month as compensation for Bob Hess providing full-time oversight of development, production implementation, and support as well as his development work. This total of three

hundred sixty thousand dollars (\$360,000) for two (2) years is to be the only billing for Bob Hess' time, with the exception of Tasks 2 and 3, as described below.

Bob Hess will bill for the Knowledge Transfer deliverables separately as listed in the table above. The total of twenty-four thousand nine hundred forty dollars (\$24,940) is to be the only billing for these deliverables (documentation and training). The dollar increments in the Payment Schedule for Knowledge Transfer deliverables are fixed; the deliverable(s) to be provided may be revised by mutual written agreement between the Contractor and the City's manager. Regardless of the order in which the Knowledge Transfer deliverables are provided, they must all be accomplished prior to the expiration of this Contract.

The remainder of the work, not to exceed a total of one million five hundred forty-three thousand sixty dollars (\$1,543,060) for two (2) years, shall be provided on a time-and-materials basis by other staff of Contractor for the purpose of providing production support, and modification projects as time permits. The following are the billing rates for the other staff:

<b>Class</b>	<b>Range</b>
Developer 4	\$ 85.01/hr to \$100.00/hr
Developer 3	\$ 75.01/hr to \$ 85.00/hr
Developer 2	\$ 60.01/hr to \$ 75.00/hr
Developer 1	\$ 45.01/hr to \$ 60.00/hr
Business Analyst / Technical Writer	\$ 70.00/hr to \$ 90.00/hr

<b>Total Payment to Bob Hess for Oversight of Development, Production Implementation, and Production Support, as well as modifications:</b>	<b>\$ 360,000</b>
<b>Total payment for Knowledge Transfer deliverables:</b>	<b>\$ 24,940</b>
<b>Total Not to Exceed Payment for all other staff work:</b>	<b>\$ 1,543,060</b>
	<b>=====</b>
<b>Total Contractor Payment:</b>	<b>\$ 1,928,000</b>

By August 1, 2013 the Contractor will provide the City's Project Manager, in writing, the list of continuing staff (Contractor-compensated employees and subcontractors) for approval by the City's Project Manager. Subsequent changes to the list of Contractor-compensated employees or subcontractors will require prior written approval by the City's Project Manager.

**B. Effective August 1, 2015 through July 31, 2017:**

<b>#</b>	<b>Task</b>	<b>Payment Amount</b>	<b>Target Due Date</b>
1	Bob Hess' time: providing oversight of development, production implementation, and support, as well as development work.	\$15,000 / month	Monthly

2	Developer time for development work	Hourly Rate per Developer	To be agreed upon with City Project Manager
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The Contractor will invoice the City fifteen thousand dollars (\$15,000) a month as compensation for Bob Hess providing full time oversight of development, production implementation, and support as well as his development work. This total of three hundred sixty thousand dollars (\$360,000) for two (2) years is to be the only billing for Bob Hess' time.

The remainder of the work, not to exceed a total of one million nine hundred forty thousand (\$1,940,000) for two (2) years, shall be provided on a time-and-materials basis by other staff of Contractor for the purpose of baselining PaySR functionality and providing production support. The following are the billing rates for the other staff:

Class	Range
Developer 4	\$ 85.01/hr to \$100.00/hr
Developer 3	\$ 75.01/hr to \$ 85.00/hr
Developer 2	\$ 60.01/hr to \$ 75.00/hr
Developer 1	\$ 45.01/hr to \$ 60.00/hr
Business Analyst / Technical Writer	\$ 70.00/hr to \$ 90.00/hr

**Total Payment to Bob Hess for Oversight of Development, Production Implementation, and Production Support, as well as modifications: \$ 360,000**  
**Total Not to Exceed Payment for all other staff work: \$ 1,940,000**  
=====

**Total Contractor Payment: \$ 2,300,000**

By August 1, 2015, the Contractor will provide the City's Project Manager, in writing, the list of continuing staff (Contractor-compensated employees and subcontractors) with their hourly rates for approval by the City's Project Manager. Subsequent changes to the list of Contractor-compensated employees or subcontractors will require prior written approval by the City's Project Manager.

**C. Effective August 1, 2017 through November 30, 2018:**

#	Task	Payment Amount	Target Due Date
1	Bob Hess' time: providing RISK MITIGATION solution to Controller's Office and ITA staff, oversight of development, production implementation, and support, as well as development work.	\$15,000 / month	Monthly

2	Developer time for development work	Hourly Rate per Developer	To be agreed upon with City Project Manager
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The Contractor will invoice the City fifteen thousand dollars (\$15,000) a month as compensation for Bob Hess providing full time oversight of development, production implementation, and support as well as his development work. This total of two hundred forty thousand dollars (\$240,000) for one (1) year and four (4) months is to be the only billing for Bob Hess' time.

The remainder of the work, not to exceed a total of six hundred thirty-five thousand (\$635,000) for one (1) year and four (4) months, shall be provided on a time-and-materials basis by other staff of Contractor for the purpose of PaySR risk mitigation functionality and providing production support. Each invoice will outline the detailed work done for each of the risk mitigation projects and other approved tasks. The following are the billing rates for the other staff:

<b>Class</b>	<b>Range</b>
Developer 4	\$ 85.01/hr to \$100.00/hr
Developer 3	\$ 75.01/hr to \$ 85.00/hr
Developer 2	\$ 60.01/hr to \$ 75.00/hr
Developer 1	\$ 45.01/hr to \$ 60.00/hr
Business Analyst / Technical Writer	\$ 70.00/hr to \$ 90.00/hr

**Total Payment to Bob Hess for the Risk Mitigation Effort, Oversight of Development, Production Implementation, and Production Support, as well as modifications: \$ 240,000**  
**Total Not to Exceed Payment for all other staff work: \$ 635,000**  
=====

**Total Contractor Payment: \$ 875,000**

By August 1, 2017, the Contractor will provide the ITA Assistant General Manager, in writing, the list of continuing staff (Contractor-compensated employees and subcontractors) with their hourly rates for approval by the City's Project Manager. Subsequent changes to the list of Contractor-compensated employees or subcontractors will require prior written approval by the City's Project Manager.

**D. Effective December 1, 2018 through December 31, 2023:**

#	Task	Payment Amount
1	<b>Bob Hess' time in providing work specified in the Statement of Work Section II D and for worked approved by the PaySR Governance Committee</b>	<b>\$135 Hourly Rate</b>
2	Developer 4	\$ 85.01/hr to \$100.00/hr
3	Developer 3	\$ 75.01/hr to \$ 85.00/hr
4	Developer 2	\$ 60.01/hr to \$ 75.00/hr
5	Developer 1	\$ 45.01/hr to \$ 60.00/hr

The Contractor will invoice the City on an hourly basis as compensation for Robert Hess providing programming work, consulting and oversight of development, production implementation and work specified in Section II D, not to exceed fifteen thousand dollars (\$15,000) a month or 111.11 hours, from the date of signing this contract up to December 31, 2023. This is to be the only billing for Robert Hess' time.

The remainder of the work shall be provided on an hourly basis by other staff of Contractor for the purpose of PaySR maintenance and completing the statement of work under this agreement.

Each invoice line items will be supported by the detailed hours and work done by the contractor entered in Service Now.

**Total Payments to Hess and Associates Not to Exceed \$ 2,625,000**

The Contractor will provide the ITA Assistant General Manager, in writing, the list of continuing staff (Contractor-compensated employees) with their hourly rates for approval. Subsequent changes to the list of Contractor-compensated employees will require prior written approval by the ITA Assistant General Manager.

**V. Special Provisions**

A. No Subcontracting

Contractor is aware and agrees that Contractor will not perform any work under this Contract using Subcontractors.

**VI. City Total Obligation**

A. In this 5th Restated Professional Services Agreement (Nineteenth Amendment), the City is adding two million six hundred twenty five thousand dollars (\$2,625,000) to the total compensation under the Agreement; the annual payment to Contractor shall not exceed \$525,000. For complete and

satisfactory performance of the terms and conditions during the entire term of this Agreement, City shall pay Contractor a total amount not to exceed sixteen million nine hundred twenty two thousand five hundred dollars (\$16,922,500). Said amount includes payments for all services performed by the Contractor in accordance with the Statement of Work in Section II. No payment shall be made for any expenses incurred by the Contractor in connection with the completion of the Statement of Work identified in Section II. Payment will be made only in accordance with the Payment Schedule.

- B. All invoices shall be submitted by the contractor to:  
Joyce Edson, Assistant General Manager  
Information Technology Agency  
200 N. Main St. Room 1328  
Los Angeles, CA 90012
- C. Payments will be made on monthly invoices as submitted by the Contractor setting forth the specific services performed for which payment is requested. Invoices shall be prepared in accordance with the payment schedule in Section IV of this Agreement. The City reserves the right to audit the Contractor's time.
- D. Contractor shall submit invoices to the City as follows:  
Contractor's invoices must conform to City standards and include, at a minimum, the following information:
1. Name and address of Contractor;
  2. Name and address of the City department being billed;
  3. Date of the invoice and the period covered;
  4. Reference to the contract number for this Contract;
  5. Reference to the deliverable completed and the amount due for that deliverable; where the deliverable is for staff time, include name(s) of all Contractor's personnel performing the services for the City, the number of hours worked for each person, and the hourly rate for each person who worked on the deliverable.
  6. Certification by a duly authorized officer;
  7. Remittance Address (if different from Contractor's address);
  8. Contractor's State of California Sales and Use Tax Permit Number; and
  9. Contractor's City of Los Angeles Business Tax Registration Certificate Number.
  10. Details of the invoice for each line item will be supported by the hours worked entered by the Contractor in Service Now including documentation

All invoices shall be submitted on Contractor's letterhead, contain Contractor's official logo, or contain other unique and identifying information such as name

and address of Contractor. Invoices shall be submitted within thirty (30) days of performance of services. Invoices are considered complete when appropriate documentation or services provided are signed off as satisfactory by the City Project Manager.

Invoices and supporting documentation shall be prepared at the sole expense and responsibility of Contractor. The City will not compensate Contractor for any costs incurred for invoice preparation. The City may request, in writing, changes to the content and format of the invoice and supporting documentation at any time.

Failure to adhere to these policies may result in nonpayment or non-approval of demands, pursuant to Charter 262(a), which requires the Controller to inspect the quality, quantity, and condition of services, labor, materials, supplies, or equipment received by any City office or department, and approve demands before they are drawn on the Treasury.

- E. It is understood that the City makes no commitment to fund this Agreement beyond the terms set herein.

## **VII. Funding Clause**

Funds have been appropriated in a total amount not to exceed two million six hundred twenty five thousand dollars (\$2,625,000) for work identified in Section II.D. Notwithstanding anything to the contrary, (i) the City's obligations hereunder are payable only from funds specifically appropriated by the City Council; and (ii) the City shall not be obligated for Contractor's performance hereunder or by any provision of this Agreement during any of City's future fiscal years unless and until the City Council appropriates funds for this Agreement in City's budget for each such future fiscal year. In the event that funds are not appropriated for this Agreement, then this Agreement shall terminate as of the last day of the last fiscal year for which funds were appropriated. The City will make a good faith effort to notify Contractor in writing of any such non-appropriation of funds at the earliest possible date. The Contractor shall not be required to provide any services, goods, materials or equipment, and the City shall not pay for any services, goods, materials or equipment provided, in excess of the funds appropriated by the City for this Contract. If the available funding is exhausted, or is inadequate to complete all of the work under the Contract, the City shall have the unilateral right to terminate the Contract in whole or in part without any charge or penalty.

## **VIII. Representatives of the Parties and Service of Notices**

The representatives of the respective parties who are authorized to administer this Agreement and to whom formal notices, demands and communications shall be given are as follows:

- A. The representative of the City shall be, unless otherwise stated in the Agreement:



Laura ITo  
Asst. General Manager  
Information Technology Agency  
200 N Main St., 14<sup>th</sup> floor  
Los Angeles, CA 90012

B. The representative of the Contractor shall be:

Mr. Robert D. Hess  
Hess and Associates, Inc.  
17853 Santiago Blvd. #107-506  
Villa Park, CA 92861

C. Formal notices, demands and communications to be given hereunder by either party shall be made in writing and may be effected by personal delivery or by registered or certified mail, postage prepaid, return receipt requested and shall be deemed communicated as of the date of mailing.

D. If the name of the person designated to receive the notices, demands or communications or the address of such person is changed, written notice shall be given, in accordance with this section, within five (5) working days of said change.

#### **IX. Removal of Primary Contractor Employee from Project**

A. The selection of the Contractor to perform the services for the City identified herein was based exclusively on the assignment of Robert D. Hess as the principal service provider. Except in the case of illness, death, or disability, the Contractor shall not remove Robert D. Hess from the project without prior written consent of the City's Representative.

B. In the case of illness, death, or disability of Robert D. Hess, Contractor agrees that the City may, at its sole discretion, contact the employees who have performed work on the Agreement and enter into agreements to continue the work required, as necessary.

#### **X. Use of Contractor Employees**

A. Should it become necessary for the Contractor to employ Contractor-compensated employees to assist with the performance of the work identified in Section II Statement of Work, Contractor shall be responsible for securing prior written approval from the City's representative of the following: the scope of work to be performed, suitability of the proposed individual(s) for the intended use, and compliance with applicable law. The City's approval of Contractor employee may also be subject to successful completion of a background

investigation performed by the Los Angeles Police Department consistent with applicable law.

- B. Contractor shall remain responsible for ensuring that all work performed by Contractor-compensated employees are performed in accordance with the terms and conditions of this agreement.
- C. Upon written request, the City retains the right to have the Contractor immediately remove any Contractor employee and or subcontractor from the project.
- D. The Contractor shall ensure that all applicable City legal requirements pertaining to such Contractor employment or subcontracting have been complied with prior to presenting any employment or subcontracting agreement(s) to the City's representative for approval.
- E. The maximum combined amount available for employment and subcontracting shall be limited by the amount set forth in Section VI City's Total Obligation.
- F. In the case of illness, death, or disability of Robert D. Hess, Contractor agrees that the City may, at its sole discretion, contact the Contractor-compensated employees who have performed work on the Agreement and offer them the opportunity to continue working, if necessary.

**XI. PaySR Governance Committee Review**

The PaySR Governance Committee is the governing body that will oversee and approve all enhancement work to be done by the Contractor for the PaySR System.

**XII. Changes, Deletion or Additions to the Agreement**

Notwithstanding any other provision of the Agreement, any changes in the scope of the services provided by the Contractor whether additions thereto or deletions therefrom, including changes which will increase the City's total obligation, shall be accomplished by a written contract amendment. Any changes or additions made in violation of this section shall be deemed a gift to the City and the City shall not be obligated to make any payment for such changes or additions.

**XIII. City Contract Coordinator, Access to City Information/Data, City Staffing and City Support Facilities**

A. City Contract Coordinator

The City designates the Assistant General Manager of the Information Technology Agency named in Section VIII.A, or her designee, as the Contract Coordinator to

facilitate the Contractor's collection of data and other required information. The designated Contract Coordinator shall have a working knowledge of the City's operations, available records and data, and other sources of information utilized by the City. In addition, the City will make reasonable efforts to provide Contractor access to other City management employees with knowledge of City operations, budgetary policies, and practices that are relevant to the services to be performed by Contractor. The Contract Coordinator will be available to assist the Contractor where appropriate. The Contract Coordinator is expected to be the Contractor's initial contact point for departmental information and contacts.

#### B. Contractor Access to City Information

The City shall provide the Contractor with access to all existing City payroll project records, data and other information required by the Contractor for his performance hereunder. The collection, storage and dissemination of such records, data and other such information shall take place under procedures reasonably designed to ensure that all such information is complete and that the security and privacy of all such information is adequately provided for and that such information shall be used only for the purposes as provided herein.

#### C. City Staffing Support to the Payroll System Replacement Project (PaySR)

The City's commitment of staff resources to the project shall consist of the City positions and staff in place at the time this Agreement is executed. Any changes requested by the Contractor to support the Statement of Work (Section II) must be approved by the Information Technology Oversight Committee and by the Mayor and Council if required.

#### D. Compliance with SB 1386

1. Contractor hereby agrees to comply with all provisions and obligations set forth in California Senate Bill No. 1386, approved by the Governor on September 25, 2002 and effective on July 1, 2003 (as codified in the California Civil Code, sections 1798.29, 1798.82 & 1798.84; "SB1386" hereinafter) including all requirements set forth therein regarding the duty to disclose such breach and notify the City and other affected parties of any breach of security of unencrypted personal information stored in a computer system.
2. Contractor will be responsible for any and all liabilities arising out of any violation of SB1386. Contractor further agrees to indemnify and hold harmless the City of Los Angeles, its respective agencies, departments, boards, all of their commissioners, officers, employees, and authorized agents, and, at the option of the City of Los Angeles, to provide defense against any and all suits and causes of action, claims, charges, damages, demands, judgments, civil fines and penalties, or losses of any kind or

nature whatsoever caused or brought by any person, including any aggrieved party as defined in SB1386, arising out of Contractor's breach of any of its duties and obligations under SB1386. The indemnification herein includes all awards, damages, interest, costs and attorneys' fees, if any. Such defense will be consistent with City Charter, Sections 271, 272 and 273.

#### **XIV. Confidentiality**

- A. All documents, data and information provided by the City to Contractor, or accessed or reviewed by the Contractor, during the performance of this Agreement, including but not limited to payroll records, shall remain the property of the City. All documents, records and information provided by the City to Contractor, or accessed or reviewed by Contractor during the performance of this Agreement, are confidential. Contractor agrees not to provide these documents and records, nor disclose their content or any information contained in them, either orally or in writing, to any other person or entity. Contractor agrees that all documents or other information used or reviewed in connection with Contractor's work for the City shall be used only for the purpose of carrying out City business and cannot be used for any other purpose. Contractor shall be responsible for protecting the confidentiality and maintaining the security of City documents and records in its possession.
- B. Contractor shall make the confidential information provided by the City to Contractor, or accessed or reviewed by Contractor during the performance of this Agreement, available to its employees, agents, and/or subcontractors, only on a need-to-know basis. Contractor shall provide written instructions to all of its employees, agents and/or subcontractors, with access to confidential information about the penalties for its unauthorized use or disclosure. Further, Contractor hereby agrees to execute Confidentiality Agreements, attached hereto as Attachment 3 and made a part hereof, with all of Contractor's employees and subcontractors before providing them with access to any personal information contained the City's payroll records.
- C. Contractor will store and process confidential information in an electronic format in such a way that unauthorized persons cannot retrieve the information by computer, remote terminal or other means.
- D. Contractor agrees that no documents and or information used in connection with Contractor's work for the City will be removed from City facilities without prior approval from the City. Contractor agrees that Contractor will not use, other than in direct performance of work required pursuant to the Agreement, or make notes of any information contained in the personnel files provided by the City that are reviewed during work on this Agreement. Contractor agrees that at the conclusion of this Agreement, or at the request of the City, Contractor shall promptly return any and all written materials, notes, documents, or other

information obtained by the Contractor during the course of work under this Agreement to the City and further agrees not to make or retain copies of any such documents.

- E. Any reports, findings, Deliverables, analysis, studies, notes, information or data generated as a result of this Agreement are to be considered confidential. Such information shall not be made available to any individual, agency, or organization except as provided for in this Agreement or as required by law.
- F. Any subcontract entered into pursuant to the terms of this Agreement shall be subject to, and incorporate, the provisions of this section.
- G. The provisions of this section shall survive the termination of this Agreement.

## **XV. Ownership**

- A. All software, flowcharts, written or recorded data, documents, graphic displays, reports or other materials which contain information relating to the Contractor's performance hereunder and which are originated and prepared for the City pursuant to this Agreement shall be considered "work for hire" for the City under the Copyright Act and are the sole property of the City. To the extent that any such works are not deemed to be works for hire, Contractor hereby assigns all its right, title and interest in any intellectual property rights therein to the City. In addition, the City reserves the right to use, transfer, modify, duplicate and disclose in whole, or in part, in any manner and for any purpose whatsoever all such software, flowcharts, written or recorded data, documents, graphic displays, reports or other materials delivered to the City pursuant to this Agreement and to authorize others to do so.
- B. To the extent that Contractor utilizes any of its preexisting property that is clearly identified, in writing as Contractor's preexisting property (including, without limitation, any hardware or software of Contractor or any proprietary or confidential information of the Contractor or any trade secrets of the Contractor) in performing services under this Agreement, such preexisting property shall remain the property of the Contractor, and the City shall acquire no right or interest in such property, except where such works are the property of the City pursuant to Section XIV Ownership (A) above. Notwithstanding this provision, however, the City shall retain a perpetual, paid-up, royalty-free non-exclusive license to use, duplicate, modify, maintain, service, update, and disclose any of Contractor's preexisting property that is incorporated into the City's Payroll System. The City's license herein includes the right to hire third party consultants to modify, maintain, service and update the City's payroll system.
- C. The Contractor understands that the draft reports and final reports and all other data, information, documents, graphic displays and other materials that are

utilized or produced by Contractor pursuant to this Agreement and are not the preexisting property of the Contractor are considered confidential. Contractor understands the sensitive nature of the above and therefore agrees that neither its officers, partners, employees, agents or subcontractors will release, disseminate, or otherwise publish said reports or other such data, information, documents, graphic displays, or other materials except as provided herein or as authorized, in writing, by the City's representative. This section shall remain in effect after the termination of this Agreement until such time as the confidential information has been released by the City.

- D. Consistent with the City's ownership of (and/or license to) all property that comprises the City's payroll system, Contractor shall electronically provide to the City all source code for software that comprises the City's payroll system to enable the City to use, duplicate, modify, maintain, service, update, and disclose its payroll system. Said source code shall be clearly identified and organized in a manner consistent with the payroll system.
- E. Contractor shall assign to the City to the fullest extent permitted by law, and shall otherwise insure that the benefits of any applicable license, warranty, indemnity or service/maintenance agreement offered by any manufacturer of any software module and/or component or any other product or service provided hereunder shall fully extend to and be enjoyed by the City.

#### **XVI. Disclosure of Confidential Information**

The provisions of Section XIV Ownership shall not apply to any reports, data documents, graphic displays or other materials, or any portion thereof, which:

- i. now is or hereafter becomes publicly available by other than a breach thereof,
- ii. is disclosed to Contractor by a third party that Contractor reasonably believes is legally entitled to disclose such information,
- iii. was known by Contractor prior to receipt from the City,
- iv. is developed by Contractor independently of any disclosure previously made by City to Contractor of such information,
- v. is disclosed with the City's prior written consent,
- vi. is disclosed by the City to a third party without substantially the same disclosure restrictions as set forth herein,
- vii. is required to disclose by order of a court of competent jurisdiction, administrative agency or governmental body, or by subpoena, summons or other legal process, or by law, rule or regulation.

#### **XVII. News Releases, Publications, Endorsements**

The Contractor shall not, during the term of this Agreement or at any time thereafter, release or authorize any publication, news release or promotional material which purports to be, in whole or in part, an endorsement or approval of

the Contractor's performance hereunder by the City. The term "City" as used herein includes its Departments, Bureaus, Offices, and its officers, employees, agents and contractors.

#### **XVIII. Termination for Convenience**

The City's representative may terminate this Agreement, in whole or in part, for its convenience, at any time, in the manner and subject to the conditions set forth in this section. The City's representative shall provide notice of such termination by sending a letter to Contractor which shall indicate which part or parts of this Agreement are terminated and the reasons thereof. Termination shall be effective on the date indicated in the letter or twenty (20) working days after receipt of said letter, whichever date occurs first. In the event of termination under this section: (a) the Contractor shall deliver to City all requested data, reports, graphics, and other documents received by it or prepared by it in connection herewith to the extent not already delivered; (b) the Contractor may retain all monies received and will be paid, as calculated in accordance with Section IV Payment Schedule and Section V City Total Obligation of this Agreement, for those services performed and expenses incurred, but not invoiced prior to the effective date of termination, provided the City has approved invoice(s). Upon termination, all data reports, graphics and other documents prepared by Contractor on behalf of the City shall belong to the City.

#### **XIX. Non-Exclusivity**

This Agreement shall not be construed as precluding or limiting the right of the Contractor to provide project management, consulting or other services of any kind or nature whatsoever to any person or entity during the term of this Agreement as long as such work does not conflict with the interests of the City as described herein.

#### **XX. DISCLOSURE OF BORDER WALL CONTRACTING ORDINANCE**

Contractor will comply with Los Angeles Administrative Code Section 10.50 *et seq.*, 'Disclosure of Border Wall Contracting.' City may terminate this Contract at any time if City determines that Contractor failed to fully and accurately complete the required affidavit and disclose all Border Wall Bids and Border Wall Contracts, as defined in LAAC Section 10.50.1.

#### **XXI. Contractor Performance Evaluation**

At the end of this Contract, the City will conduct an evaluation of the Contractor's performance. The City may also conduct evaluations of the Contractor's performance during the term of the Contract. As required by Section 10.39.2 of the Los Angeles Administrative Code, evaluations will be based on a number of criteria, including the quality of the work product or service performed, the

timeliness of performance, financial issues, and the expertise of personnel that the Contractor assigns to the contract. A Contractor who receives a “Marginal” or “Unsatisfactory” rating will be provided with a copy of the final City Evaluation and allowed fourteen (14) calendar days to respond. The City will use the final City evaluation, and any response from the Contractor, to evaluate proposals and to conduct reference checks when awarding other personal services contracts.

**XXI. Incorporation of Attachments**

The following attachments are hereby incorporated into and made a part of this Agreement wherever referred to as though set forth at length, except where certain portions of specific attachments have been deleted or superceded by other sections or attachments to this Agreement.

Attachment 1 – PaySR Governance Committee Master List

Attachment 2 - Standard Provisions for City Contracts (Rev. 10/17)[v.3]



**IN WITNESS WHEREOF**, the City of Los Angeles and the Contractor have caused this Agreement to be executed by their duly authorized representatives.

CITY OF LOS ANGELES

Hess and Associates  
17853 Santiago Blvd #107-506  
Villa Park, CA 92861

By \_\_\_\_\_  
Ted M. Ross, General Manager  
Information Technology Agency

By \_\_\_\_\_  
Robert D. Hess  
President

Date \_\_\_\_\_

Date \_\_\_\_\_

APPROVED AS TO FORM

ATTEST:

MICHAEL N. FEUER, City Attorney

HOLLY WOLCOTT, City Clerk

By \_\_\_\_\_  
Steven H. Hong  
Deputy City Attorney III

By \_\_\_\_\_

Date \_\_\_\_\_

Date \_\_\_\_\_

# PAYSR GOVERNANCE COMMITTEE

## Master List

as of November 14, 2018

#	Project Description	Status	Why are we doing this? What is the benefit ?
<b>Mandatory Compliance</b>			
3	AB 1522 Healthy Workplaces, Healthy Families Act of 2014  AB1522 - HIRING HALL SICK PLAN (MOU 62 and 35)	WIP	<b>STATE LAW COMPLIANCE</b> <b>AB 1522 Healthy Workplaces, Healthy Families Act of 2014</b>  This effort has expanded requirements and not just for MOU 62. Needs to be applied for everybody who worked for the city as of July 2015  Use City Ordinance
4	AB 1522 - ADMIN CODE SICK PLAN	WIP	<b>STATE LAW COMPLIANCE</b> <b>AB 1522 Healthy Workplaces, Healthy Families Act of 2014</b>  Implement the state state for the rest of the city population and not just the Hiring Hall.
5	LACERS is requesting for PaySR to automatically calculate prior period deductions and adjustments as this is requiring a lot of manual work from LACERS staff	WIP	<b>PAYSR SYSTEMS CORE FUNCTIONALITY</b>
6	Leave Tracking project	WIP	<b>FEDERAL CODE COMPLIANCE</b> <b>and</b> <b>CITY ADMIN CODE COMPLIANCE</b>  Establish the Paysr systems core functionality since regulatory requirements not being met: 1) Federal FMLA requirements for timely FMLA processing. 2) City Administrative Code 4.246, deductible absences.
7	Part-time Employee Hours Tracking	WIP	<b>CITY ADMIN CODE COMPLIANCE</b>  Establish the Paysr systems core functionality in order to comply with Administrative Code requirements for designation of part-time staff.
8	Ability to file the W-2 C electronically or the City will face penalty of \$260 per W-2C.	Testing in progress	<b>FEDERAL CODE COMPLIANCE</b>  IRS requires employers with more than 250 W2Cs to file electronically.  Hess and Associates delivered a solution in 2010 but is not use by the Controller's Office.
10	Conversion to Morneau Shepell from Mercer	WIP	<b>CONTRACTUAL COMPLIANCE</b>
11	Overpayment Enhancement	Hold	<b>PAYSR SYSTEMS CORE FUNCTIONALITY</b>

### PaySR Risk Mitigation Projects

12	Completion of LAFD New NSS Interface	Testing in progress	<b>FINANCIAL RISK</b>  Over \$250M of pay for LAFD are system generated with no audit trail to actual hours work. This represents half of the department's annual payroll cost.
13	Completion of Fire FLSA	Not Started	<b>FINANCIAL RISK</b>  Reduce LAFD lawsuits related to FLSA
<b>Production Support / Maintenance Items / Projects</b>			
15	Form 41 Online Fixes "F41 Job History Correction"	WIP	Establish the Paysr systems core functionality by fixing Form 41 errors.  <b>This is a pre-requisite to the Paperless Form41 project</b>
16	Form 41 Online Fixes "Promotional Differentials"	WIP	Establish the Paysr systems core functionality by fixing Form 41 errors.  <b>This is a pre-requisite to the Paperless Form41 project</b>
17	Form 41 Online Fixes "Salary Rate Consistency and Correctness"	WIP	Establish the Paysr systems core functionality by fixing Form 41 errors.  <b>This is a pre-requisite to the Paperless Form41 project</b>
18	EWB Data Integrity (PaySR & DWP)	Not Started	Data accuracy is needed in the Employee Work History database to correctly calculate seniority during exams and layoffs.
19	CPTO Personnel baseline	Hold	PaySR currently generates the CPTO hours for new part-time employees in the first pp (some are OK and some are not). Neil uses the validator to manually resets the CPTO each pay period. Heavy volumes occur during the summer requiring much manual work to review and reset each employee. For ex: Rec and Parks hires about ~ 1,500+ pt employees each summer.
20	The existing FMBIAP60 (Journal Voucher Approval) report only provides summary information	Testing in progress	The existing FMBIAP60 (Journal Voucher Approval) report only provides summary information. Detail data/report is needed to assist PayOps/Accounting with the JV reconciliation. Programming is required to capture the details as this cannot be retrieved once the summary is generated.
21	Technology Upgrade Projects for PaySR System Sustainability  <b>Migrate Paysr .NET Clients to INSIDELA.ORG</b>	Ready for .NET Client Rollout	Upgrade project to sustain Paysr in the coming years before it is replaced with no intent of adding functionality.  This will address software obsolescence (Visual Studio 2010) and allow us to run the core application with newer PC operating systems
<b>Enhancement Projects</b>			
23	Cornerstone on Demand	Testing in progress	Facilitate transfer of data to and from PaySR and Cornerstone on Demand's Talent Management modules.

24	Paperless Form41	Testing in progress	Integration, as needed, with upcoming Electronic Content Management System, being used to electronically store Personnel folders.
	Form 41 Address Verification	Approval given by Committee to proceed	<b>PAYSR SYSTEMS CORE FUNCTIONALITY</b>
	Enhance DTime in order to import work being done in Service Now	Approval given by Committee to proceed	<b>PAYSR SYSTEMS CORE FUNCTIONALITY</b>  Establish the Paysr systems core functionality to be able to interface with the new Service Now and keep track of the work done for incidents, incident tasks, change tasks, project tasks.

# STANDARD PROVISIONS FOR CITY CONTRACTS

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## STANDARD PROVISIONS FOR CITY CONTRACTS

### **PSC-1.** Construction of Provisions and Titles Herein

All titles, subtitles, or headings in this Contract have been inserted for convenience, and shall not be deemed to affect the meaning or construction of any of the terms or provisions of this Contract. The language of this Contract shall be construed according to its fair meaning and not strictly for or against **CITY** or **CONTRACTOR**. The word "**CONTRACTOR**" includes the party or parties identified in this Contract. The singular shall include the plural and if there is more than one **CONTRACTOR**, unless expressly stated otherwise, their obligations and liabilities shall be joint and several. Use of the feminine, masculine, or neuter genders shall be deemed to include the genders not used.

### **PSC-2.** Applicable Law, Interpretation and Enforcement

Each party's performance shall comply with all applicable laws of the United States of America, the State of California, and **CITY**, including but not limited to, laws regarding health and safety, labor and employment, wage and hours and licensing. This Contract shall be enforced and interpreted under the laws of the State of California without regard to conflict of law principles. **CONTRACTOR** shall comply with new, amended, or revised laws, regulations, or procedures that apply to the performance of this Contract with no additional compensation paid to **CONTRACTOR**.

In any action arising out of this Contract, **CONTRACTOR** consents to personal jurisdiction, and agrees to bring all such actions, exclusively in state or federal courts located in Los Angeles County, California.

If any part, term or provision of this Contract is held void, illegal, unenforceable, or in conflict with any federal, state or local law or regulation, the validity of the remaining parts, terms or provisions of this Contract shall not be affected.

### **PSC-3.** Time of Effectiveness

Unless otherwise provided, this Contract shall take effect when all of the following events have occurred:

- A. This Contract has been signed on behalf of **CONTRACTOR** by the person or persons authorized to bind **CONTRACTOR**;
- B. This Contract has been approved by the City Council or by the board, officer or employee authorized to give such approval;
- C. The Office of the City Attorney has indicated in writing its approval of this Contract as to form; and
- D. This Contract has been signed on behalf of **CITY** by the person designated by the City Council, or by the board, officer or employee authorized to enter into this Contract.

**PSC-4. Integrated Contract**

This Contract sets forth all of the rights and duties of the parties with respect to the subject matter of this Contract, and replaces any and all previous Contracts or understandings, whether written or oral, relating thereto. This Contract may be amended only as provided for in the provisions of PSC-5 hereof.

**PSC-5. Amendment**

All amendments to this Contract shall be in writing and signed and approved pursuant to the provisions of PSC-3.

**PSC-6. Excusable Delays**

Neither party shall be liable for its delay or failure to perform any obligation under and in accordance with this Contract, if the delay or failure arises out of fires, floods, earthquakes, epidemics, quarantine restrictions, other natural occurrences, strikes, lockouts (other than a lockout by the party or any of the party's Subcontractors), freight embargoes, terrorist acts, insurrections or other civil disturbances, or other similar events to those described above, but in each case the delay or failure to perform must be beyond the control and without any fault or negligence of the party delayed or failing to perform (these events are referred to in this provision as "Force Majeure Events").

Notwithstanding the foregoing, a delay or failure to perform by a Subcontractor of **CONTRACTOR** shall not constitute a Force Majeure Event, unless the delay or failure arises out of causes beyond the control of both **CONTRACTOR** and Subcontractor, and without any fault or negligence of either of them. In such case, **CONTRACTOR** shall not be liable for the delay or failure to perform, unless the goods or services to be furnished by the Subcontractor were obtainable from other sources in sufficient time to permit **CONTRACTOR** to perform timely. As used in this Contract, the term "Subcontractor" means a subcontractor at any tier.

In the event **CONTRACTOR'S** delay or failure to perform arises out of a Force Majeure Event, **CONTRACTOR** agrees to use commercially reasonable best efforts to obtain the goods or services from other sources, and to otherwise mitigate the damages and reduce the delay caused by the Force Majeure Event.

**PSC-7. Waiver**

A waiver of a default of any part, term or provision of this Contract shall not be construed as a waiver of any succeeding default or as a waiver of the part, term or provision itself. A party's performance after the other party's default shall not be construed as a waiver of that default.



**PSC-8. Suspension**

At **CITY'S** sole discretion, **CITY** may suspend any or all services provided under this Contract by providing **CONTRACTOR** with written notice of suspension. Upon receipt of the notice of suspension, **CONTRACTOR** shall immediately cease the services suspended and shall not incur any additional obligations, costs or expenses to **CITY** until **CITY** gives written notice to recommence the services.

**PSC-9. Termination**

A. Termination for Convenience

**CITY** may terminate this Contract for **CITY'S** convenience at any time by providing **CONTRACTOR** thirty days written notice. Upon receipt of the notice of termination, **CONTRACTOR** shall immediately take action not to incur any additional obligations, costs or expenses, except as may be necessary to terminate its activities. **CITY** shall pay **CONTRACTOR** its reasonable and allowable costs through the effective date of termination and those reasonable and necessary costs incurred by **CONTRACTOR** to effect the termination. Thereafter, **CONTRACTOR** shall have no further claims against **CITY** under this Contract. All finished and unfinished documents and materials procured for or produced under this Contract, including all intellectual property rights **CITY** is entitled to, shall become **CITY** property upon the date of the termination. **CONTRACTOR** agrees to execute any documents necessary for **CITY** to perfect, memorialize, or record **CITY'S** ownership of rights provided herein.

B. Termination for Breach of Contract

1. Except as provided in PSC-6, if **CONTRACTOR** fails to perform any of the provisions of this Contract or so fails to make progress as to endanger timely performance of this Contract, **CITY** may give **CONTRACTOR** written notice of the default. **CITY'S** default notice will indicate whether the default may be cured and the time period to cure the default to the sole satisfaction of **CITY**. Additionally, **CITY'S** default notice may offer **CONTRACTOR** an opportunity to provide **CITY** with a plan to cure the default, which shall be submitted to **CITY** within the time period allowed by **CITY**. At **CITY'S** sole discretion, **CITY** may accept or reject **CONTRACTOR'S** plan. If the default cannot be cured or if **CONTRACTOR** fails to cure within the period allowed by **CITY**, then **CITY** may terminate this Contract due to **CONTRACTOR'S** breach of this Contract.
2. If the default under this Contract is due to **CONTRACTOR'S** failure to maintain the insurance required under this Contract, **CONTRACTOR** shall immediately: (1) suspend performance of any services under this Contract for which insurance was required; and (2) notify its employees and Subcontractors of the loss of insurance coverage and Contractor's obligation to suspend performance of

services. **CONTRACTOR** shall not recommence performance until **CONTRACTOR** is fully insured and in compliance with **CITY'S** requirements.

3. If a federal or state proceeding for relief of debtors is undertaken by or against **CONTRACTOR**, or if **CONTRACTOR** makes an assignment for the benefit of creditors, then **CITY** may immediately terminate this Contract.
4. If **CONTRACTOR** engages in any dishonest conduct related to the performance or administration of this Contract or violates **CITY'S** laws, regulations or policies relating to lobbying, then **CITY** may immediately terminate this Contract.
5. Acts of Moral Turpitude
  - a. **CONTRACTOR** shall immediately notify **CITY** if **CONTRACTOR** or any Key Person, as defined below, is charged with, indicted for, convicted of, pleads nolo contendere to, or forfeits bail or fails to appear in court for a hearing related to, any act which constitutes an offense involving moral turpitude under federal, state, or local laws ("Act of Moral Turpitude").
  - b. If **CONTRACTOR** or a Key Person is convicted of, pleads nolo contendere to, or forfeits bail or fails to appear in court for a hearing related to, an Act of Moral Turpitude, **CITY** may immediately terminate this Contract.
  - c. If **CONTRACTOR** or a Key Person is charged with or indicted for an Act of Moral Turpitude, **CITY** may terminate this Contract after providing **CONTRACTOR** an opportunity to present evidence of **CONTRACTOR'S** ability to perform under the terms of this Contract.
  - d. Acts of Moral Turpitude include, but are not limited to: violent felonies as defined by Penal Code Section 667.5, crimes involving weapons, crimes resulting in serious bodily injury or death, serious felonies as defined by Penal Code Section 1192.7, and those crimes referenced in the Penal Code and articulated in California Public Resources Code Section 5164(a)(2); in addition to and including acts of murder, rape, sexual assault, robbery, kidnapping, human trafficking, pimping, voluntary manslaughter, aggravated assault, assault on a peace officer, mayhem, fraud, domestic abuse, elderly abuse, and child abuse, regardless of whether such acts are punishable by felony or misdemeanor conviction.

- e. For the purposes of this provision, a Key Person is a principal, officer, or employee assigned to this Contract, or owner (directly or indirectly, through one or more intermediaries) of ten percent or more of the voting power or equity interests of **CONTRACTOR**.
  6. In the event **CITY** terminates this Contract as provided in this section, **CITY** may procure, upon such terms and in the manner as **CITY** may deem appropriate, services similar in scope and level of effort to those so terminated, and **CONTRACTOR** shall be liable to **CITY** for all of its costs and damages, including, but not limited to, any excess costs for such services.
  7. If, after notice of termination of this Contract under the provisions of this section, it is determined for any reason that **CONTRACTOR** was not in default under the provisions of this section, or that the default was excusable under the terms of this Contract, the rights and obligations of the parties shall be the same as if the notice of termination had been issued pursuant to PSC-9(A) Termination for Convenience.
  8. The rights and remedies of **CITY** provided in this section shall not be exclusive and are in addition to any other rights and remedies provided by law or under this Contract.
- C. In the event that this Contract is terminated, **CONTRACTOR** shall immediately notify all employees and Subcontractors, and shall notify in writing all other parties contracted with under the terms of this Contract within five working days of the termination.

**PSC-10. Independent Contractor**

**CONTRACTOR** is an independent contractor and not an agent or employee of **CITY**. **CONTRACTOR** shall not represent or otherwise hold out itself or any of its directors, officers, partners, employees, or agents to be an agent or employee of **CITY**.

**PSC-11. Contractor's Personnel**

Unless otherwise approved by **CITY**, **CONTRACTOR** shall use its own employees to perform the services described in this Contract. **CITY** has the right to review and approve any personnel who are assigned to work under this Contract. **CONTRACTOR** shall remove personnel from performing work under this Contract if requested to do so by **CITY**.

**CONTRACTOR** shall not use Subcontractors to assist in performance of this Contract without the prior written approval of **CITY**. If **CITY** permits the use of Subcontractors, **CONTRACTOR** shall remain responsible for performing all aspects of this Contract and paying all Subcontractors. **CITY** has the right to approve **CONTRACTOR'S** Subcontractors, and **CITY** reserves the right to request replacement of any

Subcontractor. **CITY** does not have any obligation to pay **CONTRACTOR'S** Subcontractors, and nothing herein creates any privity of contract between **CITY** and any Subcontractor.

**PSC-12. Assignment and Delegation**

**CONTRACTOR** may not, unless it has first obtained the written permission of **CITY**:

- A. Assign or otherwise alienate any of its rights under this Contract, including the right to payment; or
- B. Delegate, subcontract, or otherwise transfer any of its duties under this Contract.

**PSC-13. Permits**

**CONTRACTOR** and its directors, officers, partners, agents, employees, and Subcontractors, shall obtain and maintain all licenses, permits, certifications and other documents necessary for **CONTRACTOR'S** performance of this Contract. **CONTRACTOR** shall immediately notify **CITY** of any suspension, termination, lapses, non-renewals, or restrictions of licenses, permits, certificates, or other documents that relate to **CONTRACTOR'S** performance of this Contract.

**PSC-14. Claims for Labor and Materials**

**CONTRACTOR** shall promptly pay when due all amounts owed for labor and materials furnished in the performance of this Contract so as to prevent any lien or other claim under any provision of law from arising against any **CITY** property (including reports, documents, and other tangible or intangible matter produced by **CONTRACTOR** hereunder), and shall pay all amounts due under the Unemployment Insurance Act or any other applicable law with respect to labor used to perform under this Contract.

**PSC-15. Current Los Angeles City Business Tax Registration Certificate Required**

For the duration of this Contract, **CONTRACTOR** shall maintain valid Business Tax Registration Certificate(s) as required by **CITY'S** Business Tax Ordinance, Section 21.00 *et seq.* of the Los Angeles Municipal Code ("LAMC"), and shall not allow the Certificate to lapse or be revoked or suspended.

**PSC-16. Retention of Records, Audit and Reports**

**CONTRACTOR** shall maintain all records, including records of financial transactions, pertaining to the performance of this Contract, in their original form or as otherwise approved by **CITY**. These records shall be retained for a period of no less than three years from the later of the following: (1) final payment made by **CITY**, (2) the expiration of this Contract or (3) termination of this Contract. The records will be subject to examination and audit by authorized **CITY** personnel or **CITY'S** representatives at any time. **CONTRACTOR** shall provide any reports requested by **CITY** regarding

performance of this Contract. Any subcontract entered into by **CONTRACTOR** for work to be performed under this Contract must include an identical provision.

In lieu of retaining the records for the term as prescribed in this provision, **CONTRACTOR** may, upon **CITY'S** written approval, submit the required information to **CITY** in an electronic format, e.g. USB flash drive, at the expiration or termination of this Contract.

#### **PSC-17. Bonds**

All bonds required by **CITY** shall be filed with the Office of the City Administrative Officer, Risk Management for its review and acceptance in accordance with Los Angeles Administrative Code ("LAAC") Sections 11.47 *et seq.*, as amended from time to time.

#### **PSC-18. Indemnification**

Except for the active negligence or willful misconduct of **CITY**, or any of its boards, officers, agents, employees, assigns and successors in interest, **CONTRACTOR** shall defend, indemnify and hold harmless **CITY** and any of its boards, officers, agents, employees, assigns, and successors in interest from and against all lawsuits and causes of action, claims, losses, demands and expenses, including, but not limited to, attorney's fees (both in house and outside counsel) and cost of litigation (including all actual litigation costs incurred by **CITY**, including but not limited to, costs of experts and consultants), damages or liability of any nature whatsoever, for death or injury to any person, including **CONTRACTOR'S** employees and agents, or damage or destruction of any property of either party hereto or of third parties, arising in any manner by reason of an act, error, or omission by **CONTRACTOR**, Subcontractors, or their boards, officers, agents, employees, assigns, and successors in interest. The rights and remedies of **CITY** provided in this section shall not be exclusive and are in addition to any other rights and remedies provided by law or under this Contract. This provision will survive expiration or termination of this Contract.

#### **PSC-19. Intellectual Property Indemnification**

**CONTRACTOR**, at its own expense, shall defend, indemnify, and hold harmless the **CITY**, and any of its boards, officers, agents, employees, assigns, and successors in interest from and against all lawsuits and causes of action, claims, losses, demands and expenses, including, but not limited to, attorney's fees (both in house and outside counsel) and cost of litigation (including all actual litigation costs incurred by **CITY**, including but not limited to, costs of experts and consultants), damages or liability of any nature arising out of the infringement, actual or alleged, direct or contributory, of any intellectual property rights, including, without limitation, patent, copyright, trademark, trade secret, right of publicity, and proprietary information: (1) on or in any design, medium, matter, article, process, method, application, equipment, device, instrumentation, software, hardware, or firmware used by **CONTRACTOR**, or its Subcontractors, in performing the work under this Contract; or (2) as a result of **CITY'S** actual or intended use of any Work Product (as defined in PSC-21) furnished by **CONTRACTOR**, or its Subcontractors, under this Contract. The rights and remedies of **CITY** provided in this section shall not be exclusive

and are in addition to any other rights and remedies provided by law or under this Contract. This provision will survive expiration or termination of this Contract.

**PSC-20. Intellectual Property Warranty**

**CONTRACTOR** represents and warrants that its performance of all obligations under this Contract does not infringe in any way, directly or contributorily, upon any third party's intellectual property rights, including, without limitation, patent, copyright, trademark, trade secret, right of publicity and proprietary information.

**PSC-21. Ownership and License**

Unless otherwise provided for herein, all finished and unfinished works, tangible or not, created under this Contract including, without limitation, documents, materials, data, reports, manuals, specifications, artwork, drawings, sketches, blueprints, studies, memoranda, computation sheets, computer programs and databases, schematics, photographs, video and audiovisual recordings, sound recordings, marks, logos, graphic designs, notes, websites, domain names, inventions, processes, formulas, matters and combinations thereof, and all forms of intellectual property originated and prepared by **CONTRACTOR** or its Subcontractors under this Contract (each a "Work Product"; collectively "Work Products") shall be and remain the exclusive property of **CITY** for its use in any manner **CITY** deems appropriate. **CONTRACTOR** hereby assigns to **CITY** all goodwill, copyright, trademark, patent, trade secret and all other intellectual property rights worldwide in any Work Products originated and prepared under this Contract. **CONTRACTOR** further agrees to execute any documents necessary for **CITY** to perfect, memorialize, or record **CITY'S** ownership of rights provided herein.

**CONTRACTOR** agrees that a monetary remedy for breach of this Contract may be inadequate, impracticable, or difficult to prove and that a breach may cause **CITY** irreparable harm. **CITY** may therefore enforce this requirement by seeking injunctive relief and specific performance, without any necessity of showing actual damage or irreparable harm. Seeking injunctive relief or specific performance does not preclude **CITY** from seeking or obtaining any other relief to which **CITY** may be entitled.

For all Work Products delivered to **CITY** that are not originated or prepared by **CONTRACTOR** or its Subcontractors under this Contract, **CONTRACTOR** shall secure a grant, at no cost to **CITY**, for a non-exclusive perpetual license to use such Work Products for any **CITY** purposes.

**CONTRACTOR** shall not provide or disclose any Work Product to any third party without prior written consent of **CITY**.

Any subcontract entered into by **CONTRACTOR** relating to this Contract shall include this provision to contractually bind its Subcontractors performing work under this Contract such that **CITY'S** ownership and license rights of all Work Products are preserved and protected as intended herein.

**PSC-22. Data Protection**

- A. **CONTRACTOR** shall protect, using the most secure means and technology that is commercially available, **CITY**-provided data or consumer-provided data acquired in the course and scope of this Contract, including but not limited to customer lists and customer credit card or consumer data, (collectively, the “City Data”). **CONTRACTOR** shall notify **CITY** in writing as soon as reasonably feasible, and in any event within twenty-four hours, of **CONTRACTOR’S** discovery or reasonable belief of any unauthorized access of City Data (a “Data Breach”), or of any incident affecting, or potentially affecting City Data related to cyber security (a “Security Incident”), including, but not limited to, denial of service attack, and system outage, instability or degradation due to computer malware or virus. **CONTRACTOR** shall begin remediation immediately. **CONTRACTOR** shall provide daily updates, or more frequently if required by **CITY**, regarding findings and actions performed by **CONTRACTOR** until the Data Breach or Security Incident has been effectively resolved to **CITY’S** satisfaction. **CONTRACTOR** shall conduct an investigation of the Data Breach or Security Incident and shall share the report of the investigation with **CITY**. At **CITY’S** sole discretion, **CITY** and its authorized agents shall have the right to lead or participate in the investigation. **CONTRACTOR** shall cooperate fully with **CITY**, its agents and law enforcement.
- B. If **CITY** is subject to liability for any Data Breach or Security Incident, then **CONTRACTOR** shall fully indemnify and hold harmless **CITY** and defend against any resulting actions.

**PSC-23. Insurance**

During the term of this Contract and without limiting **CONTRACTOR’S** obligation to indemnify, hold harmless and defend **CITY**, **CONTRACTOR** shall provide and maintain at its own expense a program of insurance having the coverages and limits not less than the required amounts and types as determined by the Office of the City Administrative Officer of Los Angeles, Risk Management (template Form General 146 in Exhibit 1 hereto). The insurance must: (1) conform to **CITY’S** requirements; (2) comply with the Insurance Contractual Requirements (Form General 133 in Exhibit 1 hereto); and (3) otherwise be in a form acceptable to the Office of the City Administrative Officer, Risk Management. **CONTRACTOR** shall comply with all Insurance Contractual Requirements shown on Exhibit 1 hereto. Exhibit 1 is hereby incorporated by reference and made a part of this Contract.

**PSC-24. Best Terms**

Throughout the term of this Contract, **CONTRACTOR**, shall offer **CITY** the best terms, prices, and discounts that are offered to any of **CONTRACTOR’S** customers for similar goods and services provided under this Contract.

**PSC-25. Warranty and Responsibility of Contractor**

**CONTRACTOR** warrants that the work performed hereunder shall be completed in a manner consistent with professional standards practiced among those firms within **CONTRACTOR'S** profession, doing the same or similar work under the same or similar circumstances.

**PSC-26. Mandatory Provisions Pertaining to Non-Discrimination in Employment**

Unless otherwise exempt, this Contract is subject to the applicable non-discrimination, equal benefits, equal employment practices, and affirmative action program provisions in LAAC Section 10.8 et seq., as amended from time to time.

- A. **CONTRACTOR** shall comply with the applicable non-discrimination and affirmative action provisions of the laws of the United States of America, the State of California, and **CITY**. In performing this Contract, **CONTRACTOR** shall not discriminate in any of its hiring or employment practices against any employee or applicant for employment because of such person's race, color, religion, national origin, ancestry, sex, sexual orientation, gender, gender identity, age, disability, domestic partner status, marital status or medical condition.
- B. The requirements of Section 10.8.2.1 of the LAAC, the Equal Benefits Ordinance, and the provisions of Section 10.8.2.1(f) are incorporated and made a part of this Contract by reference.
- C. The provisions of Section 10.8.3 of the LAAC are incorporated and made a part of this Contract by reference and will be known as the "Equal Employment Practices" provisions of this Contract.
- D. The provisions of Section 10.8.4 of the LAAC are incorporated and made a part of this Contract by reference and will be known as the "Affirmative Action Program" provisions of this Contract.

Any subcontract entered into by **CONTRACTOR** for work to be performed under this Contract must include an identical provision.

**PSC-27. Child Support Assignment Orders**

**CONTRACTOR** shall comply with the Child Support Assignment Orders Ordinance, Section 10.10 of the LAAC, as amended from time to time. Pursuant to Section 10.10(b) of the LAAC, **CONTRACTOR** shall fully comply with all applicable State and Federal employment reporting requirements. Failure of **CONTRACTOR** to comply with all applicable reporting requirements or to implement lawfully served Wage and Earnings Assignment or Notices of Assignment, or the failure of any principal owner(s) of **CONTRACTOR** to comply with any Wage and Earnings Assignment or Notices of Assignment applicable to them personally, shall constitute a default by the **CONTRACTOR** under this Contract. Failure of **CONTRACTOR** or principal owner to cure



the default within 90 days of the notice of default will subject this Contract to termination for breach. Any subcontract entered into by **CONTRACTOR** for work to be performed under this Contract must include an identical provision.

**PSC-28. Living Wage Ordinance**

**CONTRACTOR** shall comply with the Living Wage Ordinance, LAAC Section 10.37 *et seq.*, as amended from time to time. **CONTRACTOR** further agrees that it shall comply with federal law proscribing retaliation for union organizing. Any subcontract entered into by **CONTRACTOR** for work to be performed under this Contract must include an identical provision.

**PSC-29. Service Contractor Worker Retention Ordinance**

**CONTRACTOR** shall comply with the Service Contractor Worker Retention Ordinance, LAAC Section 10.36 *et seq.*, as amended from time to time. Any subcontract entered into by **CONTRACTOR** for work to be performed under this Contract must include an identical provision.

**PSC-30. Access and Accommodations**

**CONTRACTOR** represents and certifies that:

- A. **CONTRACTOR** shall comply with the Americans with Disabilities Act, as amended, 42 U.S.C. Section 12101 *et seq.*, the Rehabilitation Act of 1973, as amended, 29 U.S.C. Section 701 *et seq.*, the Fair Housing Act, and its implementing regulations and any subsequent amendments, and California Government Code Section 11135;
- B. **CONTRACTOR** shall not discriminate on the basis of disability or on the basis of a person's relationship to, or association with, a person who has a disability;
- C. **CONTRACTOR** shall provide reasonable accommodation upon request to ensure equal access to **CITY**-funded programs, services and activities;
- D. Construction will be performed in accordance with the Uniform Federal Accessibility Standards (UFAS), 24 C.F.R. Part 40; and
- E. The buildings and facilities used to provide services under this Contract are in compliance with the federal and state standards for accessibility as set forth in the 2010 ADA Standards, California Title 24, Chapter 11, or other applicable federal and state law.

**CONTRACTOR** understands that **CITY** is relying upon these certifications and representations as a condition to funding this Contract. Any subcontract entered into by **CONTRACTOR** for work to be performed under this Contract must include an identical provision.

**PSC-31. Contractor Responsibility Ordinance**

**CONTRACTOR** shall comply with the Contractor Responsibility Ordinance, LAAC Section 10.40 *et seq.*, as amended from time to time.

**PSC-32. Business Inclusion Program**

Unless otherwise exempted prior to bid submission, **CONTRACTOR** shall comply with all aspects of the Business Inclusion Program as described in the Request for Proposal/Qualification process, throughout the duration of this Contract. **CONTRACTOR** shall utilize the Business Assistance Virtual Network (“BAVN”) at <https://www.labavn.org/>, to perform and document outreach to Minority, Women, and Other Business Enterprises. **CONTRACTOR** shall perform subcontractor outreach activities through BAVN. **CONTRACTOR** shall not change any of its designated Subcontractors or pledged specific items of work to be performed by these Subcontractors, nor shall **CONTRACTOR** reduce their level of effort, without prior written approval of **CITY**.

**PSC-33. Slavery Disclosure Ordinance**

**CONTRACTOR** shall comply with the Slavery Disclosure Ordinance, LAAC Section 10.41 *et seq.*, as amended from time to time. Any subcontract entered into by **CONTRACTOR** for work to be performed under this Contract must include an identical provision.

**PSC-34. First Source Hiring Ordinance**

**CONTRACTOR** shall comply with the First Source Hiring Ordinance, LAAC Section 10.44 *et seq.*, as amended from time to time. Any subcontract entered into by **CONTRACTOR** for work to be performed under this Contract must include an identical provision.

**PSC-35. Local Business Preference Ordinance**

**CONTRACTOR** shall comply with the Local Business Preference Ordinance, LAAC Section 10.47 *et seq.*, as amended from time to time. Any subcontract entered into by **CONTRACTOR** for work to be performed under this Contract must include an identical provision.

**PSC-36. Iran Contracting Act**

In accordance with California Public Contract Code Sections 2200-2208, all contractors entering into, or renewing contracts with **CITY** for goods and services estimated at \$1,000,000 or more are required to complete, sign, and submit the "Iran Contracting Act of 2010 Compliance Affidavit."

**PSC-37. Restrictions on Campaign Contributions and Fundraising in City Elections**

Unless otherwise exempt, if this Contract is valued at \$100,000 or more and requires approval by an elected **CITY** office, **CONTRACTOR**, **CONTRACTOR’S** principals, and **CONTRACTOR’S** Subcontractors expected to receive at least \$100,000 for performance under the Contract, and the principals of those Subcontractors (the “Restricted Persons”)

shall comply with Charter Section 470(c)(12) and LAMC Section 49.7.35. Failure to comply entitles **CITY** to terminate this Contract and to pursue all available legal remedies. Charter Section 470(c)(12) and LAMC Section 49.7.35 limit the ability of the Restricted Persons to make campaign contributions to and engage in fundraising for certain elected **CITY** officials or candidates for elected **CITY** office for twelve months after this Contract is signed. Additionally, a **CONTRACTOR** subject to Charter Section 470(c)(12) is required to comply with disclosure requirements by submitting a completed and signed Ethics Commission Form 55 and to amend the information in that form as specified by law. Any **CONTRACTOR** subject to Charter Section 470(c)(12) shall include the following notice in any contract with any Subcontractor expected to receive at least \$100,000 for performance under this Contract:

“Notice Regarding Restrictions on Campaign Contributions and Fundraising in City Elections

You are a subcontractor on City of Los Angeles Contract #\_\_\_\_\_. Pursuant to the City of Los Angeles Charter Section 470(c)(12) and related ordinances, you and your principals are prohibited from making campaign contributions to and fundraising for certain elected City of Los Angeles (“**CITY**”) officials and candidates for elected **CITY** office for twelve months after the **CITY** contract is signed. You are required to provide the names and contact information of your principals to the **CONTRACTOR** and to amend that information within ten business days if it changes during the twelve month time period. Failure to comply may result in termination of this Contract and any other available legal remedies. Information about the restrictions may be found online at [ethics.lacity.org](http://ethics.lacity.org) or by calling the Los Angeles City Ethics Commission at (213) 978-1960.”

**PSC-38. Contractors’ Use of Criminal History for Consideration of Employment Applications**

**CONTRACTOR** shall comply with the City Contractors’ Use of Criminal History for Consideration of Employment Applications Ordinance, LAAC Section 10.48 *et seq.*, as amended from time to time. Any subcontract entered into by **CONTRACTOR** for work to be performed under this Contract must include an identical provision.

**PSC-39. Limitation of City’s Obligation to Make Payment to Contractor**

Notwithstanding any other provision of this Contract, including any exhibits or attachments incorporated therein, and in order for **CITY** to comply with its governing legal requirements, **CITY** shall have no obligation to make any payments to **CONTRACTOR** unless **CITY** shall have first made an appropriation of funds equal to or in excess of its obligation to make any payments as provided in this Contract. **CONTRACTOR** agrees that any services provided by **CONTRACTOR**, purchases made by **CONTRACTOR** or expenses incurred by **CONTRACTOR** in excess of the appropriation(s) shall be free and without charge to **CITY** and **CITY** shall have no obligation to pay for the services, purchases or expenses. **CONTRACTOR** shall have no obligation to provide any services,

provide any equipment or incur any expenses in excess of the appropriated amount(s) until **CITY** appropriates additional funds for this Contract.

**PSC-40.** Compliance with Identity Theft Laws and Payment Card Data Security Standards

**CONTRACTOR** shall comply with all identity theft laws including without limitation, laws related to: (1) payment devices; (2) credit and debit card fraud; and (3) the Fair and Accurate Credit Transactions Act (“FACTA”), including its requirement relating to the content of transaction receipts provided to Customers. **CONTRACTOR** also shall comply with all requirements related to maintaining compliance with Payment Card Industry Data Security Standards (“PCI DSS”). During the performance of any service to install, program or update payment devices equipped to conduct credit or debit card transactions, including PCI DSS services, **CONTRACTOR** shall verify proper truncation of receipts in compliance with FACTA.

**PSC-41.** Compliance with California Public Resources Code Section 5164

California Public Resources Code Section 5164 prohibits a public agency from hiring a person for employment or as a volunteer to perform services at any park, playground, or community center used for recreational purposes in a position that has supervisory or disciplinary authority over any minor, if the person has been convicted of certain crimes as referenced in the Penal Code, and articulated in California Public Resources Code Section 5164(a)(2).

If applicable, **CONTRACTOR** shall comply with California Public Resources Code Section 5164, and shall additionally adhere to all rules and regulations that have been adopted or that may be adopted by **CITY**. **CONTRACTOR** is required to have all employees, volunteers and Subcontractors (including all employees and volunteers of any Subcontractor) of **CONTRACTOR** working on premises to pass a fingerprint and background check through the California Department of Justice at **CONTRACTOR’S** sole expense, indicating that such individuals have never been convicted of certain crimes as referenced in the Penal Code and articulated in California Public Resources Code Section 5164(a)(2), if the individual will have supervisory or disciplinary authority over any minor.

**PSC-42.** Possessory Interests Tax

Rights granted to **CONTRACTOR** by **CITY** may create a possessory interest. **CONTRACTOR** agrees that any possessory interest created may be subject to California Revenue and Taxation Code Section 107.6 and a property tax may be levied on that possessory interest. If applicable, **CONTRACTOR** shall pay the property tax. **CONTRACTOR** acknowledges that the notice required under California Revenue and Taxation Code Section 107.6 has been provided.

**PSC-43. Confidentiality**

All documents, information and materials provided to **CONTRACTOR** by **CITY** or developed by **CONTRACTOR** pursuant to this Contract (collectively “Confidential Information”) are confidential. **CONTRACTOR** shall not provide or disclose any Confidential Information or their contents or any information therein, either orally or in writing, to any person or entity, except as authorized by **CITY** or as required by law. **CONTRACTOR** shall immediately notify **CITY** of any attempt by a third party to obtain access to any Confidential Information. This provision will survive expiration or termination of this Contract.

## EXHIBIT 1

### INSURANCE CONTRACTUAL REQUIREMENTS

**CONTACT** For additional information about compliance with City Insurance and Bond requirements, contact the Office of the City Administrative Officer, Risk Management at (213) 978-RISK (7475) or go online at [www.lacity.org/cao/risk](http://www.lacity.org/cao/risk). The City approved Bond Assistance Program is available for those contractors who are unable to obtain the City-required performance bonds. A City approved insurance program may be available as a low cost alternative for contractors who are unable to obtain City-required insurance.

### CONTRACTUAL REQUIREMENTS

CONTRACTOR AGREES THAT:

- 1. Additional Insured/Loss Payee.** The CITY must be included as an Additional Insured in applicable liability policies to cover the CITY'S liability arising out of the acts or omissions of the named insured. The CITY is to be named as an Additional Named Insured and a Loss Payee As Its Interests May Appear in property insurance in which the CITY has an interest, e.g., as a lien holder.
- 2. Notice of Cancellation.** All required insurance will be maintained in full force for the duration of its business with the CITY. By ordinance, all required insurance must provide at least thirty (30) days' prior written notice (ten (10) days for non-payment of premium) directly to the CITY if your insurance company elects to cancel or materially reduce coverage or limits prior to the policy expiration date, for any reason except impairment of an aggregate limit due to prior claims.
- 3. Primary Coverage.** CONTRACTOR will provide coverage that is primary with respect to any insurance or self-insurance of the CITY. The CITY'S program shall be excess of this insurance and non-contributing.
- 4. Modification of Coverage.** The CITY reserves the right at any time during the term of this Contract to change the amounts and types of insurance required hereunder by giving CONTRACTOR ninety (90) days' advance written notice of such change. If such change should result in substantial additional cost to CONTRACTOR, the CITY agrees to negotiate additional compensation proportional to the increased benefit to the CITY.
- 5. Failure to Procure Insurance.** All required insurance must be submitted and approved by the Office of the City Administrative Officer, Risk Management prior to the inception of any operations by CONTRACTOR.

CONTRACTOR'S failure to procure or maintain required insurance or a self-insurance program during the entire term of this Contract shall constitute a material breach of this Contract under which the CITY may immediately suspend or terminate this Contract or, at its discretion, procure or renew such insurance to protect the CITY'S interests and pay any and all premiums in connection therewith and recover all monies so paid from CONTRACTOR.

- 6. Workers' Compensation.** By signing this Contract, CONTRACTOR hereby certifies that it is aware of the provisions of Section 3700 *et seq.*, of the California Labor Code which require every employer to be insured against liability for Workers' Compensation or to undertake

self-insurance in accordance with the provisions of that Code, and that it will comply with such provisions at all time during the performance of the work pursuant to this Contract.

**7. California Licensee.** All insurance must be provided by an insurer admitted to do business in California or written through a California-licensed surplus lines broker or through an insurer otherwise acceptable to the CITY. Non-admitted coverage must contain a **Service of Suit** clause in which the underwriters agree to submit as necessary to the jurisdiction of a California court in the event of a coverage dispute. Service of process for this purpose must be allowed upon an agent in California designated by the insurer or upon the California Insurance Commissioner.

**8. Aggregate Limits/Impairment.** If any of the required insurance coverages contain annual aggregate limits, CONTRACTOR must give the CITY written notice of any pending claim or lawsuit which will materially diminish the aggregate within thirty (30) days of knowledge of same. You must take appropriate steps to restore the impaired aggregates or provide replacement insurance protection within thirty (30) days of knowledge of same. The CITY has the option to specify the minimum acceptable aggregate limit for each line of coverage required. No substantial reductions in scope of coverage which may affect the CITY'S protection are allowed without the CITY'S prior written consent.

**9. Commencement of Work.** For purposes of insurance coverage only, this Contract will be deemed to have been executed immediately upon any party hereto taking any steps that can be considered to be in furtherance of or towards performance of this Contract. The requirements in this Section supersede all other sections and provisions of this Contract, including, but not limited to, PSC-3, to the extent that any other section or provision conflicts with or impairs the provisions of this Section.

## Required Insurance and Minimum Limits

Name: Hess & Associates

Date: 07/28/2000

Agreement/Reference: \_\_\_\_\_

Evidence of coverages checked below, with the specified minimum limits, must be submitted and approved prior to occupancy/start of operations. Amounts shown are Combined Single Limits ("CSLs"). For Automobile Liability, split limits may be substituted for a CSL if the total per occurrence equals or exceeds the CSL amount.

	Limits
<hr/>	
<input checked="" type="checkbox"/> <b>Workers' Compensation - Workers' Compensation (WC) and Employer's Liability (EL)</b>	WC <u>Statutory</u>
	EL <u>\$1,000,000</u>
<input type="checkbox"/> Waiver of Subrogation in favor of City	
<input type="checkbox"/> Longshore & Harbor Workers	
<input type="checkbox"/> Jones Act	
<hr/>	
<input checked="" type="checkbox"/> <b>General Liability</b>	<u>\$2,000,000</u>
<input type="checkbox"/> Products/Completed Operations	
<input type="checkbox"/> Fire Legal Liability	
<input type="checkbox"/> _____	
<input type="checkbox"/> Sexual Misconduct	
<hr/>	
<input type="checkbox"/> <b>Automobile Liability</b> (for any and all vehicles used for this contract, other than commuting to/from work)	_____
<hr/>	
<input type="checkbox"/> <b>Professional Liability</b> (Errors and Omissions)	_____
Discovery Period _____	
<hr/>	
<input type="checkbox"/> <b>Property Insurance</b> (to cover replacement cost of building - as determined by insurance company)	_____
<input type="checkbox"/> All Risk Coverage	
<input type="checkbox"/> Flood _____	
<input type="checkbox"/> Earthquake _____	
<input type="checkbox"/> Boiler and Machinery	
<input type="checkbox"/> Builder's Risk	
<input type="checkbox"/> _____	
<hr/>	
<input type="checkbox"/> <b>Pollution Liability</b>	_____
<input type="checkbox"/> _____	
<hr/>	
<input type="checkbox"/> <b>Surety Bonds - Performance and Payment (Labor and Materials) Bonds</b>	100% of the contract price
<input type="checkbox"/> <b>Crime Insurance</b>	_____
<hr/>	
<b>Other:</b> _____	
_____	
_____	
_____	
_____	