

3rd RESTATED PROFESSIONAL SERVICES AGREEMENT NUMBER C-105458

(SEVENTEENTH AMENDMENT)

BETWEEN

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

This 3RD Restated Professional Services Agreement (SEVENTEENTH Amendment) to the City Contract No. C-105458 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 1st, 2003; and
2. WHEREAS, between 2003 and July, 2013, Contract No. C-105458 was amended 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 1st 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 2nd 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, between 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
6. WHEREAS, the City and Contractor have agreed to amend 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

7. WHEREAS, the City is adding \$2,300,000 to the total contract amount to perform the work required under this agreement; and
8. WHEREAS, changes to the Statement of Work and Payment Schedule are required to complete these enhancements; and
9. WHEREAS, this 3RD Restated 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

The City is responsible to:

- Perform Level 1 support for PaySR – staff a Help Desk which will receive calls and SOS Tickets, and attempt to resolve problems/requests by doing analysis and offering user training.
- Perform Level 2 support for PaySR – staff a team of PaySR functional experts which will review SOS 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 3 support.
- After Phase 1 transition of “baselined code” to City staff is complete (i.e. in the 2nd Year), perform Level 3 support for the following PaySR modules: Payroll Reports and Interfaces. For these modules, review SOS tickets that Level 2 (City staff) could not resolve, and provide bug fixes for all confirmed problems.
- Perform Project management.
- Prioritize the Projects and the SOS Tickets that the Contractor will work on.
- Perform systems analysis and, with support and assistance as required from the Contractor, finalize the scope definition of modifications.
- Document the City’s business rules as needed.
- Develop Functional Requirements documents, if desired by the City for documentation.
- Develop Functional Design documents, if desired by the City for documentation.
- Document Test Plans.
- Test all code delivered by Contractor.
- Review and determine acceptance of deliverables in a timely manner.

- Implement approved code to production.
- Perform System Security Administration.
- Perform System Change Management.
- Develop and maintain User Manuals.
- Develop Training materials and perform user training.
- Maintain PaySR documentation once modules are moved to production.
- 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:

- 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.
- Develop and document the high-level and detailed system solution, to be approved by the City before coding.
- Develop Functional Requirements documents as assigned.
- Develop Functional Design documents as assigned.
- Develop Technical Design documents, to be approved by the City before coding.
- Estimate level of effort to code and unit test the accepted Functional and Technical designs.
- Complete coding and unit testing within 5% of the estimated level of effort.
- Provide input to the City for the development of User Manuals.
- Provide input to the City for the development of the integrated and user acceptance test strategies, plans and scripts.
- 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.
- Provide documentation of the actual screens, batch job streams, major processes, and inputs/outputs of the modified module, before projects are implemented in production.
- Provide technical support and code remediation for City testing in a timely manner, to support the testing schedule.
- Assist the City in successfully implementing these projects into production.

- 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:

- Provide on-call support for production problems.
- 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.

Following are the specific deliverables:

Technical Documentation and Training Sessions for the following:

Tech 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 8 hours of training sessions to walk City staff through the documentation.

Functional Documentation and Training Sessions for the following:

Func 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 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 Phases, each with a duration of one 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 will:

- Confirm that the list of remaining functionality to be completed during that phase is achievable within the one-year timeframe.
- During the last 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:

- Meet with the designated expert users to gather requirements.
- 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.
- Deliver a high-level scope document, so there is consensus about what is included.
- Develop the high-level system solution.
- Develop the functionality iteratively, meeting with the designated expert users to demonstrate prototypes and refine requirements.
- Receive testing feedback directly from the testers, for use in building the next prototype.

- Provide a demonstration of the finished product.
- 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.
- Provide technical support and code remediation for City testing in a timely manner, to support the testing schedule.
- Assist the City in successfully implementing this functionality into production.

Provide PaySR Production Support:

- 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.
- Provide on-call Level 3 support for production problems.
- 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.
- Assist the City in successfully implementing this functionality into production.

III. Term of the Agreement

The full term of this Agreement is from August 1, 2003 to July 31, 2017, unless earlier terminated.

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
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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 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 the 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 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. 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 payment for Knowledge Transfer deliverables:	\$ 24,940
Total Not to Exceed Payment for all other staff work:	\$ 1,543,060
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Total Contractor Payment:	\$ 1,928,000

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:

#	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	Developer time for development work	Hourly Rate per Developer	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 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 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. 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.

V. City Total Obligation

- A. In this restated Contract the City is adding Two Million Three Hundred Thousand Dollars (\$2,300,000) to the total. 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 Thirteen Million Four Hundred Twenty Two Thousand Five Hundred Dollars (\$13,422,500).

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.

- A. All invoices shall be submitted by the contractor to:
Sylvia Bergstrom, Director of Systems
Information Technology Agency
200 N. Main St. Room 1328
Los Angeles, CA 90012
- B. 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.

- C. 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.

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 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.

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

VI. Funding Clause

Funds have been appropriated in a total amount not to exceed One Million Nine Hundred Twenty Eight Thousand Dollars (\$1,928,000) for work identified in Section II.A. 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.

VII. 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:

Sylvia Bergstrom
Director of Systems
Information Technology Agency
200 N Main St., Room 1328
Los Angeles, CA 90012

- B. The representative of the Contractor shall be:

Mr. Robert D. Hess
Hess and Associates
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 accord with this section, within five (5) working days of said change.

VIII. Removal of Primary Contractor Employee from Project

- E. 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.

IX. Use of Contractor Employees or Subcontractors

- A. Should it become necessary for the Contractor to employ either Contractor compensated employees or subcontractors 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, total subcontract value and compliance with applicable law. The City's approval of Contractor employee and or subcontractor may also be subject to successful completion of a background investigation performed by the Los Angeles Police Department consistent with applicable law.
- B. The City has no obligation to any subcontractor and nothing herein is intended to create any privity between City and Contractor's subcontractors. Notwithstanding the fact that the Contractor is utilizing subcontractors, the Contractor shall remain responsible for ensuring that all work is 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 V 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 subcontractors who have performed work on the Agreement and offer them the opportunity to continue working, if necessary.

X. Quality Assurance Review

The PaySR Steering Committee has established an internal Quality Assurance team to review the project deliverables and the Contractor's performance. The Contractor shall fully cooperate with the PaySR Quality Assurance team to review any facet of the Contractor's activities.

XI. 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.

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

A. City Contract Coordinator

The City designates the Director of Systems of the Information Technology Agency named below, 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 PaySR Steering Committee and by the Mayor and Council if required.

D. City Data

The City shall be responsible for the accuracy and completeness of all City data and information provided to the Contractor.

E. Compliance with SB 1386

- a. 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.
- b. 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.

XIII. 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 III 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.

XIV. 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.

XV. 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.

XVI. 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.

XVII. 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 notice such termination by sending a letter 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 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.

XVIII. 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.

XIX. FIRST SOURCE HIRING ORDINANCE

Unless otherwise exempt in accordance with the provisions of this Ordinance, this contract is subject to the applicable provisions of the First Source Hiring Ordinance (FSHO), Section 10.44 et seq. of the Los Angeles Administrative Code, as amended from time to time.

(A) CONTRACTOR shall, prior to the execution of the contract, provide to the Designated Administrative Agency (DAA) a list of anticipated employment opportunities that CONTRACTOR estimates they will need to fill in order to perform the services under the Contract.

(B) CONTRACTOR further pledges that it will, during the term of the Contract,

1) At least seven business days prior to making an announcement of a specific employment opportunity, provide notifications of that employment opportunity to the Community Development Department (CDD), which will refer individuals for interview;

2) Interview qualified individuals referred by CDD; and

3) Prior to filling any employment opportunity, the CONTRACTOR shall inform the DAA of the names of the Referral Resources used, the names of the individuals they referred, the names of the referred individuals who the CONTRACTOR interviewed and the reasons why referred individuals were not hired.

(C) Any Subcontract entered into by the CONTRACTOR relating to this Agreement, to the extent allowed hereunder, shall be subject to the provisions of FSHO, and shall incorporate the FSHO.

(D) CONTRACTOR shall comply with all rules, regulations and policies promulgated by the designated administrative agency, which may be amended from time to time. Where under the provisions of Section 10.44.13 of the Los Angeles Administrative Code the designated administrative agency has determined that the CONTRACTOR intentionally violated or used hiring practices for the purpose of avoiding the article, the determination must be documented in the Awarding Authority's Contractor Evaluation, required under Los Angeles Administrative Code Section 10.39 et seq., and must be documented in each of the Contractor's subsequent Contractor Responsibility Questionnaires submitted under Los Angeles Administrative Code Section 10.40 et seq. This measure does not limit the City's authority to act under this article. Under the provisions of Section 10.44.8 of the Los Angeles Administrative Code, the Awarding Authority shall, under appropriate circumstances, terminate this contract and otherwise pursue legal remedies that may be available if the designated administrative agency determines that the subject CONTRACTOR has violated provisions of the FSHO.

XX. 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 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. COMPLIANCE WITH LOS ANGELES CITY CHARTER SECTION 470C(12)

The Contractor, Subcontractors, and their Principals are obligated to fully comply with City of Los Angeles Charter Section 470(c) (12) and related ordinances, regarding limitations on campaign contributions and fundraising for certain elected City officials or candidates for elected City office if the contract is valued at \$100,000 or more and requires approval of a City elected official. Additionally, Contractor is required to provide and update certain information to the City as specified by law. Any Contractor subject to Charter Section 470(c) (12) shall include the following notice in any contract with a

Subcontractor expected to receive at least \$100,000 for performance under this contract:

Notice Regarding City of Los Angeles Campaign Contribution and Fundraising Restrictions

“As provided in Charter Section 470(c)(12) and related ordinances, you are a Subcontractor on City of Los Angeles contract # C-105458. Pursuant to City Charter Section 470(c)(12), Subcontractor and its principals are prohibited from making campaign contributions and fundraising for certain elected City officials or candidates for elected City office for 12 months after the City contract is signed. Subcontractor is required to provide to Contractor names and addresses of the Subcontractor’s principals and contact information and shall update that information if it changes during the 12 month time period. Subcontractor’s information included must be provided to Contractor within 10 business days. Failure to comply may result in termination of the contract or any other available legal remedies including fines. Information about the restrictions may be found at the City Ethics Commission’s website at <http://ethics.lacity.org/> or by calling 213.978.1960.”

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Field

Contractor, Subcontractors, and their Principals shall comply with these requirements and limitations. Violation of this provision shall entitle the City to terminate this Agreement and pursue any and all legal remedies that may be available.

XXII. 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 – Contract # C-105458 – PaySR Baseline Tasks Planned for Fiscal Years 2015-16, 2016-17

Attachment 2 – Standard Provisions for City Contracts

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

THE CITY OF LOS ANGELES

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

By _____
Steve Reneker, General Manager
and Chief Technology Officer
Information Technology Agency

By _____
Robert D. Hess
President

Date _____

Date _____

APPROVED AS TO FORM

ATTESTED

MICHAEL N. FEUER, City Attorney

HOLLY WOLCOTT, City Clerk

By _____
Laurel L. Lightner
Assistant City Attorney

By _____

Date _____

Date _____

City Business License Number: _____

Internal Revenue Service ID Number: _____

Said Agreement is Number _____ of City Contract

**Attachment 1 – Contract # C-105458 –
PaySR Baseline Tasks Planned for Fiscal Years 2015-16, 2016-17**

Phase 2 - Personnel-defined tasks to complete HR functionality

ITEM #	CATEGORY	DESCRIPTION	Level of Effort
1	Paperless Form41	Paperless Form41	Very Large
2	Paperless Form41	EWH Data Integrity (PaySR & DWP)	Medium
3	Employee Self Service	W4, Address, more TBD - DTime Platform	Medium
4	Part-Time Employee Administration	Part-time Employee Hours Tracking	Medium
5	Position Control	Position Control - Fixes - Recommended for Phase 1	Small
6	Position Control	Position Control - Enhancements	Medium/Large
7	City-Wide Employee Data	I9 Tracking	Small
8	City-Wide Employee Data	Fingerprint Tracking	Small
9	City-Wide Employee Data	Licenses and Certificates	Small
10	City-Wide Employee Data	Skills	Small
11	Productivity Improvements	Personnel Reporting and Printing Fixes	Small
12	Productivity Improvements	Commuter Tracking	Medium
13	Productivity Improvements	Leave Tracking	Medium
14	Productivity Improvements	Workforce Planning	Medium
15	Productivity Improvements	Workforce Analysis Reports (including DWP Input Screen)	Medium
16	Productivity Improvements	Form 41 Online Fixes	Small

**Attachment 1 – Contract # C-105458 –
PaySR Baseline Tasks Planned for Fiscal Years 2015-16, 2016-17**

Phase 1 - Controller-defined tasks to complete Payroll functionality

ITEM #	CATEGORY	DESCRIPTION	Level of Effort
1	Tax Reporting & Audit	Tax Analyzer	Large
2	Employee Self-Service	Self-service W2s - DTime Platform	Medium
3	Employee Self-Service	Self-service W4 - DTime Platform	Medium
4	Employee Self-Service	Support Mobile Payroll Data - Capriza Platform	Medium
5	Employee Self-Service	Self-service - View F41 Data - DTime Platform	Medium
6	Employee Self-Service	Self-service - Update Contact Info - DTime Platform	Medium
7	Employee Self-Service	Self-service - Mobile Mileage Claim - Capriza Platform	Medium
8	Employee Self-Service	Self-service - View Employee Setup Info - DTime Platform	Medium
9	Hardening	Table-driven Variables & Factors	Large
10	Hardening	Control Table Validator	Medium
11	Hardening	Standardize Output Formats	Medium
12	Hardening	Consolidating Time & Payroll Control Tables	Medium
13	Hardening	Automate Control Table Implied Maintenance	Medium
14	Hardening	Document Control Table Options that impact Pay	Small
15	Hardening	Automate Control Cards	Small
16	Hardening	Payroll Audit Trails	Small
17	Hardening	Control Table Audit Trails	Small
18	Hardening	MOU Union Dues Control Table	Small
19	Hardening	Modify Mercer Input Interface	Small
20	Productivity Improvement	IS & DS Rate Audit Trail	Medium
21	Productivity Improvement	Automate Hiring Hall Workflow	Medium
22	Productivity Improvement	Automate Retro Payroll JV	Small
23	Productivity Improvement	Create & Populate Holiday Schedules Table	Small
24	Productivity Improvement	Fix the EAA validators	Small
25	Productivity Improvement	Labor Analyzer should store APPR acct # permanently	Small
26	Productivity Improvement	Close loose ends to PaySR Security Module	Small