



London Breed, Mayor

Gwyneth Borden, Chair
Amanda Eaken, Vice Chair
Cheryl Brinkman, Director
Steve Heminger, Director

Fiona Hinze, Director
Sharon Lai, Director
Manny Yekutieli, Director

Jeffrey Tumlin, Director of Transportation

April 23, 2021

**The Honorable Members of the Board of Supervisors
City and County of San Francisco
1 Dr. Carlton Goodlett Place, Room 244
San Francisco, CA 94102**

***Subject: Request for Approval – Amendment to the Agreement for Advertising on SFMTA
Vehicles and Other Property***

Honorable Members of the Board of Supervisors:

The San Francisco Municipal Transportation Agency (SFMTA) requests that the San Francisco Board of Supervisors approve the Second Amendment (Amendment) to Contract No. SFMTA-2014-13, Agreement for Advertising on San Francisco Municipal Transportation Agency Vehicles and Other Property with Intersection Media, LLC (formerly Titan Outdoor LLC), to reduce the minimum annual guarantee payments from March 1, 2020 through June 30, 2022 due to the impacts from the COVID-19 pandemic, to add an advertising program in the Central Subway stations and tunnel and to exercise the second five-year option to extend the contract to June 30, 2029.

BACKGROUND

Previous Board action

On March 4, 2014, the SFMTA Board of Directors approved the award of a new Agreement for Advertising on SFMTA Vehicles and Other Property (Agreement) to Intersection Media, LLC, known as Titan Outdoor LLC at the time (Intersection). The Board of Supervisors also approved the Agreement in May 2014. On August 21, 2018, the SFMTA Board approved the exercise of the first option to extend the contract for five years; the Board of Supervisors approved it in October 2018. On April 20, 2021, the SFMTA Board approved the Amendment.

COVID-19 Pandemic

Due to the impacts from the COVID-19 pandemic, which have had, and continue to have, an unprecedented, material adverse effect on Intersection's ability to generate revenue from advertising, Intersection approached the SFMTA for reductions in certain payments due to the City under the Agreement. The advertising market is very weak as a result of the pandemic, which has resulted in City and State lockdowns and public health/stay-at-home orders, reductions in transit service to core levels and customers staying away from transit. Successful transit advertising requires large numbers of people to view the ads on the street and on transit. As of early April, the SFMTA estimates that ridership is at approximately 30-40 percent of pre-pandemic levels. It is unclear when ridership will return to pre-pandemic numbers. A snapshot of the reduction in

Intersection’s advertising revenues from March 2020 to February 2021 (as of early April) is provided below:

Month	2019	2020	Variance %
March	\$ 736,217	\$ 836,461	+113%
April	\$ 656,848	\$ 350,069	-47%
May	\$ 825,407	\$ 190,922	-77%
June	\$ 825,040	-\$ 27,422*	-103%
July	\$ 627,214	\$ 47,754	-92%
August	\$ 443,787	\$ 44,434	-90%
September	\$ 808,188	\$ 155,326	-81%
October	\$1,141,489	\$ 290,749	-75%
November	\$1,246,984	\$ 253,879	-80%
December	\$ 912,537	\$ 246,404	-73%
January (2020/2021)	\$ 623,367	\$ 19,113	-97%
February (2020/2021)	\$ 796,342	\$ 49,445	-94%

*reflects refunds for advertising purchased prior to the pandemic for LRV and cable car

The Amendment will help Intersection to survive and preserve jobs while continuing its services to the SFMTA.

In response to Intersection’s request, the SFMTA has provided forbearance on minimum annual guarantee (MAG) payments since March 1, 2020. The goal of forbearing, or deferring, required payments was to provide time for the financial impacts of the pandemic to become clearer. Forbearance did not reduce or forgive the revenue payments ultimately due to the SFMTA; forgiveness of those payments requires the approval of a contract amendment.

The SFMTA is now proposing to forgive certain payments and has negotiated the Amendment, which will cover the period from March 1, 2020 through June 30, 2022. The Agreement includes language that requires the SFMTA to negotiate to reduce the MAG in the event of a reduction in the fleet of 150 or more transit vehicles. The SFMTA decreased the number of vehicles in service below that threshold for much of the COVID-19 pandemic, although the number has now increased again. The SFMTA has taken this language into consideration in preparing the Amendment. The Amendment will also provide the Director of Transportation with discretion to reduce the MAG in the future in such circumstances.

The two tables below show the original MAG amounts for the two option terms from the Agreement. The annual revenue share (which is a percentage of advertising sales that may result in additional payments to the SFMTA if the revenue share percentage applied to sales exceeds the MAG) will remain at 65 percent unless increased for digital advertising and/or a letter of credit reduction as described below:

MAG Amounts and Revenue Share Percentage—Option Years (contract)

First Option Term

Fiscal Year	MAG
2019-20	\$6,150,000
2020-21	6,300,000
2021-22	6,450,000
2022-23	6,600,000
2023-24	6,750,000
Total	\$32,250,000

Second Option Term

Fiscal Year	MAG
2024-25	\$6,900,000
2025-26	7,050,000
2026-27	7,200,000
2027-28	7,350,000
2028-29	7,500,000
Total	\$36,000,000

The following table reflects the changes negotiated by the SFMTA:

MAG Amounts and Revenue Share Percentage—Option Years (revised)

Option Years

Fiscal Year	MAG
July 2019 – February 2020	\$4,100,000
March – December 2020	\$0
January – June 2021	\$ 250,000
2021-22	\$1,000,000
2022-23	\$6,600,000
2023-24	\$6,750,000
2024-25	\$6,900,000
2025-26	\$7,050,000
2026-27	\$7,200,000
2027-28	\$7,350,000
2028-29	\$7,500,000

Transit advertising contractors other than Intersection have had similar difficulties, have also made requests for financial relief to transit agencies and, in many cases, have received it. These requests have involved contracts for both transit shelter and transit vehicle advertising. Contract changes have generally eliminated MAG payments for some period of time and substituted a revenue share only. The SFMTA, however, will still be receiving some MAG payments from Intersection (see revised table above). Examples of transit agencies that have approved revenue share payments only for transit vehicle advertising contracts due to the COVID-19 pandemic include the Bay Area Rapid Transit District (BART), Los Angeles County Metropolitan Transportation Agency (LA Metro), Washington Metropolitan Area Transit Authority, Massachusetts Bay Transportation Authority (Boston), Metropolitan Atlanta Rapid Transit Authority and King County Metro (Seattle). The SFMTA's transit shelter advertising contractor, Clear Channel Outdoor, has made a similar request, which the SFMTA Board has also approved.

The Board of Supervisors recently approved a rent relief program for the San Francisco International Airport (SFO), which acknowledges the economic challenges posed by the pandemic and is intended to assist with business survival and recovery. This program includes Clear Channel Airports, a subsidiary of Clear Channel Outdoor. SFO's program provides for rent forgiveness rather than rent deferral/forbearance.

Guaranteed Advertising Space

The Amendment extends the Agreement's 15 percent guarantee of advertising space for the SFMTA and City public service announcements to transit stations, including the Central Subway. It also adds additional guaranteed use of digital and print advertising space on transit vehicles and in transit stations, as well as other media services, which will help with the SFMTA's public information campaigns to encourage our customers to return to transit. This additional space is valued at \$1,000,000 in each of fiscal years 2020-21 and 2021-22. Intersection has also pledged to provide support for the SFMTA's recently awarded Public Transportation COVID-19 Research Demonstration Grant from the Federal Transit Administration. Intersection, which sent a letter to the FTA in support of the grant, will provide in-kind services to develop consumer messaging, design work and advertising campaigns to re-build confidence in using public transportation.

Central Subway

The Agreement enables the City to enter into a contract amendment with Intersection to add an advertising program in the new Central Subway stations and tunnel. The Amendment will allow both digital and print advertising, as follows:

Print Advertising

The Amendment extends Intersection's authorization to post print advertising to the Central Subway stations and tunnels.

Digital Advertising

The Amendment will allow digital advertising in subway stations and tunnels owned and operated by the SFMTA, including the Central Subway. Intersection will limit digital advertising to no more than seven digital kiosks, five digital walls and 18 digital posters. Intersection will submit a rollout plan to the SFMTA for approval prior to implementation. The rollout plan will specify the types and locations of advertising displays as well as projected revenue, costs and timing for cost recoupment. The SFMTA will own the digital advertising displays at the end of the Agreement.

Other transit agencies with digital advertising programs include BART, LA Metro, New York Metropolitan Transportation Authority, Chicago Transit Authority, Southeastern Pennsylvania Transportation Authority (Philadelphia), New Jersey Transit, Amtrak and Metro Transit (Minneapolis).

Emergency Override

Digital advertising will be capable of being overridden when the SFMTA determines that the digital advertising displays must be used for emergency signage.

Revenue and Costs

Intersection will recoup its capital costs for the digital displays from net advertising revenues from digital displays based on a revenue share allocation of 75 percent to Intersection and 25 percent to the SFMTA until Intersection has recouped its capital costs for the digital displays. Intersection will include a pro forma spreadsheet in its proposed rollout plan which shows how long it will take to recoup these costs. Beginning the fiscal year following the recoupment of Intersection's costs, the revenue share percentage in the Agreement will be increased by 1 percent. An increased revenue share percentage will enhance the SFMTA's ability to share in any additional revenue that results from the implementation of the Central Subway advertising program, as well as the projected economic recovery.

Maintenance

The Agreement requires Intersection to maintain all of its advertisements and infrastructure in a clean, safe and first-class condition and to use "green" maintenance products that present the least potential threat to human health and the City's natural systems. It also requires Intersection to inspect and, if necessary, clean each advertisement at least once per week and more often if conditions warrant. The Amendment adds all digital advertising displays to these requirements. In addition, Intersection will install a decal on each digital display with an Intersection telephone number that a member of the public may call to report maintenance issues.

Letter of Credit

The Agreement requires Intersection to provide a letter of credit for 75 percent of the MAG for each fiscal year for the duration of the Agreement, including any option terms, to protect the SFMTA in the event of a failure to make required payments under the Agreement or termination of

the Agreement due to a default by Intersection. In order to further assist Intersection to survive and preserve jobs and to obtain financing, the SFMTA has agreed to lower the amount of the letter of credit temporarily, by approximately 50 percent, through June 30, 2024. In exchange, the revenue share percentage will be increased by an additional 1% through June 30, 2024. Intersection advises that all of its other transit agency clients have agreed to similar or greater letter of credit reductions.

Extension of Agreement

The SFMTA will exercise the second five-year option to extend the Agreement from July 1, 2024 to June 30, 2029. This extension will enable Intersection to recoup its capital costs for the digital advertising program and to build the program from its inception. Intersection has performed well, has met all the requirements in the Agreement and has paid more than the Minimum Annual Guarantee of revenue (MAG) to the SFMTA during each of the five full years prior to the COVID-19 pandemic, from July 1, 2014 to June 30, 2019, as set forth in the table below.

Initial Term

Fiscal Year	MAG	<u>Actual</u>	Percentage of Revenues
2014-15	\$5,400,000	\$5,781,782.82	65%
2015-16	5,550,000	6,439,011.35	65%
2016-17	5,700,000	5,837,470.72	65%
2017-18	5,850,000	5,939,786.09	65%
2018-19	6,000,000	6,037,904.49	65%
Total	\$28,500,000		

Other Contract Terms

- The methodology for determining MAG and revenue share payments will be changed to an annual calculation, which reflects the industry standard for the outdoor transit advertising industry.
- Other terms not modified by the Amendment will remain unchanged.

STAKEHOLDER ENGAGEMENT

On various occasions, the SFMTA has consulted with a number of community groups that have expressed interest regarding the SFMTA Advertising Policy, such as the Asian Law Caucus, Council on American-Islamic Relations (San Francisco Bay Area), the Jewish Community Relations Council and the San Francisco Interfaith Council. The Advertising Policy has been revised in response to feedback and comments from these groups.

The SFMTA received a number of complaints a few years ago from customers and others about cannabis-related advertising on SFMTA property. The Advertising Policy was revised in response to these complaints and in order to provide an opportunity for the regulatory environment to clarify.

The SFMTA has made presentations to the Citizens' Advisory Council about its advertising agreements prior to approval.

ALTERNATIVES CONSIDERED

The City could decline to enter into the Amendment, but such an action might lead to Intersection's inability to fulfill its financial commitments and deliver the financial and other benefits to the SFMTA and the City provided in the Agreement. By entering into the Amendment, the SFMTA will help to ensure that the SFMTA and the City will receive reduced, but still substantial, financial benefits from March 1, 2020 through June 30, 2022, plus the other benefits provided in the Agreement. There is no guarantee that the City would be able to enter into another, similar contract in the event that the Agreement ends; at a minimum, it would likely take nine months to a year to rebid this work and new bids, if any, would likely be inferior to the guaranteed amounts in the current Agreement.

FUNDING IMPACT

Under the terms of the Amendment, Intersection's MAG payments to the City would be reduced from March 1, 2020 through June 30, 2022. The reductions to the MAG would total approximately \$1.3 million less than budgeted for fiscal year 2020-21 and approximately \$2.2 million less than budgeted for fiscal year 2021-22 due to the slower than expected economic recovery from the COVID-19 pandemic

The SFMTA expects that it will receive approximately \$714.5 million in Federal relief funding as of the end of fiscal year 2020-21. The funds have been or will be applied to offset deficits in fiscal years 2019-20, 2020-21 and 2021-22, including reductions in advertising revenue that supports transit service. The SFMTA also expects to receive over \$400 million in additional Federal relief funding to offset deficits in fiscal years 2020-21, 2021-22 and 2022-23.

The five-year option term and the addition of advertising in the Central Subway will also bring significant additional funds to the SFMTA from advertising to meet its operational needs and will not require the expenditure of funds.

RECOMMENDATION

The SFMTA urges the San Francisco Board of Supervisors to approve the Second Amendment to the Agreement for Advertising on San Francisco Municipal Transportation Agency Vehicles and Other Property with Intersection Media, LLC (formerly Titan Outdoor LLC), to reduce the minimum

annual guarantee payments from March 1, 2020 through June 30, 2022 due to the impacts from the COVID-19 pandemic, to add an advertising program in the Central Subway stations and tunnel and to exercise the second five-year option to extend the contract to June 30, 2029.

Sincerely,

A handwritten signature in blue ink, appearing to read "Jeffrey P. Tumlin".

Jeffrey P. Tumlin
Director of Transportation