

**City and County of San Francisco  
Office of Risk Management**

**First Amendment to Agreement with Alliant Insurance Services, Inc.  
for Citywide Property Insurance**

THIS AMENDMENT (this “Amendment”) is made as of November 1, 2019 in San Francisco, California, by and between **Alliant Insurance Services, Inc.** (“Broker”), and the City and County of San Francisco, a municipal corporation (“City”), acting by and through its Director of the Office of Risk Management.

**Recitals**

WHEREAS, City and Broker have entered into the Agreement (as defined below); and

WHEREAS, City and Broker desire to modify the Agreement on the terms and conditions set forth herein to increase the contract amount; and

WHEREAS, the Agreement was competitively procured as required by San Francisco Administrative Code Chapter 21.1 through an RFQ issue on March 24, and this modification is consistent therewith; and

WHEREAS, the City’s Board of Supervisors approved this Agreement by [\[insert resolution number\]](#) on [\[insert date of Commission or Board action\]](#);

NOW, THEREFORE, Broker and the City agree as follows:

**Article 1 Definitions**

The following definitions shall apply to this Amendment:

1.1 **Agreement.** The term “Agreement” shall mean the Agreement dated June 26, 2017 between Broker and City.

1.2 **Other Terms.** Terms used and not defined in this Amendment shall have the meanings assigned to such terms in the Agreement.

**Article 2 Modifications to the Agreement.**

The Agreement is hereby modified as follows:

2.1 **Definitions.** *The following is hereby added to the Agreement as a Definition in Article 1:*

1.10 “Confidential Information” means confidential City information including, but not limited to, personally-identifiable information (“PII”), protected health information (“PHI”), or individual financial information (collectively, “Proprietary or Confidential Information”) that is subject to local, state or federal laws restricting the use and disclosure of such information, including, but not limited to, Article 1, Section 1 of the California Constitution; the California Information Practices Act (Civil Code § 1798 et seq.); the California Confidentiality of Medical Information Act (Civil Code § 56 et seq.); the federal Gramm-Leach-Bliley Act (15 U.S.C. §§ 6801(b) and 6805(b)(2)); the privacy and information security aspects of the Administrative Simplification provisions of the federal Health Insurance Portability and Accountability Act (45 CFR Part 160 and Subparts A, C, and E of part 164); and San Francisco Administrative Code Chapter 12M (Chapter 12M).

2.2 **Management of Private, Proprietary or Confidential Information and City Data.** The following is hereby added and incorporated into Article 11 of the Agreement:

11.14 **Management of Private, Proprietary or Confidential Information and City Data.**

11.14.1 **Protection of Private Information.** If this Agreement requires City to disclose "Private Information" to Broker within the meaning of San Francisco Administrative Code Chapter 12M, Broker and subcontractor shall use such information only in accordance with the restrictions stated in Chapter 12M and in this Agreement and only as necessary in performing the Services. Broker is subject to the enforcement and penalty provisions in Chapter 12M.

11.14.2 **Confidential Information.** In the performance of Services, Broker may have access to City's proprietary or Confidential Information, the disclosure of which to third parties may damage City. If City discloses proprietary or Confidential Information to Broker, such information must be held by Broker in confidence and used only in performing the Agreement. Broker shall exercise the same standard of care to protect such information as a reasonably prudent contractor would use to protect its own proprietary or Confidential Information.

11.14.3 **Access to City Data.** City shall at all times have access to and control of all data given to Broker by City in the performance of this Agreement (“City Data” or “Data”), and shall be able to retrieve it in a readable format, in electronic form and/or print, at any time, at no additional cost

11.14.4 **Use of City Data and Confidential Information.** Broker agrees to hold City's Confidential Information received from or created on behalf of the City in strictest confidence. Broker shall not use or disclose City's Data or Confidential Information except as permitted or required by the Agreement or as otherwise authorized in writing by the City. Any work using, or sharing or storage of, City's Confidential Information outside the United States is subject to prior written authorization by the City. Access to City's Confidential Information must be strictly controlled and limited to Broker’s staff assigned to this project on a need-to-know basis only. Broker is provided a limited non-exclusive license to use the City Data or Confidential Information solely for performing its obligations under the Agreement and not for Broker’s own purposes or later use. Nothing herein shall be construed to confer any license or right to the City Data or Confidential Information, by implication, estoppel or otherwise, under copyright or other intellectual property rights, to any third-party. Unauthorized use of City Data or Confidential Information by Broker, subcontractors or other third-parties is prohibited. For purpose of this requirement, the phrase “unauthorized use” means the data mining or processing

of data, stored or transmitted by the service, for commercial purposes, advertising or advertising-related purposes, or for any purpose other than security or service delivery analysis that is not explicitly authorized.

11.14.5 **Disposition of Confidential Information.** Upon termination of Agreement or request of City, Broker shall within forty-eight (48) hours return all Confidential Information which includes all original media. Once Broker has received written confirmation from City that Confidential Information has been successfully transferred to City, Broker shall within ten (10) business days purge all Confidential Information from its servers, any hosted environment Broker has used in performance of this Agreement, work stations that were used to process the data or for production of the data, and any other work files stored by Broker in whatever medium. Broker shall provide City with written certification that such purge occurred within five (5) business days of the purge.

11.14.6 **Notification of Legal Requests.** Broker shall immediately notify City upon receipt of any subpoenas, service of process, litigation holds, discovery requests and other legal requests (“Legal Requests”) related to all data given to Broker by City in the performance of this Agreement (“City Data” or “Data”), or which in any way might reasonably require access to City’s Data, and in no event later than 24 hours after it receives the request. Broker shall not respond to Legal Requests related to City without first notifying City other than to notify the requestor that the information sought is potentially covered under a non-disclosure agreement. Broker shall retain and preserve City Data in accordance with the City’s instruction and requests, including, without limitation, any retention schedules and/or litigation hold orders provided by the City to Broker, independent of where the City Data is stored.

2.3 **Assignment.** *The following is hereby added to Article 4 of the Agreement, replacing the previous Section 4.5 in its entirety:*

4.5 **Assignment.** The Services to be performed by Broker are personal in character. Neither this Agreement, nor any duties or obligations hereunder, may be directly or indirectly assigned, novated, hypothecated, transferred, or delegated by Broker, or, where the Broker is a joint venture, a joint venture partner, (collectively referred to as an “Assignment”) unless first approved by City by written instrument executed and approved in the same manner as this Agreement in accordance with the Administrative Code. The City’s approval of any such Assignment is subject to the Broker demonstrating to City’s reasonable satisfaction that the proposed transferee is: (i) reputable and capable, financially and otherwise, of performing each of Broker’s obligations under this Agreement and any other documents to be assigned, (ii) not forbidden by applicable law from transacting business or entering into contracts with City; and (iii) subject to the jurisdiction of the courts of the State of California. A change of ownership or control of Broker or a sale or transfer of substantially all of the assets of Broker shall be deemed an Assignment for purposes of this Agreement. Broker shall immediately notify City about any Assignment. Any purported Assignment made in violation of this provision shall be null and void.

2.4 **Withholding.** *The following is hereby added to Article 7 of the Agreement:*

7.3 **Withholding.** Broker agrees that it is obligated to pay all amounts due to the City under the San Francisco Business and Tax Regulations Code during the term of this Agreement. Pursuant to Section 6.10-2 of the San Francisco Business and Tax Regulations Code, Broker further acknowledges and agrees that City may withhold any payments due to Broker under this

Agreement if Broker is delinquent in the payment of any amount required to be paid to the City under the San Francisco Business and Tax Regulations Code. Any payments withheld under this paragraph shall be made to Broker, without interest, upon Broker coming back into compliance with its obligations.

2.5 **Limitations on Contributions.** *The following is hereby added to Article 10 of the Agreement, replacing the previous Section 10.11 in its entirety:*

**10.11 Limitations on Contributions.** By executing this Agreement, Broker acknowledges its obligations under section 1.126 of the City's Campaign and Governmental Conduct Code, which prohibits any person who contracts with, or is seeking a contract with, any department of the City for the rendition of personal services, for the furnishing of any material, supplies or equipment, for the sale or lease of any land or building, for a grant, loan or loan guarantee, or for a development agreement, from making any campaign contribution to (i) a City elected official if the contract must be approved by that official, a board on which that official serves, or the board of a state agency on which an appointee of that official serves, (ii) a candidate for that City elective office, or (iii) a committee controlled by such elected official or a candidate for that office, at any time from the submission of a proposal for the contract until the later of either the termination of negotiations for such contract or twelve months after the date the City approves the contract. The prohibition on contributions applies to each prospective party to the contract; each member of Broker's board of directors; Broker's chairperson, chief executive officer, chief financial officer and chief operating officer; any person with an ownership interest of more than 10% in Broker; any subcontractor listed in the bid or contract; and any committee that is sponsored or controlled by Broker. Broker certifies that it has informed each such person of the limitation on contributions imposed by Section 1.126 by the time it submitted a proposal for the contract, and has provided the names of the persons required to be informed to the City department with whom it is contracting.

2.6 *Article 2 – Term of the Agreement. Article 2 currently reads as follows:*

2.1 The term of this Agreement shall commence on the later of: (i) July 1, 2017 or (ii) the Effective Date and expire on June 30, 2020, unless earlier terminated as otherwise provided herein.

2.2 The City has three (3) options to renew the Agreement for a period of two (2) years each for a total maximum term of six (9) years if all three options are exercised by City. The City may extend this Agreement beyond the expiration date by exercising an option at the City's sole and absolute discretion and by modifying this Agreement as provided in Section 11.5, "Modification of this Agreement."

2.3 Prior to expiration of this Agreement, Broker shall commence and perform, with diligence, all actions necessary on the part of Broker to effect the termination of this Agreement and to minimize the liability of Broker and City to third parties as a result of expiration. Further, Broker shall perform all actions necessary for the uninterrupted continuance of insurance policies secured pursuant to this Agreement with the City and/or through an alternative Broker of the City's choosing. All such actions shall be subject to the prior approval of City.

*Such section is hereby amended in its entirety to read as follows:*

2.1 The term of this Agreement shall commence on the later of: (i) July 1, 2017 or (ii) the Effective Date and expire on June 30, 2022, unless earlier terminated as otherwise provided herein.

2.2 The City has two (2) options to renew the Agreement for a period of two (2) years each for a total maximum term of nine (9) years if all options are exercised by City. The City may extend this Agreement beyond the expiration date by exercising an option at the City's sole and absolute discretion and by modifying this Agreement as provided in Section 11.5, "Modification of this Agreement."

2.3 Prior to expiration of this Agreement, Broker shall commence and perform, with diligence, all actions necessary on the part of Broker to effect the termination of this Agreement and to minimize the liability of Broker and City to third parties as a result of expiration. Further, Broker shall perform all actions necessary for the uninterrupted continuance of insurance policies secured pursuant to this Agreement with the City and/or through an alternative Broker of the City's choosing. All such actions shall be subject to the prior approval of City.

2.7 **Payment.** *Section 3.3.1 Payment of the Agreement currently reads as follows:*

3.3.1 Payment. Broker shall provide an invoice to the City on a monthly basis for Services completed in the immediate preceding month, unless a different schedule is set out in Appendix B, "Calculation of Charges." Compensation shall be made for Services identified in the invoice that the Director of Risk Management, in his or her sole discretion, concludes has been satisfactorily performed. Payment shall be made within 30 calendar days of receipt of the invoice, unless the City notifies the Broker that a dispute as to the invoice exists. In no event shall the amount of this Agreement exceed \$34,500,000 (Thirty Three Million Five Hundred Thousand dollars). The breakdown of charges associated with this Agreement appears in Appendix B, "Calculation of Charges," attached hereto and incorporated by reference as though fully set forth herein. A portion of payment may be withheld until conclusion of the Agreement if agreed to both parties as retainage, described in Appendix B. In no event shall City be liable for interest or late charges for any late payments.

*Such section is hereby amended in its entirety to read as follows:*

3.3.1 Payment. Broker shall provide an invoice to the City on a monthly basis for Services completed in the immediate preceding month, unless a different schedule is set out in Appendix B, "Calculation of Charges." Compensation shall be made for Services identified in the invoice that the Director of Risk Management, in his or her sole discretion, concludes has been satisfactorily performed. Payment shall be made within 30 calendar days of receipt of the invoice, unless the City notifies the Broker that a dispute as to the invoice exists. In no event shall the amount of this Agreement exceed **\$74,000,000** (Seventy Four Million dollars). The breakdown of charges associated with this Agreement appears in Appendix B, "Calculation of

Charges,” attached hereto and incorporated by reference as though fully set forth herein. A portion of payment may be withheld until conclusion of the Agreement if agreed to both parties as retainage, described in Appendix B. In no event shall City be liable for interest or late charges for any late payments.

### **Article 3      Effective Date**

Each of the modifications set forth in Section 2 shall be effective on and after “the date of this Amendment.

### **Article 4      Legal Effect**

Except as expressly modified by this Amendment, all of the terms and conditions of the Agreement shall remain unchanged and in full force and effect.

IN WITNESS WHEREOF, Broker and City have executed this Amendment as of the date first referenced above.

CITY

Recommended by:

---

Matt Hansen  
Director  
Risk Management

Approved as to Form:

Dennis J. Herrera  
City Attorney

By: \_\_\_\_\_  
Gustin R. Guibert  
Deputy City Attorney

**BROKER**  
**Alliant Insurance Services, Inc.**

---

Dennis Mulqueeney, Senior Vice President  
Alliant Insurance Services, Inc.  
100 Pine Street, 11<sup>th</sup> Floor  
San Francisco, CA 94111

City vendor number: 56849