

AMENDMENT NO. 3
TO
AGREEMENT BETWEEN
CITY AND COUNTY OF SAN FRANCISCO
MUNICIPAL TRANSPORTATION AGENCY
AND
AON RISK INSURANCE SERVICES WEST, INC.
FOR
INSURANCE BROKERAGE SERVICES for an OWNER'S CONTROLLED
INSURANCE
PROGRAM ("OCIP") to provide EXCESS LIABILITY INSURANCE for the
CENTRAL SUBWAY PROJECT

(CONTRACT CS-163-1)

**CITY AND COUNTY OF SAN FRANCISCO
MUNICIPAL TRANSPORTATION AGENCY**

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**THE AGREEMENT BETWEEN THE CITY AND COUNTY OF SAN FRANCISCO
MUNICIPAL TRANSPORTATION AGENCY
AND
AON RISK INSURANCE SERVICES WEST, INC.
FOR
INSURANCE BROKERAGE SERVICES FOR AN OWNER'S CONTROLLED
INSURANCE PROGRAM ("OCIP") TO
PROVIDE EXCESS LIABILITY INSURANCE FOR THE CENTRAL SUBWAY
PROJECT**

This Amendment no. 3 is made this 23rd day of ~~April~~^{June}, 2014, in the City and County of San Francisco, State of California, by and between: Aon Risk Insurance Services West, Inc. ("Broker"), and the City and County of San Francisco, a municipal corporation ("City"), acting by and through its Municipal Transportation Agency ("SFMTA")

RECITALS

WHEREAS, On February 7, 2012, the SFMTA Board of Directors adopted Resolution No. 12-017, which authorized the Director of Transportation to execute Contract No. CS-163-1 between SFMTA and Broker for Insurance Brokerage Services for an Owner's Controlled Insurance Program ("OCIP") to provide Excess Liability Insurance for the Central Subway Project ("Agreement"), in an amount not-to-exceed \$9,808,750 and for a term of eight years, actual premium cost adjusted based on final bid costs of the covered contract work; and

WHEREAS, On August 3, 2012, the parties executed Amendment No. 1 to allow payment of services to more than one division of the Aon organization; and

WHEREAS, On November 6, 2012, the SFMTA Board of Directors adopted Resolution No. 12-135, which authorized the Director of Transportation to execute Amendment No. 2 to the Agreement to provide additional excess insurance coverage for the Central Subway Program and to bind each layer of additional excess insurance coverage for a total amount not-to-exceed \$8,280,000; for a total contract amount not-to-exceed \$18,088,750; and

WHEREAS, On May 21, 2013, the SFMTA awarded Contract 1300 for the construction of stations, trackway and systems for the Central Subway to Tutor Perini in an amount of \$839,676,400, which amount increased the value of the contract work covered by the excess insurance policies provided by Aon, and thereby triggered a net increase in the premium for those policies in the amount of \$684,382, which is now due;

NOW, THEREFORE, THE PARTIES AGREE AS FOLLOWS:

- 1. Section 5.2 of Agreement is deleted and replaced in its entirety with the following:**

5.2 (a) In no event shall the City's total expenditure (inclusive of all premiums, broker's fees, broker's commissions, Surplus Lines Taxes and fees, and government fees for insurance coverage, and other changes and fees) for insurance secured and services provided by Broker under this Agreement exceed **Ten Million Eight Hundred Seventy Eight Thousand Three Hundred Thirty Two Dollars (\$10,878,332)** for liability insurance coverage of \$150 Million in excess of \$200 Million.

(b) In addition, in no event shall the City's total expenditure (inclusive of all premiums, broker's fees, broker's commissions, Surplus Lines Taxes and fees, and government fees for insurance coverage, and other changes and fees) for insurance secured and services provided by Broker under this Agreement exceed **Seven Million Eight Hundred Ninety Four Thousand Eight Hundred Dollars (\$7,894,800)** for liability insurance coverage \$150 Million in excess of \$50 Million.

(c) The total cost to the City for the insurance coverage described above shall not exceed **Eighteen Million Seven Hundred Seventy Three Thousand One Hundred Thirty Two Dollars (\$18,773,132)**. Each component of the Broker's compensation and the breakdown of costs associated with this Agreement appear in Appendix C, "Calculation of Charges", attached hereto and incorporated by reference as though fully set forth herein.

2. **The contract amount is increased by \$684,382 for payment of additional premium due to additional covered construction contract value. All other terms and conditions of the Agreement remain unchanged.**

IN WITNESS WHEREOF, each party has duly executed this Third Amendment to the Agreement as of the date first referenced above.

CITY

BROKER

Municipal Transportation Agency




Edward D. Reiskin
Director of Transportation



Billy Deeb
Director, Public Entities
Aon Risk Insurance Services West, Inc.
199 Fremont Street, Suite 1500
San Francisco, CA 94105

Approved as to Form:
Dennis J. Herrera
City Attorney

By:  4-8-14

Robert K. Stone
Deputy City Attorney

CS-163-1
APPENDIX C
CALCULATION OF CHARGES

Note: The fees schedule and other compensation listed in the final Contract will be based on the selected Proposer's price bid submitted with its Proposal. The City anticipates that the compensation provisions of the final Contract will set out terms substantially similar to the following:

- 1. Total Amount.** The total amount of this Contract, inclusive of all broker's fees, administrative costs and charges, insurance premiums paid through Broker and other charges for services provided by the Broker, shall not exceed, Eighteen Million Seven Hundred Seventy Three Thousand One Hundred Thirty Two Dollars (\$18,773,132).
- 2. Fees.** As compensation for all services provided under this Agreement, including but not limited to program planning, marketing, placement, implementation and servicing of insurance policies, the SFMTA shall pay Broker standard commissions to be included in the Cost of Premiums. Broker shall disclose the amounts and percentages of its fees as provided in Sections 5.4. 5.5 and 5.6 of the Contract.
- 3. Invoices.** Invoices furnished by Broker under this Contract must be in a form acceptable to the Controller, and must include the Contract Progress Payment Authorization number. All amounts paid by City to Broker shall be subject to audit by the City.
- 4. Payment.** Payment shall be made by City to Broker at the address specified in the section entitled "Notices."
- 5. Cost of Premiums.** Total cost for insurance provided under this Agreement, including all Brokers fees, Surplus Lines taxes and government fees, shall not exceed Eighteen Million Seven Hundred Seventy Three Thousand One Hundred Thirty Two Dollars (\$18,773,132).
- 6. Taxes.** The aforesaid amounts for the Premiums specified in the Contract are inclusive of all federal, state and local sales taxes, use, excise, receipts, gross income and other similar taxes and governmental charges.
- 7. Late Payments.** In no event shall the City be liable for interest or late charges for any late payments.

8. Commissions. Broker fees set out herein shall be full and complete compensation for all Program services for the insurance procured under this Contract. Broker and its officers, agents and employees shall not accept or receive any additional commissions or payments from insurance companies, agents or affiliates as a result or in relation to any excess liability, or other insurance contract for the said insurance coverages.

If agreements with insurers require Broker to receive commissions in regard to the coverages provided under this Agreement, Broker will promptly notify City of such commissions and will credit an amount equal to the excess received and retained against any other amount owing to Broker.

9. Other Service Providers. City may choose to use a property appraiser, safety control service, structured settlement firm or other similar service provider in connection with the insurance coverages Broker places for City or the services Broker provides to the City. If City elects to use a service provider from which Broker or its corporate parents, subsidiaries or affiliates will receive any compensation directly or indirectly relating to the services City purchases from the provider, Broker will disclose additional information regarding that compensation to City before City makes a final decision to use the service provider.

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