

File No. 190995

Committee Item No. A

Board Item No. _____

COMMITTEE/BOARD OF SUPERVISORS

AGENDA PACKET CONTENTS LIST

Committee: Budget & Finance Committee

Date November 6, 2019

Board of Supervisors Meeting

Date _____

Cmte Board

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OTHER (Use back side if additional space is needed)

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Completed by: Linda Wong Date November 1, 2019

Completed by: Linda Wong Date _____

1 [Agreement Amendment - Alliant Insurance Services, Inc. - Insurance Brokerage Services -
2 Not to Exceed \$74,000,000]

3 **Resolution authorizing the Director of the Risk Management Division of the Office of**
4 **the City Administrator to enter into a First Amendment for insurance brokerage**
5 **services with Alliant Insurance Services, to increase the agreement amount by**
6 **\$39,500,000 for a total amount not to exceed \$74,000,000 pursuant to Charter, Section**
7 **9.118, with no change to the term length to expire on June 30, 2020, to commence upon**
8 **approval by the Board of Supervisors.**

9
10 WHEREAS, The City and County of San Francisco ("City") requires the services of a
11 qualified brokerage firm to place insurance coverages for the City; and

12 WHEREAS, The City Administrator, acting through the Director of the Risk
13 Management ("Risk Manager"), prequalified Alliant Insurance Services, Inc. ("Alliant") to
14 provide such services pursuant to a Request for Qualifications for Insurance Broker and Risk
15 Management Consulting Services issued in March 2016; and

16 WHEREAS, The Risk Manager entered into an Agreement with Alliant dated June 26,
17 2017, for the placement of City coverages for the Citywide Property Insurance Program; and

18 WHEREAS, The Agreement had a not to exceed amount of \$34,500,000 which applies
19 to the cost of premiums for City coverages; broker services compensation is by commissions
20 paid by insurance policy providers; except for risk management consulting services (if any),
21 Alliant is not directly compensated by or through the not to exceed contract value; and

22 WHEREAS, It is necessary to increase the value of the Agreement by \$39,500,000 to
23 cover the cost of premiums for FYs 2019-2020 through 2021-2022; and

24 WHEREAS, The funds for premiums will be paid via work order from the various City
25 departments and enterprises for which the insurance is being procured; now, therefore, be it

1 RESOLVED, That, pursuant to Charter, Section 9.118, the Board of Supervisors
2 hereby authorizes the Director of the Risk Management Division of the Office of the City
3 Administrator to amend its contract for insurance brokerage services with Alliant Insurance
4 Services, Inc. by executing the First Amendment in substantially the form attached hereto, to
5 increase the contract amount by \$39,500,000 from a not to exceed amount of \$34,500,000 to
6 a not to exceed amount of \$74,000,000; and, be it

7 FURTHER RESOLVED, That within 30 days of the contract being fully executed by all
8 parties, the Director of Risk Management shall provide the final contract to the Clerk of the
9 Board for inclusion into the official file.

<p>Item 4 File 19-0995</p>	<p>Department: General Services Agency - City Administrator's Office (CAO)</p>
<p>EXECUTIVE SUMMARY</p>	
<p style="text-align: center;">Legislative Objectives</p>	
<ul style="list-style-type: none"> • The proposed resolution would approve the First Amendment to the contract between the Risk Management Division (Risk Management) and Alliant Insurance Services, Inc., increasing the not-to-exceed amount by \$39,500,000, for a total not to exceed \$74,000,000, and extending the contract by two years, through June 30, 2022. 	
<p style="text-align: center;">Key Points</p>	
<ul style="list-style-type: none"> • Risk Management uses insurance brokerage services to purchase insurance for City departments, including property, liability, and other forms of third-party insurance. These brokers are responsible for assisting the City's Risk Management Division in evaluating City departments' insurance needs and assuring that City departments have the appropriate level of insurance coverage. • In March 2016, Risk Management issued a Request for Qualifications (RFQ) for insurance brokerage and risk management services and selected Alliant Insurance Services, Inc. for a contract. In May 2017, the Board of Supervisors approved a contract with Alliant for a term of three years, from July 2017 through June 2020, with three two-year options to extend through June 2026, and an amount not to exceed \$34,500,000. • The proposed resolution would approve the First Amendment to the contract with Alliant, extending the contract through June 2022 and increasing the not-to-exceed amount to \$74,000,000. While the contract would expire June 2022, as the contract allows for extensions in two-year increments, the not-to-exceed amount covers projected expenditures through June 2023. Risk Management may extend the contract administratively at a later date, to cover expenditures for FY 2022-23, without increasing the not-to-exceed amount. 	
<p style="text-align: center;">Fiscal Impact</p>	
<ul style="list-style-type: none"> • The proposed First Amendment increases the not-to-exceed amount of the contract by \$39,500,000, for a total not to exceed \$74,000,000. While the actual premium amounts are not yet known, the budget covers projected premium increases resulting from expected increases to the City's total insured value, due to new construction, updated appraisals of existing properties, and increased underwriter requirements. • The funding for premiums is paid through work orders from the various City departments for which the insurance is being procured. 	
<p style="text-align: center;">Recommendation</p>	
<ul style="list-style-type: none"> • Approve the proposed resolution. 	

MANDATE STATEMENT

City Charter Section 9.118(b) states that any contract entered into by a department, board or commission that (1) has a term of more than ten years, (2) requires expenditures of \$10 million or more, or (3) requires a modification of more than \$500,000 is subject to Board of Supervisors approval.

BACKGROUND

The City Administrator's Office's Risk Management Division (Risk Management) uses insurance brokerage services to purchase insurance for City departments, including property, liability, and other forms of third-party insurance. These brokers are responsible for assisting the City's Risk Management Division in evaluating City departments' insurance needs and assuring that City departments have the appropriate level of insurance coverage.

In March 2016, Risk Management issued a Request for Qualifications (RFQ) for insurance brokerage and risk management services and established a prequalified list of service providers. Risk Management selected Alliant Insurance Services, Inc., which had been the City's service provider since July 2011, to provide these services based on the RFQ process. In May 2017, the Board of Supervisors approved a contract with Alliant for a term of three years, from July 2017 through June 2020, at an amount not to exceed \$34,500,000, with three two-year options to extend through June 2026 (File 17-0341, Resolution 222-17).

In 2018, Risk Management issued another RFQ for insurance brokerage and risk management services and again deemed Alliant to meet the minimum requirements. According to Mr. Peter Goldstein, Risk Management Deputy Director, the City Attorney's Office has recommended conducting new RFQs every two to three years, as Risk Management maintains insurance contracts with several brokers. As noted above, the current contract expires June 30, 2020, and Risk Management proposes exercising the first two-year extension option through June 30, 2022.

DETAILS OF PROPOSED LEGISLATION

The City Administrator's Office will submit an amended resolution to the November 6, 2019 Budget and Finance Committee meeting to approve the First Amendment to the contract with Alliant, increasing the not-to-exceed amount by \$39,500,000, for a total not to exceed \$74,000,000, and extending the contract by two years, through June 30, 2022. Our report is based on the City Administrator's Office's proposed amended resolution.¹

Risk Management and Alliant have agreed on a rate structure for the next three fiscal years, FY 2020-21, FY 2021-22, and FY 2022-23. However, the contract allows for extending the term in two-year increments, and the First Amendment only extends the contract through June 2022. If the Board of Supervisors were to approve the proposed First Amendment, Risk Management

¹ File 19-0995 states that the First Amendment would increase the contract's not-to-exceed amount to \$74,000,000 but not change the expiration date of June 30, 2020. The proposed amended resolution makes the correction that the First Amendment would exercise the first option to extend through June 30, 2022.

would be able to extend the contract administratively at a later date, to cover expenditures for FY 2022-23, without increasing the not-to-exceed amount.

FISCAL IMPACT

The proposed First Amendment would increase the not-to-exceed amount of the contract by \$39,500,000, for a total not to exceed \$74,000,000. According to Mr. Goldstein, Risk Management will have expended approximately \$25,300,000 of the original \$34,500,000 not-to-exceed amount, leaving approximately \$9,200,000 in remaining contract authority.

The premium payment for FY 2019-20 was approximately \$12,200,000. According to Mr. Goldstein, premiums are projected to increase 10 percent annually in FY 2020-21 and FY 2021-22 and five percent in FY 2022-23, assuming no increases to the City’s total insured value. However, due to new facilities nearing construction completion, updated appraisals of existing facilities, and underwriter requirements that insured values reflect increasing construction costs in the region, the City’s total insured value will likely increase over the next three years. According to Mr. Goldstein, an additional \$5,000,000 is needed to cover premium increases due to increases in the City’s total insured value. The projected expenditures are shown in Table 1 below.

Table 1: Projected Expenditures of Alliant Contract Extension

	FY 2020-21	FY 2021-22	FY 2022-23	Total
Baseline Insurance Premiums	\$13,420,000	\$14,762,000	\$15,500,100	\$43,682,100
Premium Increases from Increases in Total Insured Value	1,500,000	1,750,000	1,750,000	5,000,000
Total Expenditures	\$14,920,000	\$16,512,000	\$17,250,100	\$48,682,100
Amount Available in Existing Contract Authority				(9,200,000)
Net Amount Needed				\$39,482,100

According to Mr. Matt Hansen, Risk Management Director, the actual premium amounts are unknown until shortly before payments are due by July 1 of each year. The City would make the final premium payment for FY 2022-23, estimated to be \$17,250,100 by June 30, 2022, the final date of the contract extension. While the final payment would be made by June 30, 2022, insurance coverage extends through June 30, 2023.

The funding for premiums is paid through work orders from the various City departments for which the insurance is being procured. According to Mr. Hansen, Alliant is only a passthrough broker that sells insurance across the global market. Premium costs would be nearly identical if sold through other prequalified insurance brokers.

RECOMMENDATION

Approve the proposed resolution.

Item 5 File 19-0996	Department: Administrative Services
EXECUTIVE SUMMARY	
<p style="text-align: center;">Legislative Objectives</p>	
<ul style="list-style-type: none"> • The proposed resolution would approve the First Amendment to the City’s Memorandum of Understanding (MOU) with Sunset Scavenger Company (Recology Sunset Scavenger), Golden Gate Disposal & Recycling Company (Recology Golden Gate), and Recology San Francisco. The proposed resolution would increase the Agreement’s total not to exceed amount from \$40 million to \$48 million. 	
<p style="text-align: center;">Key Points</p>	
<ul style="list-style-type: none"> • The City’s current MOU with Recology has a term from December 2014 through November 2020 and a not to exceed spending authority of \$40 million. The current MOU with Recology, like those before it, received a sole source waiver from the Office of Contract Administration because Recology has been the only entity permitted to collect refuse in San Francisco since 1932 (Section 290 of the Health Code). • Rates for refuse collection are set during rate processes conducted by SF Public Works and subject to appeal to the Refuse Rate Board, which consists of the City Administrator, the Controller, and the SF Public Utilities Commission Manager. The City’s refuse collection costs increased at least 12 percent annually. • Based on data provided by the Office of Contract Administration, the City has spent or encumbered \$39,990,731 of the \$40,000,000 not to exceed amount of the MOU. 	
<p style="text-align: center;">Fiscal Impact</p>	
<ul style="list-style-type: none"> • The proposed resolution would authorize an additional \$8 million in spending authority. According to Mr. Daniel Sanchez, Purchaser at the Office of Contract Administration, the additional \$8 million is required for City departments to pay their refuse collection bills for the remaining portion of FY 2019-20. 	
<p style="text-align: center;">Recommendation</p>	
<ul style="list-style-type: none"> • Approve the proposed resolution. 	

MANDATE STATEMENT

City Charter Section 9.118(b) states that any contract entered into by a department, board or commission that (1) has a term of more than ten years, (2) requires expenditures of \$10 million or more, or (3) requires a modification of more than \$500,000 is subject to Board of Supervisors approval.

BACKGROUND

Current Memorandum of Understanding with Recology

In December 2014, the Board of Supervisors approved a Memorandum of Understanding (MOU) between the City and Recology San Francisco and its subsidiaries, Recology Golden Gate and Recology Sunset Scavenger, for refuse collection for City facilities. The MOU has a term from December 2014 through November 2020 and a not to exceed spending authority of \$40 million. The current MOU with Recology, like those before it, received a sole source waiver from the Office of Contract Administration because Recology has been the only entity permitted to collect refuse in San Francisco since 1932 (Section 290 of the Health Code).

Rates for refuse collection are set during rate processes conducted by SF Public Works and subject to appeal to the Refuse Rate Board, which consists of the City Administrator, the Controller, and the SF Public Utilities Commission General Manager. Table 1 below shows the City’s annual spending 2015 – 2018. As shown below, refuse collection costs increased at least 12 percent annually.

Table 1: Actual Spending on Recology MOU, 2015 – 2018

Calendar Year	Average Monthly Spending	Annual Change
2015	\$487,559	n/a
2016	\$546,164	12%
2017	\$618,765	13%
2018	\$704,964	14%
2019 (through August)	\$788,317	12%

Source: Office of Contract Administration

Based on data provided by the Office of Contract Administration, the City has spent or encumbered \$39,990,731 of the \$40,000,000 not to exceed amount of the MOU.

DETAILS OF PROPOSED LEGISLATION

The proposed resolution would approve the First Amendment to the City’s Memorandum of Understanding with Sunset Scavenger Company (Recology Sunset Scavenger), Golden Gate Disposal & Recycling Company (Recology Golden Gate), and Recology San Francisco. The proposed resolution would increase the Agreement’s total not to exceed amount by \$8 million from \$40 million to \$48 million. Refuse collection includes all recyclables, compostable and landfill-bound trash.

FISCAL IMPACT

The proposed resolution would authorize an additional \$8 million in spending authority. According to Mr. Daniel Sanchez, Purchaser at the Office of Contract Administration, the additional \$8 million is required for City departments to pay their refuse collection bills for the remaining portion of FY 2019-20. According to Mr. Sanchez, refuse collection rates have risen faster than anticipated in 2014, when the Board of Supervisors approved the current MOU with Recology.

According to Mr. Sanchez, the Office of Contract Administration is planning to prepare a new Memorandum of Understanding with Recology that begins in FY 2020-21.

RECOMMENDATION

Approve the proposed resolution.

**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, 11th Floor
San Francisco, CA 94111

City vendor number: 56849

**City and County of San Francisco
Office of Contract Administration
Purchasing Division
City Hall, Room 430
1 Dr. Carlton B. Goodlett Place
San Francisco, California 94102-4685**

**Agreement between the City and County of San Francisco and
Alliant Insurance Services, Inc. for Citywide Property Insurance**

This Agreement is made this 26th day of June 2017, in the City and County of San Francisco ("City), State of California, by and between Alliant Insurance Services, Inc., hereinafter referred to as "Broker," and City.

Recitals

WHEREAS, the Risk Management Division of the City and County of San Francisco ("Department") wishes to secure the services of an insurance Broker for the City; and,

WHEREAS, this Agreement was competitively procured as required by San Francisco Administrative Code Chapter 21.1 through a Request for Qualifications ("RFQ") issued on **March 14, 2016**, in which City selected Broker as one of the qualified firms pursuant to the RFQ; and

WHEREAS, the Local Business Entity ("LBE") subcontracting participation requirement for this Agreement is 11%; and

WHEREAS, Broker represents and warrants that it is qualified to perform the Services required by City as set forth under this Agreement; and

WHEREAS, the City's Civil Service Commission approved Contract number PSC # 4021-10/11 on August 2, 2010, and as amended February 20, 2013; and

WHEREAS, approval for this Agreement was obtained from the San Francisco Board of Supervisors by Resolution No. 170431 on June 6, 2017

Now, THEREFORE, the parties agree as follows:

Article 1 Definitions

The following definitions apply to this Agreement:

1.1 "Agreement" means this contract document, including all attached appendices, and all applicable City Ordinances and Mandatory City Requirements which are specifically incorporated into this Agreement by reference as provided herein.

1.2 "City" or "the City" means the City and County of San Francisco, a municipal corporation, acting by and through both its Director of the Office of Contract Administration or the Director's designated agent, hereinafter referred to as "Purchasing" and the Risk Management Division of the General Services Agency."

1.3 "CMD" means the Contract Monitoring Division of the City.

1.4 "Broker" or "Consultant" means Alliant Insurance Services, Inc., 100 Pine Street, 11th Floor San Francisco, CA 94111

1.5 "Deliverables" means Broker's work product resulting from the Services that are provided by Broker to City during the course of Broker's performance of the Agreement, including without limitation, the work product described in the "Scope of Services" attached as Appendix A.

1.6 "Effective Date" means the date upon which the City's Controller certifies the availability of funds for this Agreement as provided in Section 3.1.

1.7 "Mandatory City Requirements" means those City laws set forth in the San Francisco Municipal Code, including the duly authorized rules, regulations, and guidelines implementing such laws, that impose specific duties and obligations upon Broker.

1.8 "Party" and "Parties" mean the City and Broker either collectively or individually.

1.9 "Services" means the work performed by Broker under this Agreement as specifically described in the "Scope of Services" attached as Appendix A, including all services, labor, supervision, materials, equipment, actions and other requirements to be performed and furnished by Broker under this Agreement.

Article 2 Term of the Agreement

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.

Article 3 Financial Matters

3.1 **Certification of Funds; Budget and Fiscal Provisions; Termination in the Event of Non-Appropriation.** This Agreement is subject to the budget and fiscal provisions of the City's Charter. Charges will accrue only after prior written authorization certified by the Controller, and the amount of City's obligation hereunder shall not at any time exceed the amount certified for the purpose and period stated in such advance authorization. This Agreement will terminate without penalty, liability or expense of any kind to City at the end of any fiscal year if funds are not appropriated for the next succeeding fiscal year. If funds are

appropriated for a portion of the fiscal year, this Agreement will terminate, without penalty, liability or expense of any kind at the end of the term for which funds are appropriated. City has no obligation to make appropriations for this Agreement in lieu of appropriations for new or other agreements. City budget decisions are subject to the discretion of the Mayor and the Board of Supervisors. Broker's assumption of risk of possible non-appropriation is part of the consideration for this Agreement.

THIS SECTION CONTROLS AGAINST ANY AND ALL OTHER PROVISIONS OF THIS AGREEMENT.

3.2 Guaranteed Maximum Costs. The City's payment obligation to Broker cannot at any time exceed the amount certified by City's Controller for the purpose and period stated in such certification. Absent an authorized Emergency per the City Charter or applicable Code, no City representative is authorized to offer or promise, nor is the City required to honor, any offered or promised payments to Broker under this Agreement in excess of the certified maximum amount without the Controller having first certified the additional promised amount and the Parties having modified this Agreement as provided in Section 11.5, "Modification of this Agreement."

3.3 Compensation.

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.

3.3.2 Payment Limited to Satisfactory Services. Broker is not entitled to any payments from City until The Risk Management Division of the General Services Agency approves Services, including any furnished Deliverables, as satisfying all of the requirements of this Agreement. Payments to Broker by City shall not excuse Broker from its obligation to replace unsatisfactory Deliverables, including equipment, components, materials, or Services even if the unsatisfactory character of such Deliverables, equipment, components, materials, or Services may not have been apparent or detected at the time such payment was made. Deliverables, equipment, components, materials and Services that do not conform to the requirements of this Agreement may be rejected by City and in such case must be replaced by Broker without delay at no cost to the City.

3.3.3 Withhold Payments. If Broker fails to provide Services in accordance with Broker's obligations under this Agreement, the City may withhold any and all payments

due Broker until such failure to perform is cured, and Broker shall not stop work as a result of City's withholding of payments as provided herein.

3.3.4 Invoice Format. Invoices furnished by Broker under this Agreement must be in a form acceptable to the Controller and City, and must include a unique invoice number. Payment shall be made by City as specified in 3.3.6," or in such alternate manner as the Parties have mutually agreed upon in writing.

3.3.5 LBE Payment and Utilization Tracking System. Broker must submit all required payment information using the online LBE Utilization Tracking System (LBEUTS) as required by CMD to enable the City to monitor Broker's compliance with the LBE subcontracting commitments in this Agreement. Broker shall pay its LBE sub-brokers within three working days after receiving payment from the City, except as otherwise authorized by the LBE Ordinance. The Controller is not authorized to pay invoices submitted by Broker prior to Broker's submission of all required CMD payment information. Failure to submit all required payment information to the LBEUTS with each payment request may result in the Controller withholding 20% of the payment due pursuant to that invoice until the required payment information is provided. Following City's payment of an invoice, Broker has ten calendar days to acknowledge using the online LBEUTS that all sub-brokers have been paid. Broker shall attend a LBEUTS training session. LBEUTS training session schedules are available at www.sfgov.org/lbeuts.

3.3.6 Getting paid for goods and/or services from the City.

(a) All City vendors receiving new contracts, contract renewals, or contract extensions must sign up to receive electronic payments through the City's Automated Clearing House (ACH) payments service/provider. Electronic payments are processed every business day and are safe and secure. To sign up for electronic payments, visit www.sfgov.org/ach.

(b) The following information is required to sign up: (i) The enroller must be their company's authorized financial representative, (ii) the company's legal name, main telephone number and all physical and remittance addresses used by the company, (iii) the company's U.S. federal employer identification number (EIN) or Social Security number (if they are a sole proprietor), and (iv) the company's bank account information, including routing and account numbers.

3.4 Audit and Inspection of Records. Broker agrees to maintain and make available to the City, during regular business hours, accurate books and accounting records relating to its Services. Broker will permit City to audit, examine and make excerpts and transcripts from such books and records, and to make audits of all invoices, materials, payrolls, records or personnel and other data related to all other matters covered by this Agreement, whether funded in whole or in part under this Agreement. Broker shall maintain such data and records in an accessible location and condition for a period of not fewer than five years after final payment under this Agreement or until after final audit has been resolved, whichever is later. The State of California or any Federal agency having an interest in the subject matter of this Agreement shall have the same rights as conferred upon City by this Section. Broker shall include the same audit and inspection rights and record retention requirements in all subcontracts.

3.5 Submitting False Claims. The full text of San Francisco Administrative Code Chapter 21, Section 21.35, including the enforcement and penalty provisions, is incorporated into this Agreement. Pursuant to San Francisco Administrative Code §21.35, any Broker or sub-broker who submits a false claim shall be liable to the City for the statutory penalties set forth in that section. A Broker or sub-broker will be deemed to have submitted a false claim to the City if the Broker or sub-broker: (a) knowingly presents or causes to be presented to an officer or employee of the City a false claim or request for payment or approval; (b) knowingly makes, uses, or causes to be made or used a false record or statement to get a false claim paid or approved by the City; (c) conspires to defraud the City by getting a false claim allowed or paid by the City; (d) knowingly makes, uses, or causes to be made or used a false record or statement to conceal, avoid, or decrease an obligation to pay or transmit money or property to the City; or (e) is a beneficiary of an inadvertent submission of a false claim to the City, subsequently discovers the falsity of the claim, and fails to disclose the false claim to the City within a reasonable time after discovery of the false claim.

3.6 Payment of Prevailing Wages - RESERVED

Article 4 Services and Resources

4.1 Services Broker Agrees to Perform. Broker agrees to perform the Services provided for in Appendix A, "Scope of Services." Officers and employees of the City are not authorized to request, and the City is not required to reimburse the Broker for, Services beyond the Scope of Services listed in Appendix A, unless Appendix A is modified as provided in Section 11.5, "Modification of this Agreement."

4.2 Qualified Personnel. Broker shall utilize only competent personnel under the supervision of, and in the employment of, Broker (or Broker's authorized sub-brokers) to perform the Services. Broker will comply with City's reasonable requests regarding assignment and/or removal of personnel, but all personnel, including those assigned at City's request, must be supervised by Broker. Broker shall commit adequate resources to allow timely completion within the project schedule specified in this Agreement.

4.3 Subcontracting.

4.3.1 Broker may subcontract portions of the Services only upon prior written approval of City. Broker is responsible for its sub-brokers throughout the course of the work required to perform the Services. All Subcontracts must incorporate the terms of Article 10 "Additional Requirements Incorporated by Reference" of this Agreement, unless inapplicable. Neither Party shall, on the basis of this Agreement, contract on behalf of, or in the name of, the other Party. Any agreement made in violation of this provision shall be null and void.

4.3.2 City's execution of this Agreement constitutes its approval of the sub-brokers listed in Appendix C.

4.4 Independent Broker; Payment of Employment Taxes and Other Expenses.

4.4.1 **Independent Broker.** For the purposes of this Article 4, "Broker" shall be deemed to include not only Broker, but also any agent or employee of Broker. Broker acknowledges and agrees that at all times, Broker or any agent or employee of Broker shall be deemed at all times to be an independent Broker and is wholly responsible for the manner in which it performs the services and work requested by City under this Agreement. Broker, its agents, and employees will not represent or hold themselves out to be employees of the City at any time. Broker or any agent or employee of Broker shall not have employee status with City, nor be entitled to participate in any plans, arrangements, or distributions by City pertaining to or in connection with any retirement, health or other benefits that City may offer its employees. Broker or any agent or employee of Broker is liable for the acts and omissions of itself, its employees and its agents. Broker shall be responsible for all obligations and payments, whether imposed by federal, state or local law, including, but not limited to, FICA, income tax withholdings, unemployment compensation, insurance, and other similar responsibilities related to Broker's performing services and work, or any agent or employee of Broker providing same. Nothing in this Agreement shall be construed as creating an employment or agency relationship between City and Broker or any agent or employee of Broker. Any terms in this Agreement referring to direction from City shall be construed as providing for direction as to policy and the result of Broker's work only, and not as to the means by which such a result is obtained. City does not retain the right to control the means or the method by which Broker performs work under this Agreement. Broker agrees to maintain and make available to City, upon request and during regular business hours, accurate books and accounting records demonstrating Broker's compliance with this section. Should City determine that Broker, or any agent or employee of Broker, is not performing in accordance with the requirements of this Agreement, City shall provide Broker with written notice of such failure. Within five (5) business days of Broker's receipt of such notice, and in accordance with Broker policy and procedure, Broker shall remedy the deficiency. Notwithstanding, if City believes that an action of Broker, or any agent or employee of Broker, warrants immediate remedial action by Broker, City shall contact Broker and provide Broker in writing with the reason for requesting such immediate action.

4.4.2 **Payment of Employment Taxes and Other Expenses.** Should City, in its discretion, or a relevant taxing authority such as the Internal Revenue Service or the State Employment Development Division, or both, determine that Broker is an employee for purposes of collection of any employment taxes, the amounts payable under this Agreement shall be reduced by amounts equal to both the employee and employer portions of the tax due (and offsetting any credits for amounts already paid by Broker which can be applied against this liability). City shall then forward those amounts to the relevant taxing authority. Should a relevant taxing authority determine a liability for past services performed by Broker for City, upon notification of such fact by City, Broker shall promptly remit such amount due or arrange with City to have the amount due withheld from future payments to Broker under this Agreement (again, offsetting any amounts already paid by Broker which can be applied as a credit against such liability). A determination of employment status pursuant to the preceding two paragraphs shall be solely for the purposes of the particular tax in question, and for all other purposes of this Agreement, Broker shall not be considered an employee of City. Notwithstanding the foregoing, Broker agrees to indemnify and save harmless City and its officers, agents and employees from, and, if requested, shall defend them against any and all claims, losses, costs, damages, and expenses, including attorneys' fees, arising from this section.

4.5 **Assignment.** The Services to be performed by Broker are personal in character and neither this Agreement nor any duties or obligations hereunder may be assigned or delegated by Broker unless first approved by City by written instrument executed and approved in the same manner as this Agreement. Any purported assignment made in violation of this provision shall be null and void.

4.6 **Warranty.** Broker warrants to City that the Services will be performed with the degree of skill and care that is required by current, good and sound professional procedures and practices, and in conformance with generally accepted professional standards prevailing at the time the Services are performed so as to ensure that all Services performed are correct and appropriate for the purposes contemplated in this Agreement.

Article 5 Insurance and Indemnity

5.1 Insurance.

5.1.1 **Required Coverages.** Without in any way limiting Broker's liability pursuant to the "Indemnification" section of this Agreement, Broker must maintain in force, during the full term of the Agreement, insurance in the following amounts and coverages:

(a) Workers' Compensation, in statutory amounts, with Employers' Liability Limits not less than \$1,000,000 each accident, injury, or illness; and

(b) Commercial General Liability Insurance with limits not less than \$2,000,000 each occurrence for Bodily Injury and Property Damage, including Contractual Liability, Personal Injury, Products and Completed Operations; and

(c) Commercial Automobile Liability Insurance with limits not less than \$1,000,000 each occurrence, "Combined Single Limit" for Bodily Injury and Property Damage, including Owned, Non-Owned and Hired auto coverage, as applicable.

(d) Professional liability insurance, applicable to Broker's profession, with limits not less than \$10,000,000 each claim with respect to negligent acts, errors or omissions in connection with the Services.

5.1.2 Commercial General Liability and Commercial Automobile Liability Insurance policies must be endorsed to provide:

(a) Name as Additional Insured the City and County of San Francisco, its Officers, Agents, and Employees.

(b) That such policies are primary insurance to any other insurance available to the Additional Insureds, with respect to any claims arising out of this Agreement, and that insurance applies separately to each insured against whom claim is made or suit is brought.

5.1.3 Broker shall provide thirty (30) days' advance written notice to the City of cancellation for any reason, intended non-renewal, or reduction in coverages. Notices shall be sent to the City address set forth in Section 11.1, entitled "Notices to the Parties."

5.1.4 Should any of the required insurance be provided under a claims-made form, Broker shall maintain such coverage continuously throughout the term of this Agreement and, without lapse, for a period of three years beyond the expiration of this Agreement, to the effect that, should occurrences during the contract term give rise to claims made after expiration of the Agreement, such claims shall be covered by such claims-made policies.

5.1.5 Should any of the required insurance be provided under a form of coverage that includes a general annual aggregate limit or provides that claims investigation or legal defense costs be included in such general annual aggregate limit, such general annual aggregate limit shall be double the occurrence or claims limits specified above.

5.1.6 Should any required insurance lapse during the term of this Agreement, requests for payments originating after such lapse shall not be processed until the City receives satisfactory evidence of reinstated coverage as required by this Agreement, effective as of the lapse date. If insurance is not reinstated, the City may, at its sole option, terminate this Agreement effective on the date of such lapse of insurance.

5.1.7 Before commencing any Services, Broker shall furnish to City certificates of insurance and additional insured policy endorsements with insurers with ratings comparable to A-, VIII or higher, that are authorized to do business in the State of California, and that are satisfactory to City, in form evidencing all coverages set forth above. Approval of the insurance by City shall not relieve or decrease Broker's liability hereunder.

5.1.8 The Workers' Compensation policy(ies) shall be endorsed with a waiver of subrogation in favor of the City for all work performed by the Broker, its employees, agents and sub-brokers.

5.1.9 If Broker will use any sub-broker(s) to provide Services, Broker shall require the sub-broker(s) to provide all necessary insurance and to name the City and County of San Francisco, its officers, agents and employees and the Broker as additional insureds.

5.2 Indemnification. Broker shall indemnify and hold harmless City and its officers, agents and employees from, and, if requested, shall defend them from and against any and all claims, demands, losses, damages, costs, expenses, and liability (legal, contractual, or otherwise) arising from or in any way connected with any: (i) injury to or death of a person, including employees of City or Broker; (ii) loss of or damage to property; (iii) violation of local, state, or federal common law, statute or regulation, including but not limited to privacy or personally identifiable information, health information, disability and labor laws or regulations; (iv) strict liability imposed by any law or regulation; or (v) losses arising from Broker's execution of subcontracts not in accordance with the requirements of this Agreement applicable to sub-brokers; so long as such injury, violation, loss, or strict liability (as set forth in subsections (i) – (v) above) arises directly or indirectly from Broker's performance of this Agreement, including, but not limited to, Broker's use of facilities or equipment provided by City or others, regardless of the negligence of, and regardless of whether liability without fault is imposed or sought to be imposed on City, except to the extent that such indemnity is void or otherwise unenforceable under applicable law, and except where such loss, damage, injury, liability or claim is the result of the active negligence or willful misconduct of City and is not contributed to by any act of, or by any omission to perform some duty imposed by law or agreement on Broker, its sub-brokers, or either's agent or employee. The foregoing indemnity shall include, without limitation, reasonable fees of attorneys, consultants and experts and related costs and City's costs of investigating any claims against the City.

In addition to Broker's obligation to indemnify City, Broker specifically acknowledges and agrees that it has an immediate and independent obligation to defend City from any claim

which actually or potentially falls within this indemnification provision, even if the allegations are or may be groundless, false or fraudulent, which obligation arises at the time such claim is tendered to Broker by City and continues at all times thereafter.

Broker shall indemnify and hold City harmless from all loss and liability, including attorneys' fees, court costs and all other litigation expenses for any infringement of the patent rights, copyright, trade secret or any other proprietary right or trademark, and all other intellectual property claims of any person or persons arising directly or indirectly from the receipt by City, or any of its officers or agents, of Broker's Services.

5.2.1 Limitations. No insurance policy covering the Broker's performance under this Agreement shall operate to limit the Broker's Liabilities under this provision. Nor shall the amount of insurance coverage operate to limit the extent of such Liabilities. The Broker assumes no liability whatsoever for the sole negligence, active negligence, or willful misconduct of any Indemnitee or the Brokers of any Indemnitee.

5.2.2 Copyright Infringement. Broker shall also indemnify, defend and hold harmless all Indemnitees from all suits or claims for infringement of the patent rights, copyright, trade secret, trade name, trademark, service mark, or any other proprietary right of any person or persons in consequence of the use by the City, or any of its boards, commissions, officers, or employees of articles, work or deliverables supplied in the performance of Services. Infringement of patent rights, copyrights, or other proprietary rights in the performance of this Agreement, if not the basis for indemnification under the law, shall nevertheless be considered a material breach of contract.

Article 6 Liability of the Parties

6.1 Liability of City. CITY'S PAYMENT OBLIGATIONS UNDER THIS AGREEMENT SHALL BE LIMITED TO THE PAYMENT OF THE COMPENSATION PROVIDED FOR IN SECTION 3.3.1, "PAYMENT," OF THIS AGREEMENT. NOTWITHSTANDING ANY OTHER PROVISION OF THIS AGREEMENT, IN NO EVENT SHALL CITY BE LIABLE, REGARDLESS OF WHETHER ANY CLAIM IS BASED ON CONTRACT OR TORT, FOR ANY SPECIAL, CONSEQUENTIAL, INDIRECT OR INCIDENTAL DAMAGES, INCLUDING, BUT NOT LIMITED TO, LOST PROFITS, ARISING OUT OF OR IN CONNECTION WITH THIS AGREEMENT OR THE SERVICES PERFORMED IN CONNECTION WITH THIS AGREEMENT.

6.2 Liability for Use of Equipment. City shall not be liable for any damage to persons or property as a result of the use, misuse or failure of any equipment used by Broker, or any of its sub-brokers, or by any of their employees, even though such equipment is furnished, rented or loaned by City.

6.3 Liability for Incidental and Consequential Damages. Broker shall be responsible for incidental and consequential damages resulting in whole or in part from Broker's acts or omissions.

Article 7 Payment of Taxes

7.1 Except for any applicable California sales and use taxes charged by Broker to City, Broker shall pay all taxes, including possessory interest taxes levied upon or as a result of this Agreement, or the Services delivered pursuant hereto. Broker shall remit to the State of California any sales or use taxes paid by City to Broker under this Agreement. Broker agrees to

promptly provide information requested by the City to verify Broker's compliance with any State requirements for reporting sales and use tax paid by City under this Agreement.

7.2 Broker acknowledges that this Agreement may create a "possessory interest" for property tax purposes. Generally, such a possessory interest is not created unless the Agreement entitles the Broker to possession, occupancy, or use of City property for private gain. If such a possessory interest is created, then the following shall apply:

7.2.1 Broker, on behalf of itself and any permitted successors and assigns, recognizes and understands that Broker, and any permitted successors and assigns, may be subject to real property tax assessments on the possessory interest.

7.2.2 Broker, on behalf of itself and any permitted successors and assigns, recognizes and understands that the creation, extension, renewal, or assignment of this Agreement may result in a "change in ownership" for purposes of real property taxes, and therefore may result in a revaluation of any possessory interest created by this Agreement. Broker accordingly agrees on behalf of itself and its permitted successors and assigns to report on behalf of the City to the County Assessor the information required by Revenue and Taxation Code section 480.5, as amended from time to time, and any successor provision.

7.2.3 Broker, on behalf of itself and any permitted successors and assigns, recognizes and understands that other events also may cause a change of ownership of the possessory interest and result in the revaluation of the possessory interest. (see, e.g., Rev. & Tax. Code section 64, as amended from time to time). Broker accordingly agrees on behalf of itself and its permitted successors and assigns to report any change in ownership to the County Assessor, the State Board of Equalization or other public agency as required by law.

7.2.4 Broker further agrees to provide such other information as may be requested by the City to enable the City to comply with any reporting requirements for possessory interests that are imposed by applicable law.

Article 8 Termination and Default

8.1 Termination for Convenience

8.1.1 City shall have the option, in its sole discretion, to terminate this Agreement, at any time during the term hereof, for convenience and without cause. City shall exercise this option by giving Broker written notice of termination. The notice shall specify the date on which termination shall become effective.

8.1.2 Upon receipt of the notice of termination, Broker shall commence and perform, with diligence, all actions necessary on the part of Broker to effect the termination of this Agreement on the date specified by City and to minimize the liability of Broker and City to third parties as a result of termination. All such actions shall be subject to the prior approval of City. Such actions shall include, without limitation:

(a) Halting the performance of all Services under this Agreement on the date(s) and in the manner specified by City.

(b) Terminating all existing orders and subcontracts, and not placing any further orders or subcontracts for materials, Services, equipment or other items.

(c) At City's direction, assigning to City any or all of Broker's right, title, and interest under the orders and subcontracts terminated. Upon such assignment, City shall have the right, in its sole discretion, to settle or pay any or all claims arising out of the termination of such orders and subcontracts.

(d) Subject to City's approval, settling all outstanding liabilities and all claims arising out of the termination of orders and subcontracts.

(e) Completing performance of any Services that City designates to be completed prior to the date of termination specified by City.

(f) Taking such action as may be necessary, or as the City may direct, for the protection and preservation of any property related to this Agreement which is in the possession of Broker and in which City has or may acquire an interest.

8.1.3 Within 30 days after the specified termination date, Broker shall submit to City an invoice, which shall set forth each of the following as a separate line item:

(a) The reasonable cost to Broker, without profit, for all Services prior to the specified termination date, for which Services City has not already tendered payment. Reasonable costs may include a reasonable allowance for actual overhead, not to exceed a total of 10% of Broker's direct costs for Services. Any overhead allowance shall be separately itemized. Broker may also recover the reasonable cost of preparing the invoice.

(b) A reasonable allowance for profit on the cost of the Services described in the immediately preceding subsection (a), provided that Broker can establish, to the satisfaction of City, that Broker would have made a profit had all Services under this Agreement been completed, and provided further, that the profit allowed shall in no event exceed 5% of such cost.

(c) The reasonable cost to Broker of handling material or equipment returned to the vendor, delivered to the City or otherwise disposed of as directed by the City.

(d) A deduction for the cost of materials to be retained by Broker, amounts realized from the sale of materials and not otherwise recovered by or credited to City, and any other appropriate credits to City against the cost of the Services or other work.

8.1.4 In no event shall City be liable for costs incurred by Broker or any of its sub-brokers after the termination date specified by City, except for those costs specifically enumerated and described in Section 8.1.3. Such non-recoverable costs include, but are not limited to, anticipated profits on the Services under this Agreement, post-termination employee salaries, post-termination administrative expenses, post-termination overhead or unabsorbed overhead, attorneys' fees or other costs relating to the prosecution of a claim or lawsuit, prejudgment interest, or any other expense which is not reasonable or authorized under Section 8.1.3.

8.1.5 In arriving at the amount due to Broker under this Section, City may deduct: (i) all payments previously made by City for Services covered by Broker's final invoice; (ii) any claim which City may have against Broker in connection with this Agreement; (iii) any invoiced costs or expenses excluded pursuant to the immediately preceding subsection 8.1.4; and (iv) in instances in which, in the opinion of the City, the cost of any Service performed under this Agreement is excessively high due to costs incurred to remedy or replace defective or rejected

Services, the difference between the invoiced amount and City's estimate of the reasonable cost of performing the invoiced Services in compliance with the requirements of this Agreement.

8.1.6 City's payment obligation under this Section shall survive termination of this Agreement.

8.2 Termination for Default; Remedies.

8.2.1 Each of the following shall constitute an immediate event of default ("Event of Default") under this Agreement:

(a) Broker fails or refuses to perform or observe any term, covenant or condition contained in any of the following Sections of this Agreement:

3.5	Submitting False Claims.	10.4	Nondisclosure of Private, Proprietary or Confidential Information
4.5	Assignment	10.10	Alcohol and Drug-Free Workplace
Article 5	Insurance and Indemnity	10.13	Working with Minors
Article 7	Payment of Taxes	11.10	Compliance with Laws

(b) Broker fails or refuses to perform or observe any other term, covenant or condition contained in this Agreement, including any obligation imposed by ordinance or statute and incorporated by reference herein, and such default continues for a period of ten days after written notice thereof from City to Broker.

(c) Broker (i) is generally not paying its debts as they become due; (ii) files, or consents by answer or otherwise to the filing against it of a petition for relief or reorganization or arrangement or any other petition in bankruptcy or for liquidation or to take advantage of any bankruptcy, insolvency or other debtors' relief law of any jurisdiction; (iii) makes an assignment for the benefit of its creditors; (iv) consents to the appointment of a custodian, receiver, trustee or other officer with similar powers of Broker or of any substantial part of Broker's property; or (v) takes action for the purpose of any of the foregoing.

(d) A court or government authority enters an order (i) appointing a custodian, receiver, trustee or other officer with similar powers with respect to Broker or with respect to any substantial part of Broker's property, (ii) constituting an order for relief or approving a petition for relief or reorganization or arrangement or any other petition in bankruptcy or for liquidation or to take advantage of any bankruptcy, insolvency or other debtors' relief law of any jurisdiction or (iii) ordering the dissolution, winding-up or liquidation of Broker.

8.2.2 On and after any Event of Default, City shall have the right to exercise its legal and equitable remedies, including, without limitation, the right to terminate this Agreement or to seek specific performance of all or any part of this Agreement. In addition, where applicable, City shall have the right (but no obligation) to cure (or cause to be cured) on behalf of Broker any Event of Default; Broker shall pay to City on demand all costs and expenses incurred by City in effecting such cure, with interest thereon from the date of incurrence at the maximum rate then permitted by law. City shall have the right to offset from any amounts due to Broker under this Agreement or any other agreement between City and Broker: (i) all damages, losses, costs or expenses incurred by City as a result of an Event of Default; and (ii) any liquidated

damages levied upon Broker pursuant to the terms of this Agreement; and (iii), any damages imposed by any ordinance or statute that is incorporated into this Agreement by reference, or into any other agreement with the City.

8.2.3 All remedies provided for in this Agreement may be exercised individually or in combination with any other remedy available hereunder or under applicable laws, rules and regulations. The exercise of any remedy shall not preclude or in any way be deemed to waive any other remedy. Nothing in this Agreement shall constitute a waiver or limitation of any rights that City may have under applicable law.

8.2.4 Any notice of default must be sent by registered mail to the address set forth in Article 11.

8.3 **Non-Waiver of Rights.** The omission by either party at any time to enforce any default or right reserved to it, or to require performance of any of the terms, covenants, or provisions hereof by the other party at the time designated, shall not be a waiver of any such default or right to which the party is entitled, nor shall it in any way affect the right of the party to enforce such provisions thereafter.

8.4 **Rights and Duties upon Termination or Expiration.**

8.4.1 This Section and the following Sections of this Agreement listed below, shall survive termination or expiration of this Agreement:

3.3.2	Payment Limited to Satisfactory Services	9.1	Ownership of Results
3.3.7(a)	Grant Funded Contracts - Disallowance	9.2	Works for Hire
3.4	Audit and Inspection of Records	10.4	Nondisclosure of Private, Proprietary or Confidential Information
3.5	Submitting False Claims	11.6	Dispute Resolution Procedure
Article 5	Insurance and Indemnity	11.7	Agreement Made in California; Venue
6.1	Liability of City	11.8	Construction
6.3	Liability for Incidental and Consequential Damages	11.9	Entire Agreement
Article 7	Payment of Taxes	11.10	Compliance with Laws
8.1.6	Payment Obligation	11.11	Severability

8.4.2 Subject to the survival of the Sections identified in Section 8.4.1, above, if this Agreement is terminated prior to expiration of the term specified in Article 2, this Agreement shall be of no further force or effect. Broker shall transfer title to City, and deliver in the manner, at the times, and to the extent, if any, directed by City, any work in progress, completed work, supplies, equipment, and other materials produced as a part of, or acquired in connection with the performance of this Agreement, and any completed or partially completed

work which, if this Agreement had been completed, would have been required to be furnished to City.

Article 9 Rights In Deliverables

9.1 Ownership of Results. Any interest of Broker or its sub-brokers, in the Deliverables, including any drawings, plans, specifications, blueprints, studies, reports, memoranda, computation sheets, computer files and media or other documents prepared by Broker or its sub-brokers for the purposes of this agreement, shall become the property of and will be transmitted to City. However, unless expressly prohibited elsewhere in this Agreement, Broker may retain and use copies for reference and as documentation of its experience and capabilities.

9.2 Works for Hire. If, in connection with Services, Broker or its sub-brokers creates Deliverables including, without limitation, artwork, copy, posters, billboards, photographs, videotapes, audiotapes, systems designs, software, reports, diagrams, surveys, blueprints, source codes, or any other original works of authorship, whether in digital or any other format, such works of authorship shall be works for hire as defined under Title 17 of the United States Code, and all copyrights in such works shall be the property of the City. If any Deliverables created by Broker or its sub-broker(s) under this Agreement are ever determined not to be works for hire under U.S. law, Broker hereby assigns all Broker's copyrights to such Deliverables to the City, agrees to provide any material and execute any documents necessary to effectuate such assignment, and agrees to include a clause in every subcontract imposing the same duties upon sub-broker(s). With City's prior written approval, Broker and its sub-broker(s) may retain and use copies of such works for reference and as documentation of their respective experience and capabilities.

Article 10 Additional Requirements Incorporated by Reference

10.1 Laws Incorporated by Reference. The full text of the laws listed in this Article 10, including enforcement and penalty provisions, are incorporated by reference into this Agreement. The full text of the San Francisco Municipal Code provisions incorporated by reference in this Article and elsewhere in the Agreement ("Mandatory City Requirements") are available at http://www.amlegal.com/codes/client/san-francisco_ca/ .

10.2 Conflict of Interest. By executing this Agreement, Broker certifies that it does not know of any fact which constitutes a violation of Section 15.103 of the City's Charter; Article III, Chapter 2 of City's Campaign and Governmental Conduct Code; Title 9, Chapter 7 of the California Government Code (Section 87100 *et seq.*), or Title 1, Division 4, Chapter 1, Article 4 of the California Government Code (Section 1090 *et seq.*), and further agrees promptly to notify the City if it becomes aware of any such fact during the term of this Agreement.

10.3 Prohibition on Use of Public Funds for Political Activity. In performing the Services, Broker shall comply with San Francisco Administrative Code Chapter 12G, which prohibits funds appropriated by the City for this Agreement from being expended to participate in, support, or attempt to influence any political campaign for a candidate or for a ballot measure. Broker is subject to the enforcement and penalty provisions in Chapter 12G.

10.4 Reserved.

10.5 Nondiscrimination Requirements

10.5.1 Non Discrimination in Contracts. Broker shall comply with the provisions of Chapters 12B and 12C of the San Francisco Administrative Code. Broker shall incorporate by reference in all subcontracts the provisions of Sections 12B.2(a), 12B.2(c)-(k), and 12C.3 of the San Francisco Administrative Code and shall require all sub-brokers to comply with such provisions. Broker is subject to the enforcement and penalty provisions in Chapters 12B and 12C.

10.5.2 Nondiscrimination in the Provision of Employee Benefits. San Francisco Administrative Code 12B.2. Broker does not as of the date of this Agreement, and will not during the term of this Agreement, in any of its operations in San Francisco, on real property owned by San Francisco, or where work is being performed for the City elsewhere in the United States, discriminate in the provision of employee benefits between employees with domestic partners and employees with spouses and/or between the domestic partners and spouses of such employees, subject to the conditions set forth in San Francisco Administrative Code Section 12B.2.

10.6 Local Business Enterprise and Non-Discrimination in Contracting Ordinance. Broker shall comply with all applicable provisions of Chapter 14B ("LBE Ordinance"). Broker is subject to the enforcement and penalty provisions in Chapter 14B. Broker shall utilize LBE Sub-brokers for at least eleven per cent (11 %) of the Services except as otherwise authorized in writing by the Director of CMD. Broker shall incorporate the requirements of the LBE Ordinance in each subcontract made in the fulfillment of Broker's LBE subcontracting commitments.

10.7 Minimum Compensation Ordinance. Broker shall pay covered employees no less than the minimum compensation required by San Francisco Administrative Code Chapter 12P. Broker is subject to the enforcement and penalty provisions in Chapter 12P. By signing and executing this Agreement, Broker certifies that it is in compliance with Chapter 12P.

10.8 Health Care Accountability Ordinance. Broker shall comply with San Francisco Administrative Code Chapter 12Q. Broker shall choose and perform one of the Health Care Accountability options set forth in San Francisco Administrative Code Chapter 12Q.3. Broker is subject to the enforcement and penalty provisions in Chapter 12Q.

10.9 First Source Hiring Program. Broker must comply with all of the provisions of the First Source Hiring Program, Chapter 83 of the San Francisco Administrative Code, that apply to this Agreement, and Broker is subject to the enforcement and penalty provisions in Chapter 83.

10.10 Alcohol and Drug-Free Workplace. City reserves the right to deny access to, or require Broker to remove from, City facilities personnel of any Broker or sub-broker who City has reasonable grounds to believe has engaged in alcohol abuse or illegal drug activity which in any way impairs City's ability to maintain safe work facilities or to protect the health and well-being of City employees and the general public. City shall have the right of final approval for the entry or re-entry of any such person previously denied access to, or removed from, City facilities. Illegal drug activity means possessing, furnishing, selling, offering, purchasing, using or being under the influence of illegal drugs or other controlled substances for which the individual lacks a valid prescription. Alcohol abuse means possessing, furnishing, selling, offering, or using alcoholic beverages, or being under the influence of alcohol.

10.11 Limitations on Contributions. By executing this Agreement, Broker acknowledges that it is familiar with section 1.126 of the City's Campaign and Governmental Conduct Code, which prohibits any person who contracts with 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, or for a grant, loan or loan guarantee, from making any campaign contribution to (1) an individual holding a City elective office if the contract must be approved by the individual, a board on which that individual serves, or the board of a state agency on which an appointee of that individual serves, (2) a candidate for the office held by such individual, or (3) a committee controlled by such individual, at any time from the commencement of negotiations for the contract until the later of either the termination of negotiations for such contract or six months after the date the contract is approved. 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 20 percent in Broker; any sub-broker listed in the bid or contract; and any committee that is sponsored or controlled by Broker. Broker must inform each such person of the limitation on contributions imposed by Section 1.126 and provide the names of the persons required to be informed to City.

10.12 Slavery Era Disclosure. Broker shall comply with San Francisco Administrative Code Chapter 12Y, San Francisco Slavery Era Disclosure Ordinance, including but not limited to Broker's affirmative duty to research and disclose evidence of Broker, its parent or subsidiary entity, or its Predecessor Company's Participation in the Slave Trade or receipt of Profits from the Slave Trade. Broker is subject to the enforcement and penalty provisions in Chapter 12Y.

10.13 Consideration of Criminal History in Hiring and Employment Decisions

10.13.1 Broker agrees to comply fully with and be bound by all of the provisions of Chapter 12T, "City Broker/Sub-broker Consideration of Criminal History in Hiring and Employment Decisions," of the San Francisco Administrative Code ("Chapter 12T"), including the remedies provided, and implementing regulations, as may be amended from time to time. The provisions of Chapter 12T are incorporated by reference and made a part of this Agreement as though fully set forth herein. The text of the Chapter 12T is available on the web at <http://sfgov.org/olse/fco>. Broker is required to comply with all of the applicable provisions of 12T, irrespective of the listing of obligations in this Section. Capitalized terms used in this Section and not defined in this Agreement shall have the meanings assigned to such terms in Chapter 12T.

10.13.2 The requirements of Chapter 12T shall only apply to a Broker's or Sub-broker's operations to the extent those operations are in furtherance of the performance of this Agreement, shall apply only to applicants and employees who would be or are performing work in furtherance of this Agreement, and shall apply when the physical location of the employment or prospective employment of an individual is wholly or substantially within the City of San Francisco. Chapter 12T shall not apply when the application in a particular context would conflict with federal or state law or with a requirement of a government agency implementing federal or state law.

10.14 Food Service Waste Reduction Requirements. Broker shall comply with the Food Service Waste Reduction Ordinance, as set forth in San Francisco Environment Code Chapter 16, including but not limited to the remedies for noncompliance provided therein.

10.15 RESERVED

10.16 Tropical Hardwood and Virgin Redwood Ban. Pursuant to San Francisco Environment Code Section 804(b), the City urges Broker not to import, purchase, obtain, or use for any purpose, any tropical hardwood, tropical hardwood wood product, virgin redwood or virgin redwood wood product.

10.16.1 Broker shall comply with San Francisco Environment Code Chapter 8, which provides that except as expressly permitted by the application of Sections 802(b) and 803(b) of the San Francisco Environment Code, Broker shall not provide any items to the City in performance of this contract which are tropical hardwoods, tropical hardwood wood products, virgin redwood or virgin redwood wood products. Broker is subject to the penalty and enforcement provisions of Chapter 8.

10.17 RESERVED

Article 11 General Provisions

11.1 Notices to the Parties. Unless otherwise indicated in this Agreement, all written communications sent by the Parties may be by U.S. mail or e-mail, and shall be addressed as follows:

To City: City and County of San Francisco
Risk Management Division
25 Van Ness Ave., Suite 750
San Francisco, California 94102
Attention: Matt Hansen
Telephone: 415-554-2302
Fax: 415-554-2357
Email: matt.hansen@sfgov.org

To Broker: Alliant Insurance Services, Inc.
100 Pine Street, 11th Floor
San Francisco, CA 94111
Attention: Dennis Mulqueeny
Telephone: 415-403-1421
Fax: 415-402-0773
Email: dmulqueeny@alliantinsurance.com

Any notice of default must be sent by registered mail. Either Party may change the address to which notice is to be sent by giving written notice thereof to the other Party. If email notification is used, the sender must specify a receipt notice.

11.2 Compliance with Americans with Disabilities Act. Broker shall provide the Services in a manner that complies with the Americans with Disabilities Act (ADA), including but not limited to Title II's program access requirements, and all other applicable federal, state and local disability rights legislation.

11.3 Reserved.

11.4 Sunshine Ordinance. Broker acknowledges that this Agreement and all records related to its formation, Broker's performance of Services, and City's payment are subject to the

California Public Records Act, (California Government Code §6250 et. seq.), and the San Francisco Sunshine Ordinance, (San Francisco Administrative Code Chapter 67). Such records are subject to public inspection and copying unless exempt from disclosure under federal, state or local law.

11.5 Modification of this Agreement. This Agreement may not be modified, nor may compliance with any of its terms be waived, except as noted in Section 11.1, "Notices to Parties," regarding change in personnel or place, and except by written instrument executed and approved in the same manner as this Agreement. Broker shall cooperate with Department to submit to the Director of CMD any amendment, modification, supplement or change order that would result in a cumulative increase of the original amount of this Agreement by more than 20% (CMD Contract Modification Form).

11.6 Dispute Resolution Procedure.

11.6.1 Negotiation; Alternative Dispute Resolution. The Parties will attempt in good faith to resolve any dispute or controversy arising out of or relating to the performance of services under this Agreement. If the Parties are unable to resolve the dispute, then, pursuant to San Francisco Administrative Code Section 21.36, Broker may submit to the Contracting Officer a written request for administrative review and documentation of the Broker's claim(s). Upon such request, the Contracting Officer shall promptly issue an administrative decision in writing, stating the reasons for the action taken and informing the Broker of its right to judicial review. If agreed by both Parties in writing, disputes may be resolved by a mutually agreed-upon alternative dispute resolution process. If the parties do not mutually agree to an alternative dispute resolution process or such efforts do not resolve the dispute, then either Party may pursue any remedy available under California law. The status of any dispute or controversy notwithstanding, Broker shall proceed diligently with the performance of its obligations under this Agreement in accordance with the Agreement and the written directions of the City. Neither Party will be entitled to legal fees or costs for matters resolved under this section.

11.6.2 Government Code Claim Requirement. No suit for money or damages may be brought against the City until a written claim therefor has been presented to and rejected by the City in conformity with the provisions of San Francisco Administrative Code Chapter 10 and California Government Code Section 900, et seq. Nothing set forth in this Agreement shall operate to toll, waive or excuse Broker's compliance with the California Government Code Claim requirements set forth in San Francisco Administrative Code Chapter 10 and California Government Code Section 900, et seq.

11.7 Agreement Made in California; Venue. The formation, interpretation and performance of this Agreement shall be governed by the laws of the State of California. Venue for all litigation relative to the formation, interpretation and performance of this Agreement shall be in San Francisco.

11.8 Construction. All paragraph captions are for reference only and shall not be considered in construing this Agreement.

11.9 Entire Agreement. This contract sets forth the entire Agreement between the parties, and supersedes all other oral or written provisions. This Agreement may be modified only as provided in Section 11.5, "Modification of this Agreement."

11.10 **Compliance with Laws.** Broker shall keep itself fully informed of the City's Charter, codes, ordinances and duly adopted rules and regulations of the City and of all state, and federal laws in any manner affecting the performance of this Agreement, and must at all times comply with such local codes, ordinances, and regulations and all applicable laws as they may be amended from time to time.

11.11 **Severability.** Should the application of any provision of this Agreement to any particular facts or circumstances be found by a court of competent jurisdiction to be invalid or unenforceable, then (a) the validity of other provisions of this Agreement shall not be affected or impaired thereby, and (b) such provision shall be enforced to the maximum extent possible so as to effect the intent of the parties and shall be reformed without further action by the parties to the extent necessary to make such provision valid and enforceable.

11.12 **Cooperative Drafting.** This Agreement has been drafted through a cooperative effort of City and Broker, and both Parties have had an opportunity to have the Agreement reviewed and revised by legal counsel. No Party shall be considered the drafter of this Agreement, and no presumption or rule that an ambiguity shall be construed against the Party drafting the clause shall apply to the interpretation or enforcement of this Agreement.

11.13 **Order of Precedence.** Broker agrees to perform the services described below in accordance with the terms and conditions of this Agreement, implementing task orders, the RFQ, and Broker's proposal dated April 15, 2016. The RFQ and Broker's proposal are incorporated by reference as though fully set forth herein. Should there be a conflict of terms or conditions, this Agreement and any implementing task orders shall control over the RFQ and the Broker's proposal.

Article 12 Department Specific Terms

12.1 Broker Standard of Conduct

Broker understands and agrees that the City desires to compare the cost of obtaining services or insurance products from Broker against other viable and competitive options and expects that the Broker will make its compensation agreements and revenue streams known to the City, so as to provide the City with a clear accounting of the costs of the placement of insurance services and products. The Broker shall conduct its business so as to fulfill all legal and ethical requirements and standards of the industry and the State of California, and shall place the best interests of the City ahead of any other concerns in the placement of insurance services and products. To this end, Broker:

- a. Warrants that it will adhere to its ethical obligations to the City to deliver honest, competitive, and meaningful service and advice on the placement of any insurance products, services, or coverages, and to provide access to an open, fair, and competitive insurance market place;
- b. Will exercise due diligence in making a full and complete disclosure of all quotes and declinations from all markets contacted for each specific line of coverage, including the date and time of contact, and the name, address, phone number and email address of the individual contact for each market;

- c. Will make every good faith attempt to avoid even the appearance of a conflict of interest between the Broker, the City, and any provider of any insurance product or service, and will promptly notify the City of any real or potential conflict of interest;
- d. Agrees to provide to the City a copy of Broker's own Ethics Statement or Code, or Broker Compliance Statement, or to make such statements available on the Broker's website;
- e. Will work with the City to analyze, mitigate, and transfer risk in the best interests of the City.

Article 13 Data and Security

13.1 Nondisclosure of Private, Proprietary or Confidential Information.

13.1.1 If this Agreement requires City to disclose "Private Information" to Broker within the meaning of San Francisco Administrative Code Chapter 12M, Broker and sub-broker 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.

13.1.2 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 Broker would use to protect its own proprietary or confidential information.

13.2 RESERVED.

Article 14 MacBride And Signature

14.1 **MacBride Principles -Northern Ireland.** The provisions of San Francisco Administrative Code §12F are incorporated herein by this reference and made part of this Agreement. By signing this Agreement, Broker confirms that Broker has read and understood that the City urges companies doing business in Northern Ireland to resolve employment inequities and to abide by the MacBride Principles, and urges San Francisco companies to do business with corporations that abide by the MacBride Principles.

IN WITNESS WHEREOF, the parties hereto have executed this Agreement on the day first mentioned above.

CITY

BROKER

Recommended by:

Alliant Insurance Services, Inc.

Matt Hansen
Director
Risk Management Division

Dennis Mulqueeny, Senior Vice President
Alliant Insurance Services, Inc.
100 Pine Street, 11th Floor
San Francisco, CA 94111

City vendor number: 56849

Approved as to Form:

Dennis J. Herrera
City Attorney

By: _____
Gustin Guibert
Deputy City Attorney

Appendices

- A: Scope of Services
- B: Calculation of Charges

See Last Page
[Signature]

Appendix A
Scope of Services

1. Description of Services

Broker Services

A. Overview

- 1. Act as an independent insurance advisor to the City and proactively provide ongoing unbiased professional advice and recommendations that benefit the City.**
- 2. Proactively provide ongoing review and analysis of the City's insurance programs and identification of risk transfer and risk financing options.**
- 3. Be familiar with:**
 - a. The coverages provided by all relevant insurance policies and documents issued to the City.**
 - b. The exposures of the City.**
- 4. Assure that insurance policies are placed in a timely manner, without lapses in coverage periods, with reputable and financially responsible insurers, who meet the City's standards.**
- 5. Service insurance policies placed for the City, including processing all changes and endorsements and verifying the accuracy of invoices within a reasonable time.**
- 6. Provide early warning of rate and coverage changes or renewal problems through a process. Promptly advise the City of any changes in exposure during the policy year that would require revisions to existing insurance coverages. Upon request of the City, but at least once a year, provide a comprehensive report that reviews all of the City's insurance programs.**
- 7. Be available to answer questions or obtain answers from underwriters for policy coverage questions. Meet with City Risk Management staff, Boards, City committees, and/or staff of City departments when requested.**
- 8. Provide consultation services and written reports as normally expected of a professional broker to a large client including Risk Management-related training and online resource development.**
- 9. Provide loss control services and assistance with claims as requested by City. Assist in analyzing loss exposures from existing and new operations, and determine the appropriate risk management alternatives, including types, availability, cost and extent of coverages that should be considered.**
- 10. Set up files on City master account and each individual department account showing coverages, schedules of covered property, premium for each department for each coverage, and other information required by Broker. Handle billing and invoicing of departments as approved by City management and assist in evaluating and implementing a revised cost allocation program within the City and its departments.**
- 11. Maintain appropriate accounting of amounts due, receipts, and payments to insurers.**

12. Develop and distribute City-approved mailings and other communications to City departments.

B. Policy and Contract Review

1. Review policies and other documents in detail within fourteen days of receipt of the documents to check the wording and accuracy of each policy, binder, certificate, endorsement or other document received from insurers to ensure that the intended coverage is provided, and all coverage, terms and conditions, and other wording is complete and accurate, and in compliance with financial arrangements and administrative procedures acceptable to City.
2. Obtain revisions needed to achieve compliance with coverage request(s) and forward to the City the original policies.
3. Provide a timeline for issuance of policy forms prior to issuance of premium invoice and provide sufficient copies of policies in both hard copy and digital media (or via secure online sources) to City Risk Management as well as the internal department client.
4. Review contracts and lease agreements as requested to ensure that the interests of City and its departments are protected and to avoid duplications in coverage.
5. At least 180 days prior to program anniversary, provide City with a written annual service summary for the policy year to include:
 - a. A schedule of coverage showing nature of coverage, limits, deductibles, insurer, policy number, premium and other relevant information.
 - b. Summary of team servicing the account.
 - c. Anticipated renewal terms and conditions and other indications of market conditions, trends and anticipated changes.
 - d. Identified problem areas such as claim handling, safety hazards, insurer financial problems, etc.
 - e. Recommendations for improved program design.
 - f. Services performed for the current year and planned for the next year.
 - g. Accounting of all income received on each account.

C. Policy Amendments

1. Process requests for additions or deletions to policies within five (5) business days of receipt.
2. Provide City with copies of initial correspondence to the insurers. Follow up every two (2) weeks from request date until the insurer has handled request.
3. Advise in writing of any changes to insurance policy(ies) within fourteen calendar days.
4. Provide, on renewal and upon request, participants in each coverage program, and notify within five (5) business days of any participation changes.

D. Marketing

1. Monitor expiration dates of policies and provide City Risk Management Division Director with written notification at least 180 days prior to expiration, including a description of information needed to process the renewal.

2. Work with City Risk Management Division to develop and implement a marketing strategy, including identifying potential markets, for program renewals at least 180 days before policy expiration.
3. Develop underwriting information and assist in gathering and organizing exposure and loss data for renewals of policies placed including completing applications as necessary.
4. Provide actuarial and statistical analysis of loss and expense data to assist in the establishment of premium, and targets for various layers of risk.
5. Work with carriers to design policies and programs most advantageous to the City for coverage of exposures, policy form, exclusions, deductibles, self-insured retentions, coordination with other policies, costs and other pertinent factors.
6. Advise of and include City Risk Management Division Director to marketing meetings with prospective carriers.
7. Market renewal coverages for City by obtaining timely and competitive quotations from available and responsible insurers.
8. Provide indications to City at least 90 days prior to insurance policy expiration unless otherwise approved by City.
9. When more than one (1) market is approached for a line of coverage, provide City Risk Management Division Director with copies of declination letters and all premium quotations received with a summary of coverages explaining deficiencies or benefits of the quote compared to the recommended insurance program.
10. Provide quotations for specialized types of insurance, as requested by City. These services are expected at no additional cost.

E. Claims

1. Assist City departments and staff, as necessary, with filing claims on assigned insured programs.
2. Promptly notify City of any losses or accidents reported to Broker and work with internal or outside claims adjustors as necessary.
3. Represent the interests of City and its departments in policy interpretation and other negotiations with insurance carriers.
4. Assist City with review of claim reserves, and represent City to the insurer with regard to requested explanation or reduction of reserve amounts. Follow-up with insurer every 30 days until resolution of any reserve reduction requests are accomplished or until claim is closed.
5. For all lines of insurance where loss runs are not otherwise available, provide regular (e.g. quarterly) loss runs indicating the member name, claim status, amount paid, reserves, expected outcomes of cases, and other summary information.
6. Review all quarterly loss runs for all claims on all coverages. Evaluate loss history for trends or other indicators that might dictate changes in coverage strategy. Identify any relevant issues and advise City in writing.

7. Provide annual summaries by policy year for each of the last five (5) years indicating total number of losses by type for each line of coverage and showing earned premium, incurred losses and loss ratio.

F. Certificates of Insurance

Issue certificates of insurance within three (3) business days following the date of request and assist the City with the development and implementation of a comprehensive online insurance certificate tracking system, or as directed, use the City's selected provider for all certificates if available.

Consulting & Risk Management Services

- A. Provide Enterprise Risk Management consulting services to assist City and/or its departments in the assessment of its risks and utilize the City's preferred enterprise solution to mitigate, measure, and improve the City's risk profile.
- B. Provide consultant services and analysis for the completion of projects including but not limited to: plan document review, creation, or revision, feasibility studies for Owner Controlled Insurance Program ("OCIP"), Contractor Controlled Insurance Program ("CCIP"), etc., Risk Modeling, Self-Insurance Retention ("SIR") forecasting and self-insurance analysis, and surety bond and loan guarantee programs.
- C. Provide Third Party Administration and/or Audit of Self-Insured Claims for Property and Workers' Compensation.
- D. Provide a comprehensive online insurance certificate and/or policy tracking system, unless otherwise directed by the City to use an alternate method.
- E. Provide risk mitigation consulting services under the Floodplain Management Ordinance (Ordinance) and National Flood Insurance Program (NFIP) including sea level rise (SLR) coordination, consulting assistance and guidance.
 - a. Work with Develop and implement procedures for the City under the Ordinance.
 - b. Provide advisory services to the City related to the NFIP process.
 - c. Facilitate meetings and trainings with city departments on compliance with ordinance,
 - d. Facilitate meetings with and submittals to FEMA regarding preliminary and final Floodplain Insurance Rate Maps (FIRM).
 - e. Attend meetings with city departments and agencies and with FEMA to discuss comments on the preliminary FIRM, appeal period, and implementation of final maps.
 - f. Support City presentations at public meetings and community outreach events.
- F. Provide analysis and risk support services for complex issues involving various City agencies on an as needed basis

Broker agrees to perform the following Services:

All written Deliverables, including any copies, shall be submitted on recycled paper and printed on double-sided pages to the maximum extent possible.

2. **Services Provided by Attorneys.** Any services to be provided by a law firm or attorney must be reviewed and approved in writing in advance by the City Attorney. No invoices for services provided by law firms or attorneys, including, without limitation, as sub-brokers of Broker, will be paid unless the provider received advance written approval from the City Attorney.

3. **Reports.** Broker shall submit written reports as requested by the **Risk Management Division of the City and County of San Francisco**. Format for the content of such reports shall be determined by the **Risk Management Division of the City and County of San Francisco**. The timely submission of all reports is a necessary and material term and condition of this Agreement. The reports, including any copies, shall be submitted on recycled paper and printed on double-sided pages to the maximum extent possible.

4. **Department Liaison**

In performing the Services provided for in this Agreement, Broker's liaison with the **Risk Management Division of the City and County of San Francisco** will be Matt Hansen.

Appendix B Calculation of Charges

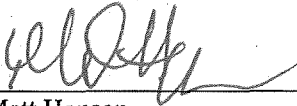
As applicable, proposals submitted in response to individual task orders must include a calculation of charges breaking down the insurance placement options (including disclosure of all applicable commissions, fees, taxes, etc.), or project costs by identifying the appropriate rates and charges. Some examples are:

- Personnel or Hourly Rate
- Flat rate for specified period (e.g., monthly)
- Rate for use of Broker's equipment, if applicable
- Rates for faxes (sending only), mileage, etc.
- Actual costs for contractor meals, accommodations, long distance and cellular phone charges, postage, vehicle rental, etc., subject to the approval of City.
- Any other applicable rates or charges under the Agreement

IN WITNESS WHEREOF, the parties hereto have executed this Agreement on the day first mentioned above.

CITY

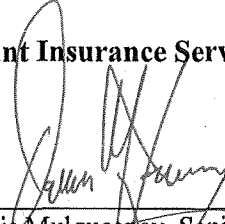
Recommended by:



Matt Hansen
Director
Risk Management Division

BROKER

Alliant Insurance Services, Inc.



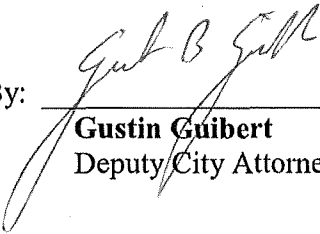
Dennis Mulqueeny, Senior Vice President
Alliant Insurance Services, Inc.
100 Pine Street, 11th Floor
San Francisco, CA 94111

City vendor number: 56849

Approved as to Form:

Dennis J. Herrera
City Attorney

By:



Gustin Guibert
Deputy City Attorney

Appendices

- A: Scope of Services
- B: Calculation of Charges



OFFICE OF THE CITY ADMINISTRATOR



London N. Breed, Mayor
Naomi M. Kelly, City Administrator

MEMORANDUM

To: Clerk of the Board of Supervisors

From: Bill Barnes *BB*
Senior Advisor, Office of the City Administrator

Re: Legislative Introduction
Agreement Amendment – Alliant Insurance Services

CC: Peter Goldstein
Deputy Director, Risk Management Division

Date: September 27, 2019

Attached, please find a resolution that would amend the authorized agreement with Alliant Insurance Services to increase the contract value amount by \$39,500,000 from a not-to-exceed \$34,500,000 to \$74,000,000.

Please contact Peter Goldstein from Risk Management Division at 415-554-2305 or Peter.Goldstein@sfgov.org with questions about this contract.

RECEIVED
BOARD OF SUPERVISORS
SAN FRANCISCO
2019 SEP 27 PM 4:50
[Signature]



San Francisco Ethics Commission

25 Van Ness Avenue, Suite 220, San Francisco, CA 94102
 Phone: 415.252.3100 . Fax: 415.252.3112
ethics.commission@sfgov.org . www.sfethics.org

Received On:

File #:

190995

Bid/RFP #:

Notification of Contract Approval

SFEC Form 126(f)4

(S.F. Campaign and Governmental Conduct Code § 1.126(f)4)

A Public Document

Each City elective officer who approves a contract that has a total anticipated or actual value of \$100,000 or more must file this form with the Ethics Commission within five business days of approval by: (a) the City elective officer, (b) any board on which the City elective officer serves, or (c) the board of any state agency on which an appointee of the City elective officer serves. For more information, see: <https://sfethics.org/compliance/city-officers/contract-approval-city-officers>

1. FILING INFORMATION

TYPE OF FILING	DATE OF ORIGINAL FILING <i>(for amendment only)</i>
Original	
AMENDMENT DESCRIPTION – Explain reason for amendment	

2. CITY ELECTIVE OFFICE OR BOARD

OFFICE OR BOARD	NAME OF CITY ELECTIVE OFFICER
Board of Supervisors	Members

3. FILER'S CONTACT

NAME OF FILER'S CONTACT	TELEPHONE NUMBER
Angela Calvillo	415-554-5184
FULL DEPARTMENT NAME	EMAIL
Office of the Clerk of the Board	Board.of.Supervisors@sfgov.org

4. CONTRACTING DEPARTMENT CONTACT

NAME OF DEPARTMENTAL CONTACT	DEPARTMENT CONTACT TELEPHONE NUMBER
Bill Barnes	415-554-4148
FULL DEPARTMENT NAME	DEPARTMENT CONTACT EMAIL
ADM City Administrator	bill.barnes@sfgov.org

5. CONTRACTOR	
NAME OF CONTRACTOR Alliant Insurance Services, Inc.	TELEPHONE NUMBER 949-756-0271
STREET ADDRESS (including City, State and Zip Code) 1301 Dove Street, #200, Newport Beach, CA	EMAIL

6. CONTRACT		
DATE CONTRACT WAS APPROVED BY THE CITY ELECTIVE OFFICER(S)	ORIGINAL BID/RFP NUMBER	FILE NUMBER (If applicable) 190995
DESCRIPTION OF AMOUNT OF CONTRACT \$74,000,000		
NATURE OF THE CONTRACT (Please describe) Insurance premiums contracted through the Risk Management Division.		

7. COMMENTS

8. CONTRACT APPROVAL	
This contract was approved by:	
<input type="checkbox"/>	THE CITY ELECTIVE OFFICER(S) IDENTIFIED ON THIS FORM
<input checked="" type="checkbox"/>	A BOARD ON WHICH THE CITY ELECTIVE OFFICER(S) SERVES Board of Supervisors
<input type="checkbox"/>	THE BOARD OF A STATE AGENCY ON WHICH AN APPOINTEE OF THE CITY ELECTIVE OFFICER(S) IDENTIFIED ON THIS FORM SITS

9. AFFILIATES AND SUBCONTRACTORS

List the names of (A) members of the contractor’s board of directors; (B) the contractor’s principal officers, including chief executive officer, chief financial officer, chief operating officer, or other persons with similar titles; (C) any individual or entity who has an ownership interest of 10 percent or more in the contractor; and (D) any subcontractor listed in the bid or contract.

#	LAST NAME/ENTITY/SUBCONTRACTOR	FIRST NAME	TYPE
1	Carey	James	Board of Directors
2	Zerbib	Nicholas	Board of Directors
3	Matthews	James	Board of Directors
4	Olson	Tagar	Board of Directors
5	Corbett	Thomas	Board of Directors
6	Zimmer	Greg	Board of Directors
7	Hurst	Ralph	Board of Directors
8	Corbett	Thomas	CEO
9	Anders	Ilene	CFO
10	Carpenter	Peter	COO
11	G2 Insurance Services		Subcontractor
12			
13			
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9. AFFILIATES AND SUBCONTRACTORS

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#	LAST NAME/ENTITY/SUBCONTRACTOR	FIRST NAME	TYPE
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#	LAST NAME/ENTITY/SUBCONTRACTOR	FIRST NAME	TYPE
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Check this box if you need to include additional names. Please submit a separate form with complete information. Select “Supplemental” for filing type.

10. VERIFICATION

I have used all reasonable diligence in preparing this statement. I have reviewed this statement and to the best of my knowledge the information I have provided here is true and complete.

I certify under penalty of perjury under the laws of the State of California that the foregoing is true and correct.

SIGNATURE OF CITY ELECTIVE OFFICER OR BOARD SECRETARY OR CLERK BOS Clerk of the Board	DATE SIGNED
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