

AMENDMENT NO. 2

TO

AGREEMENT BETWEEN

CITY AND COUNTY OF SAN FRANCISCO

MUNICIPAL TRANSPORTATION AGENCY

AND

AON RISK INSURANCE SERVICES WEST, INC.

FOR

INSURANCE BROKERAGE SERVICES for an OWNER'S CONTROLLED INSURANCE

PROGRAM ("OCIP") to provide EXCESS LIABILITY INSURANCE for the

CENTRAL SUBWAY SEGMENT

(CONTRACT CS-163-1)

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MUNICIPAL TRANSPORTATION AGENCY**

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AND
AON RISK INSURANCE SERVICES WEST, INC.
FOR
INSURANCE BROKERAGE SERVICES FOR AN OWNER'S CONTROLLED
INSURANCE PROGRAM ("OCIP") TO
PROVIDE EXCESS LIABILITY INSURANCE FOR THE CENTRAL SUBWAY
PROJECT**

This Amendment No. 2 is made this _____ day of _____, 2012, in the City and County of San Francisco, State of California, by and between: Aon Risk Insurance Services West, Inc. ("Broker"), and the City and County of San Francisco, a municipal corporation ("City"), acting by and through its Municipal Transportation Agency ("SFMTA")

RECITALS

- A. On February 7, 2012, the SFMTA Board of Directors adopted Resolution No. 12-017, which authorized the Director of Transportation to execute Contract No. CS-136-1 between City and Broker for Insurance Brokerage Services for an Owner's Controlled Insurance Program ("OCIP") to provide Excess Liability Insurance for the Central Subway Project ("Agreement"), in an amount not to exceed \$9,808,750.
- B. On August 3, 2012, the parties executed Amendment No. 1 to allow payment of services to more than one division of the Aon organization.
- C. The parties wish to amend the Agreement to allow providing additional Excess Liability Insurance for the Central Subway Project.

Now, THEREFORE, the parties agree as follows:

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

5.2. In no event shall the City's total expenditure (inclusive of all premiums, broker's fees, brokers' commissions, Surplus Lines Taxes and fees, and government fees for insurance coverage, and other charges and fees) for insurance secured and services provided by Broker under this Agreement exceed Nine Million Eight Hundred Eight Thousand Seven Hundred Fifty Dollars (\$9,808,750) for liability insurance coverage of \$150 Million in excess of \$200 Million. In addition, in no event shall the City's total expenditure (inclusive of all premiums, broker's fees, brokers' commissions, Surplus Lines Taxes and fees, and government fees for insurance coverage, and other charges and fees) for insurance secured and services provided by Broker under this Agreement exceed Eight Million Two Hundred Eight Thousand Dollars (\$8,280,000) for liability insurance coverage \$150 Million in excess of \$50 Million. The total

cost to the City for the insurance coverage described above shall not exceed Eighteen Million Eighty-Eight Thousand Seven Hundred Fifty Dollars (\$18,088,750). Each component of the Broker's compensation and the breakdown of costs associated with this Agreement appear in Appendix C, "Calculation of Charges," attached hereto and incorporated by reference as though fully set forth herein.

2. I. Background of APPENDIX B of the Agreement is deleted and replaced in its entirety with the following:

I. Background:

- A. Barnard Impregilo Healy ("BIH" or "Contractor"), the contractor selected by the SFMTA for the construction of the tunnels under SFMTA Contract CS-156, and Marsh (BIH's insurance broker) have met the \$500 Million general liability requirement of Contract CS-156 through a layered insurance program. Under that insurance program, BIH provides as primary (first layer) coverage \$200 Million in project specific general liability insurance. The City has procured a Project Specific Rolling \$150 Million in excess liability insurance "secondary", which would be a second layer of insurance excess to the \$200 Million project specific policy provided by BIH. This BIH also provides \$150 Million in excess liability insurance as a third layer of coverage, excess to the primary (\$200 Million) and secondary (\$150 Million) layers. The new excess layer will act as a second excess layer to cover general liability arising from the construction of the stations, surface work, track, and systems for the Central Subway, which will be constructed under a single consolidated contract.
 - B. In the course of bidding separate contracts for the construction of the Chinatown and the Union Square/Market Street Stations, bidders reported and Broker confirmed that the cost of the \$200 Million general liability insurance specified in the contracts to be provided by the construction contractor was unreasonably high and there was little availability in the market for the primary coverage of that amount. To reduce project construction costs and encourage more contractors to bid, the SFMTA has consolidated all remaining construction contracts for the Central Subway Program into Contract 1300. The SFMTA desires and Broker agrees to maintain the insurance program described in Section I.A., above for the Contract 1252 (for construction of the tunnels), but as to Contract No. 1300 the required contractor's primary general liability limits will be reduced to \$50 Million which the contractor may satisfy by its corporate policy or a project specific policy. The rolling \$150 Million excess liability policy that is a first layer of excess coverage for the tunnel will provide secondary excess coverage for the Contract 1300, and the SFMTA, through the Broker, will procure an additional excess liability policy that will be excess to the contractor's primary \$50 Million policy. Broker shall procure, place and bind such insurance policies as necessary to meet the aforesaid program requirements from insurers and on forms acceptable to the SFMTA and the City's Risk Management Division.
- 3. There is an \$8,280,000 cost increase and no additional time necessitated from this Amendment.**
- 4. Remaining terms and conditions of the Agreement remain the same.**
- 5. This agreement is not valid absent approval by the Board of Supervisors.**

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

CITY

Municipal Transportation Agency



Edward D. Reiskin
Director of Transportation

BROKER



Regina M. Carter
Managing Director
Aon Risk Insurance Services West, Inc.
199 Fremont Street, 17th Floor
San Francisco, CA 94105

Authorized By:
Municipal Transportation Agency

Resolution No. 12-135

Adopted: 11/6/12

Attest:

By: R. Boomer

Approved as to Form:
Dennis J. Herrera
City Attorney

By: Robert K. Stone 11-30-12

Robert K. Stone
Deputy City Attorney