

REPORT FROM

OFFICE OF THE CITY ADMINISTRATIVE OFFICER

Date: June 9, 2017

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Council File No. 13-0777

Council District: All

To: City Council

From: Richard H. Llewellyn, Jr., Interim City Administrative Officer
Payroll System Replacement Steering Committee, Chair

Subject: **FOURTH RESTATED PROFESSIONAL SERVICES AGREEMENT NO. C-105458,
AMENDMENT NO. 18, WITH HESS & ASSOCIATES, INC.**

RECOMMENDATIONS

That the Council:

1. Approve, and authorize the General Manager of the Information Technology Agency to execute, the Fourth Restated Professional Services Agreement No. C-105458 (Amendment No. 18) with Hess & Associates, Inc. to increase funding by \$875,000, for a total contract amount not-to-exceed \$14,297,500, and extend the term of the agreement by 16 months, through November 30, 2018 for continued support of the Payroll System Replacement (PaySR), subject to the review and approval of the City Attorney;
2. Authorize the Information Technology Oversight Committee (ITOC) to approve all present and future contracts, changes in project scope, contract deliverables, payments, leases and license agreements necessary for the implementation and maintenance of a City payroll system before these items are submitted to the Mayor and Council for approval;
3. Authorize the ITOC to approve all budget and resource plans related to the City's payroll system before these items are submitted to the Mayor and Council; and
4. Eliminate the Payroll System Replacement Steering Committee.

SUMMARY

At its meeting of May 24, 2017, the Payroll System Replacement Steering Committee (Steering Committee) considered a request from the Information Technology Agency (ITA) to amend the City's professional services agreement with Hess & Associates, Inc. (Contractor) to continue work on the City's payroll system (PaySR). The Fourth Restated Contract (Amendment No. 18) with the Contractor will increase the contract spending authority by \$875,000, for a new contract compensation limit of \$14,297,500, and increase the term by 16 months for a total term of 15 years and four months. While the custom programming approach of PaySR has worked well in

accommodating the complex payroll structures of the City, modifying the software has required a software developer's level of expertise. The ITA has worked with the Contractor to develop a solution that would enable the PaySR system to function more like a commercial-off-the-shelf system. The PaySR Baseline project, initiated through Amendment No. 17, represented a change in philosophy in the City's approach to managing the programming, development, and maintenance of the payroll system. The objective of the PaySR Baseline project was to restructure PaySR such that it was configurable via tables and settings. It was anticipated that this effort would be completed by June 2017. However, because of the continued need to update PaySR to meet mandatory compliance items and Memorandum of Understanding changes, the Baseline project was not completed within the original two-year timeframe. Amendment No. 18 adds 16 months to the term of the agreement to complete the Baseline project, now called PaySR Risk Mitigation.

The PaySR Risk Mitigation project will ensure that mandatory legal and City compliance items are completed as well as implement necessary modifications to ensure the system is stable enough to be maintained by City staff. The tasks planned for the remaining term of the contract are described in Attachment 1. As outlined in the proposed Amendment No. 18 (attached), only the ITOC can approve changes to the list of planned tasks as included in Attachment 1. The ITA, in consultation with the Controller and Personnel Department, may direct the Contractor to perform work not included in Attachment 1 if there is a significant system issue that would result in the system's inability to process payroll and/or the revision to the list of tasks would not impact the completion of the PaySR Risk Mitigation project. It is essential that the PaySR system is stabilized without any further enhancements. The PaySR Risk Mitigation project will be jeopardized if the City continues to make major changes within the system.

It is anticipated that following this contract, the cost of yearly maintenance services provided by the Contractor will be lower because the PaySR system will now be able to be run and maintained by City employees. The City Attorney has advised ITA that any subsequent contract for maintenance services by the Contractor would require a new contract as the nature of the work to be performed would be substantially different than the worked proposed under this agreement.

Pursuant to Charter Section 1022, the Personnel Department determined that City employees do not have the expertise to perform the work proposed to be contracted. In accordance with Los Angeles Administrative Code Section 10.5(b)2, City Council approval of the proposed amendment is required because the term exceeds three years and annual compensation exceeds \$145,566.

PAYSR STEERING COMMITTEE

The Steering Committee was established by the City Council (C.F. 99-1641) to oversee the development of a replacement payroll system. The Committee is comprised of the City Administrative Officer as the Chair, the Mayor's Office, and the Chief Legislative Analyst as voting members. The Controller, ITA, and the Personnel Department are members that serve an advisory role to the Steering Committee. The Steering Committee, among other delegated

responsibilities, is required to approve all present and future contracts, changes in project scope, and change orders necessary for the implementation of a replacement payroll system. In addition, the Steering Committee was also tasked with approving the project's budget and resource plans before those items are submitted to the Mayor and Council.

It is recommended that the authorities previously delegated to the Steering Committee be delegated to the ITOC. The ITOC is comprised of the same voting members as the Steering Committee and currently provides oversight for a number of Citywide technology projects. It had previously been the practice of the City to create steering committees for individual projects, such as PaySR and the Financial Management System replacement. Delegating authority to a single Oversight Committee will ensure that major technology projects are evaluated based on their citywide impact. The ITOC can provide the appropriate level of oversight of the payroll system and any future replacement systems.

The Steering Committee recommended that the City Council approve the Fourth Restated Professional Services Agreement No. C-105458 (Amendment No. 18) between the City and the Contractor. In addition, the Steering Committee recommended that the City Council abolish the Payroll System Replacement Steering Committee and delegate the authorities previously invested in it to the ITOC.

FISCAL IMPACT STATEMENT

Funding for this agreement is provided in the Information Technology Agency's Contractual Services account. There is no additional impact to the General Fund. The recommendations in this report comply with the City's Financial Policies in that budgeted funds are available in the current fiscal year for anticipated contract expenditures and future expenditures are limited to the appropriation of funds in the budget.

RHL:CEA:11170074

Attachments

4th RESTATED PROFESSIONAL SERVICES AGREEMENT NUMBER C-105458

(EIGHTEENTH AMENDMENT)

BETWEEN

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

This 4th Restated Professional Services Agreement (EIGHTEENTH 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 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, on or about June 30, 2015, the parties entered into the 3rd 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, the City is adding \$875,000 to the total Contract amount to perform the new work required under this Agreement in Section II.C.; and
9. WHEREAS, additions to the Statement of Work in Section II.C. and a new Payment Schedule in Section IV.C. are required to complete these enhancements; and
10. WHEREAS, this 4th 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

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 July 31, 2018 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.

III. Term of the Agreement

The full term of this Agreement is from August 1, 2003 to November 30, 2018, 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

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:

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
	=====
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 (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

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:

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 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.

V. City Total Obligation

A. In this restated Contract the City is adding eight hundred seventy-five thousand dollars (\$875,000) 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 fourteen million two hundred ninety-seven thousand five hundred dollars (\$14,297,500).

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.

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.

VI. Funding Clause

Funds have been appropriated in a total amount not to exceed eight hundred seventy-five thousand dollars (\$875,000) for work identified in Section IIC. 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:

Joyce Edson
Asst. General Manager
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, 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.

VIII. 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.

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 Information Technology Oversight 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

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.

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 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.

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 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.

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 (7) 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 DAA, 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 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. COMPLIANCE WITH LOS ANGELES CITY CHARTER SECTION 470(c)(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 twelve (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 twelve (12) month time period. Subcontractor's information included must be provided to Contractor within ten (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."

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. Non-Discrimination

Unless otherwise exempt, this Contract is subject to the applicable provisions of the Non-discrimination in Employment Ordinance ("NDEO"), Los Angeles Admin Code Sections 10.8 et seq., as amended from time to time. The NDEO requires, among other things, that the Contractor shall not discriminate in any of its hiring or employment, and shall require Affirmative Action Programs in contracts in accordance with the provisions of the NDEO. The Contractor is required to obtain the compliance of its subcontractors of the NDEO.

XXIII. Affirmative Action Program

Every non-construction and construction Contract with or on behalf of the City for which the consideration is \$25,000 or more shall contain the following provisions which shall be designated as the Affirmative Action Program provisions of such Contract:

A. During the performance of this Contract, the Contractor certifies and represents that Contractor and each subcontractor hereunder will adhere to this Affirmative Action Program to ensure that in its employment practices persons are employed and employees are treated equally and without regard to or because of race, color, religion, national origin, ancestry, sex, sexual orientation, age, disability, marital status, domestic partner status or medical condition.

1. This section applies to work or services performed or materials manufactured or assembled in the United States.
2. Nothing in this section shall require or prohibit the establishment of new

classifications of employees in any given craft, work or service category.

3. The Contractor shall post a copy of Paragraph A, hereof, in conspicuous places at its place of business available to employees and applicants for employment.

B. In all solicitations or advertisements for employees placed by or on behalf of the Contractor, the Contractor shall state that all qualified applicants will receive consideration for employment without regard to their race, color, religion, national origin, ancestry, sex, sexual orientation, age, disability, marital status, domestic partner status or medical condition.

C. At the request of the Awarding Authority or the DAA, the Contractor shall certify on an electronic or hard copy form to be supplied, that the Contractor has not discriminated in the performance of City Contracts against any employee or applicant for employment on the basis or because of race, color, religion, national origin, ancestry, sex, sexual orientation, age, disability, marital status, domestic partner status or medical condition.

D. The Contractor shall permit access to, and may be required to provide certified copies of, all of its records pertaining to employment and to its employment practices by the Awarding Authority or the DAA for the purpose of investigation to ascertain compliance with the Affirmative Action Program provisions of Contract and, upon request, to provide evidence that it has or will comply therewith.

E. Contractor's failure to comply with the Affirmative Action Program provisions of this Contract may be deemed to be a material breach of this Contract. The failure shall only be established upon a finding to that effect by the Awarding Authority, on the basis of its own investigation or that of the DAA. No finding shall be made except upon a full and fair hearing after notice and an opportunity to be heard has been given to the Contractor.

F. Upon a finding duly made that the Contractor has breached the Affirmative Action Program provisions of this Contract, the Contract may be forthwith cancelled, terminated or suspended, in whole or in part, by the Awarding Authority, and all monies due or to become due hereunder may be forwarded to and retained by the City. The breach may be the basis for a determination by the Awarding Authority or the Board of Public Works that the Contractor is a non-responsible bidder or proposer pursuant to the provisions of Los Angeles Administrative Code Section 10.40. In the event of such determination, the Contractor shall be disqualified from being awarded a contract with the City for a period of two (2) years, or until he or she shall establish and carry out a program in conformance with the provisions hereof.

G. In the event that the Fair Employment and Housing Commission of the State

of California, or the City's Board of Public Works, or any court of competent jurisdiction, finds that the Contractor has been guilty of a willful violation of the California Fair Employment and Housing Act, or of this Affirmative Action Program, the City may deduct from the amount payable to the Contractor a penalty of \$10.00 for each person for each calendar day on which the violation occurred.

H. Notwithstanding any other provisions of this Contract, the City shall have any and all other remedies at law or in equity for any breach hereof.

I. The Public Works Board of Commissioners shall promulgate rules and regulations through the DAA and provide to the Awarding Authorities electronic and hard copy forms for the implementation of the Affirmative Action Program provisions of City contracts, and rules and regulations and forms shall, so far as practicable, be similar to those adopted in applicable Federal Executive Orders. No other rules, regulations or forms may be used by an Awarding Authority of the City to accomplish this contract compliance program.

J. Nothing contained in this Contract shall be construed in any manner so as to require or permit any act which is prohibited by law.

K. By affixing its signature to this Contract, the Contractor agrees to adhere to the provisions of this Affirmative Action Program of this Contract. The Awarding Authority may also require Contractors and suppliers to take part in a pre-registration, pre-bid, pre-proposal, or pre-award conference in order to develop, improve or implement a qualifying Affirmative Action Program.

1. The Contractor certifies and agrees to immediately implement good faith effort measures to recruit and employ minority, women and other potential employees in a non-discriminatory manner including, but not limited to, the following actions as appropriate and available to the Contractor's field of work. The Contractor shall:

(a) Recruit and make efforts to obtain employees through:

(i) Advertising employment opportunities in minority and other community news media or other publications.

(ii) Notifying minority, women and other community organizations of employment opportunities.

(iii) Maintaining contact with schools with diverse populations of students to notify them of employment opportunities.

(iv) Encouraging existing employees, including minorities and women, to refer their friends and relatives.

(v) Promoting after school and vacation employment opportunities for minority, women and other youth.

(vi) Validating all job specifications, selection requirements, tests, etc.

(vii) Maintaining a file of the names and addresses of each worker referred to the Contractor and what action was taken concerning the worker.

(viii) Notifying the appropriate Awarding Authority and the DAA in writing when a union, with whom the Contractor has a collective bargaining agreement, has failed to refer a minority, woman or other worker.

(b) Continually evaluate personnel practices to assure that hiring, upgrading, promotions, transfers, demotions and layoffs are made in a non-discriminatory manner so as to achieve and maintain a diverse work force.

(c) Utilize training programs and assist minority, women and other employees in locating, qualifying for and engaging in the training programs to enhance their skills and advancement.

(d) Secure cooperation or compliance from the labor referral agency to the Contractor's contractual Affirmative Action Program obligations.

(e) Establish a person at the management level of the Contractor to be the Equal Employment Practices officer. Such individual shall have the authority to disseminate and enforce the Contractor's Equal Employment and Affirmative Action Program policies.

(f) Maintain records as are necessary to determine compliance with Equal Employment Practices and Affirmative Action Program obligations and make the records available to City, State and Federal authorities upon request.

(g) Establish written company policies, rules and procedures which shall be encompassed in a company-wide Affirmative Action Program for all its operations and Contracts. The policies shall be provided to all employees, Subcontractors, vendors, unions and all others with whom the Contractor may become involved in fulfilling any of its Contracts.

(h) Document its good faith efforts to correct any deficiencies when problems are experienced by the Contractor in complying with its obligations pursuant to this article. The Contractor shall state:

- (i) What steps were taken, how and on what date.
- (ii) To whom those efforts were directed.
- (iii) The responses received, from whom and when.
- (iv) What other steps were taken or will be taken to comply and when.
- (v) Why the Contractor has been or will be unable to comply.

2. Every contract of \$25,000 or more which may provide construction, demolition, renovation, conservation or major maintenance of any kind shall also comply with the requirements of Section 10.13 of the Los Angeles Administrative Code.

L. The Affirmative Action Program required to be submitted hereunder and the pre-registration, pre-bid, pre-proposal or pre-award conference which may be required by the Awarding Authority shall, without limitation as to the subject or nature of employment activity, be concerned with such employment practices as:

- 1. Apprenticeship where approved programs are functioning, and other on-the-job training for non-apprenticeable occupations;
- 2. Classroom preparation for the job when not apprenticeable;
- 3. Pre-apprenticeship education and preparation;
- 4. Upgrading training and opportunities;
- 5. Encouraging the use of Contractors, subcontractors and suppliers of all racial and ethnic groups; provided, however, that any contract subject to this ordinance shall require the Contractor, subcontractor or supplier to provide not less than the prevailing wage, working conditions and practices generally observed in private industries in the Contractor's, subcontractor's or supplier's geographical area for such work;
- 6. The entry of qualified women, minority and all other journeymen into the industry; and
- 7. The provision of needed supplies or job conditions to permit persons with disabilities to be employed, and minimize the impact of any disability.

M. Any adjustments which may be made in the Contractor's work force to achieve the requirements of the City's Affirmative Action Program in purchasing and construction shall be accomplished by either an increase in the size of the work force or replacement of those employees who leave the work force by reason of resignation, retirement or death and not by termination, layoff, demotion or change in grade.

N. This ordinance shall not confer upon the City or any Agency, Board or Commission thereof any power not otherwise provided by law to determine the legality of any existing collective bargaining agreement and shall have application only to discriminatory employment practices by Contractors engaged in the performance of City Contracts.

O. All Contractors subject to the provisions of this article shall include a similar provision in all subcontracts awarded for work to be performed under the Contract with the City and shall impose the same obligations including, but not limited to, filing and reporting obligations, on the subcontractors as are applicable to the Contractor. Failure of the Contractor to comply with this requirement or to obtain the compliance of its subcontractors with all such obligations shall subject the Contractor to the imposition of any and all sanctions allowed by law, including, but not limited to, termination of the Contractor's Contract with the City.

XXIV. Equal Employment Practices

Every non-construction and construction Contract with, or on behalf of, the City for which the consideration is \$1,000 or more shall contain the following provisions, which shall be designated as the Equal Employment Practices provision of such contract:

A. During the performance of this Contract, the Contractor agrees and represents that it will provide Equal Employment Practices and the Contractor and each subcontractor hereunder will ensure that in his or her Employment Practices persons are employed and employees are treated equally and without regard to, or because of, race, color, religion, national origin, ancestry, sex, sexual orientation, age, disability, marital status or medical condition.

1. This provision applies to work or service performed or materials manufactured or assembled in the United States.
2. Nothing in this section shall require or prohibit the establishment of new classifications of employees in any given craft, work or service category.
3. The Contractor agrees to post a copy of Paragraph A, hereof, in conspicuous places at its place of business available to employees

and applicants for employment.

B. The Contractor will, in all solicitations or advertisements for employees placed by, or on behalf of, the Contractor, state that all qualified applicants will receive consideration for employment without regard to their race, color, religion, national origin, ancestry, sex, sexual orientation, age, disability, marital status or medical condition.

C. At the request of the Awarding Authority or the DAA, the Contractor shall certify in the specified format that he or she has not discriminated in the performance of City Contracts against any employee or applicant for employment on the basis or because of race, color, religion, national origin, ancestry, sex, sexual orientation, age, disability, marital status or medical condition.

D. The Contractor shall permit access to, and may be required to provide certified copies of, all of his or her records pertaining to employment and to employment practices by the Awarding Authority or the DAA for the purpose of investigation to ascertain compliance with the Equal Employment Practices provisions of City Contracts. Upon request, the Contractor shall provide evidence that he or she has or will comply therewith.

E. The failure of any Contractor to comply with the Equal Employment Practices provisions of this Contract may be deemed to be a material breach of City Contracts. The failure shall only be established upon a finding to that effect by the Awarding Authority, on the basis of its own investigation or that of the DAA. No such finding shall be made or penalties assessed except upon a full and fair hearing after notice and an opportunity to be heard has been given to the Contractor.

F. Upon a finding duly made that the Contractor has failed to comply with the Equal Employment Practices provisions of a City Contract, the Contract may be forthwith cancelled, terminated or suspended, in whole or in part, by the Awarding Authority, and all monies due or to become due hereunder may be forwarded to, and retained by, the City. In addition thereto, the failure to comply may be the basis for a determination by the Awarding Authority or the DAA that Contractor is a non-responsible bidder or proposer pursuant to the provisions of Los Angeles Administrative Code Section 10.40. In the event of such a determination, the Contractor shall be disqualified from being awarded a Contract with the City of Los Angeles for a period of two (2) years, or until the Contractor shall establish and carry out a program in conformance with the provisions hereof.

G. Notwithstanding any other provision of this Contract, the City shall have any and all other remedies at law or in equity for any breach hereof.

H. The Board of Public Works shall promulgate rules and regulations through the

DAA, and provide necessary forms and required language to the Awarding Authorities to be included in City Request for Bids or Request for Proposal packages or in supplier registration requirements for the implementation of the Equal Employment Practices provisions of this Contract, and such rules and regulations and forms shall, so far as practicable, be similar to those adopted in applicable Federal Executive orders. No other rules, regulations or forms may be used by an Awarding Authority of the City to accomplish the contract compliance program.

I. Nothing contained in this Contract shall be construed in any manner so as to require or permit any act which is prohibited by law.

J. By affixing its signature on this Contract, the Contractor agrees to adhere to the Equal Employment Practices specified herein during the performance this Contract.

K. Equal Employment Practices shall, without limitation as to the subject or nature of employment activity, be concerned with employment practices, including, but not limited to:

1. Hiring practices;
2. Apprenticeships where approved programs are functioning and other on-the-job training for non-apprenticeable occupations;
3. Training and promotional opportunities; and
4. Reasonable accommodations for persons with disabilities.

L. All Contractors subject to the provisions of this section shall include a similar provision in all subcontracts awarded for work to be performed under this Contract with the City, and shall impose the same obligations including, but not limited to, filing and reporting obligations on the Subcontractors as are applicable to the Contractor. Subcontracts shall follow the same thresholds specified in Los Angeles Administrative Code Section 10.8.1.1. Contractor's failure to comply with this requirement or to obtain the compliance of its subcontractors with all such obligations shall subject the Contractor to the imposition of any and all sanctions allowed by law, including, but not limited to, termination of this Contract.

XXV. 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 superseded by other sections or attachments to this Agreement.

Attachment 1 - Fourth Restated Hess Contract # C-105458 (18th Amendment)
Risk Mitigation Items FY 2017-18

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 _____
Ted Ross, 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 _____
Steve Hong
Assistant City Attorney

By _____

Date _____

Date _____

City Business License Number: _____

Internal Revenue Service ID Number: _____

Said Agreement is Number _____ of City Contract

Attachment 1 – Master List

as of May 19, 2017

#	Project Description	Hess & Associates Status	Req't Dept & Date (FY)	Justification by Req't Dept	Required Completion Date
1 Mandatory Compliance					
2	Conversion to VOYA from Empower	WIP	PER	MandatoryCompliance	9/30/2017
3	Auto enrollment program for Deferred Comp Part of the "Conversion to VOYA from Empower"	WIP	PER	MandatoryCompliance	9/30/2017
4	Correct calculation for the catch up amount in the deferred compensation module. Part of the "Conversion to VOYA from Empower"	Waiting for User Requirements	PER	MandatoryCompliance	9/30/2017
5	Special Catch-up Enrollment Report and Calculations Part of the "Conversion to VOYA from Empower"	Waiting for User Requirements	PER	MandatoryCompliance	9/30/2017
6	Technology Upgrade Projects for PaySR System Sustainability	WIP	ITA	MandatoryCompliance	8/12/2017
7	Leave Tracking project	Not Started	PER	MandatoryCompliance	10/25/2017
8	Part-time Employee Hours Tracking	WIP	PER	MandatoryCompliance	10/15/2017
9	Medical Surveillance Tracking	Partly Delivered	PER	MandatoryCompliance	12/30/2017
10	LAFPP: Airport Transfers - New Tier 6 Pension Plan for January 2018	Not Started	LACERS LAFPP	MandatoryCompliance	1/1/2018
11 MOU Compliance					
12	COLA - MOU Related Production Changes	Testing in progress	CTR	MOUCompliance	7/5/2017
13	SPECIALS - MOU Related Production Changes	WIP	CTR	MOUCompliance	7/5/2017
14 PaySR Risk Mitigation Projects					
15	Completion of LAFD New NSS Interface	Testing in progress	LAFD (FY16-17)	* Financial Risk	
16	Completion of Fire FLSA	Not Started	LAFD (FY16-17)	* Financial Risk	
17	Control Table Validator (implement .Net screens to production)	Testing in progress	CTR (FY15-16)	* DataIntegrity	7/28/17
18	Control Table Validator (CTR and ITA to setup validation rules)	Not Started	CTR (FY15-16)	* DataIntegrity	
19	Control Table Audit Trails	Not Started	CTR (FY15-16)	* DataIntegrity	
20	Consolidating Time & Payroll Control Tables	Ready for Testing	CTR (FY15-16)	* DataIntegrity	10/31/17
21 Production Support / Maintenance Items / Projects					
22	Position Control - Enhancements "Department Rollout"	Rollout in progress	PER	* ProductivityEnhancement	6/30/2017
23	Form 41 Online Fixes "One Day Appointment"	Ready for Testing	PER	* Fix	12/30/2017
24	Form 41 Online Fixes "Transfers"	WIP	PER	* Fix	12/30/2017
25	Form 41 Online Fixes "F41 Job History Correction"	WIP	PER	* Fix	12/30/2017
26	Form 41 Online Fixes "Promotional Differentials"	WIP	PER	* Fix	12/30/2017
27	Form 41 Online Fixes "Salary Rate Consistency and Correctness"	WIP	PER	* Fix	7/5/2017
28	Modify the existing Retro module Option C (productionise the	Not Started	CTR	* Business RulesChanged	
29	Complete the Hiring Hall work flow.	Ready for Testing	CTR (FY15-16)	* Fix	
30	EWB Data Integrity (PaySR & DWP)	Not Started	PER	* Fix	12/30/2017
31	CPTO Personnel baseline	Not Started	CTR	* Fix	
32	The existing FMBIAP60 (Journal Voucher Approval) report only provides summary information	Not Started	CTR	* Fix	

#	Project Description	Hess & Associates Status	Req't Dept & Date (FY)	Justification by Req't Dept	Required Completion Date
33	Ability to file the W-2 C electronically or the City will face penalty of \$260 per W-2C.	Waiting for User Requirements	CTR	* Fix	4/3/2017
37	Enhancement Projects				
38	Cornerstone on Demand	WIP	PER	* ProductivityEnhancement	8/31/2017
39	Paperless Form41	Not Started	PER	* ProductivityEnhancement	12/30/2017
40	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	Not Started	LACERS	* Enhancement	
41	Ability to upload and to also enter/update the subsidy/premium rates for medical, dental and life insurance in the "Future Tables" for FIRE or LAPD	Not Started	CTR	* Enhancement	
42	Ability to upload raise info spreadsheet from CAO into future salary tables in PaySR.	Not Started	CTR	* Enhancement	
43	Ability to upload/import listing of CAO's authorized positions/job classes into PaySR	Not Started	CTR	* Enhancement	
46	Cancelled or On-Hold				
47	Employee refund of Life and Dental insurance contribution. (\$6,000,000 from 2011)	Bob Hess delivered but PER is putting on Hold	PER	* Financial Risk	3/31/2017
48	Wage Works Tax-Advantaged Savings Accounts Payroll Contribution File	Cancelled by requester	PER	* Fix	06/30/17
49	AB 1522 Healthy Workplaces, Healthy Families Act of 2014	Bob Hess delivered but CAO is putting on Hold	CTR	MandatoryCompliance	
50	Audit Sworn employees with missing deduction codes	Cancelled by requester	PER	MOUCompliance	9/30/2017
51	Completed Projects				
52	Position Control - Enhancements "Program Development"	Completed	PER	* ProductivityEnhancement	6/30/2017
53	Produce the electronic W2c for 1287 employees.	Completed	CTR	* Fix	4/3/2017
54	Process the Retro for LAFD	Completed	CTR	* Business RulesChanged	
55	Establish a process/team to address CPRA Requests coming from the public	Completed	CTR	MandatoryCompliance	
56	Production Support Issues needing input from the PaySR Governance Committee	Completed	ITA	* Fix	
57	LAFPP: Airport Transfers - New Tier 6 Pension Plan for April 2017	Completed	LAFPP	MandatoryCompliance	4/18/2017

* Line items subject to change due to impact on operational integrity of the PaySR system, legal/contractual mandates, time, resources and risk to core system functionality