

**SECOND AMENDMENT TO AGREEMENT
FOR ADVERTISING ON SAN FRANCISCO MUNICIPAL TRANSPORTATION
AGENCY VEHICLES AND OTHER PROPERTY**

This SECOND AMENDMENT (Amendment) to the Agreement for Advertising on San Francisco Municipal Transportation Agency Vehicles and Other Property is made and entered into this ___ day of _____, 2021, by and between Intersection Media, LLC (“Contractor”), formerly known as “Titan Outdoor LLC,” and the City and County of San Francisco, a municipal corporation (the “City”), acting by and through its Municipal Transportation Agency (the “SFMTA”).

RECITALS

- A. City and Contractor have entered into the Agreement (as defined below).
- B. City and Contractor desire to modify the Agreement on the terms and conditions set forth herein. Due to the impacts from the COVID-19 pandemic, which have had, and continue to have, an unprecedented, significant and material adverse effect on Contractor’s ability to generate revenue under the Agreement, Contractor has been unable to maintain the minimum annual guarantee (MAG) payments under the Agreement. City and Contractor have agreed to modify the Agreement on the terms and conditions set forth herein to reduce revenue payments in Fiscal Years 20/21 and 21/22, obtain additional advertising opportunities and support for the SFMTA, exercise the second five-year option to extend the term of the Agreement to June 30, 2029 and add a print and digital advertising program in the new Central Subway stations and tunnel.

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

- 1. **Definitions.** The following definitions shall apply to this Agreement:
 - 1.1 **Agreement.** The term “Agreement” shall mean the Agreement between City and Contractor, effective July 1, 2014, for advertising on SFMTA vehicles and other property.
 - 1.2 Section 1.15 is replaced in its entirety to read as follows:

Digital Infrastructure Costs. All costs associated with the installation and fabrication of the digital displays and associated equipment, including but not limited to, all hardware and software costs, design, survey, planning, engineering and review costs, telecommunication costs (including initial wiring), digital system development costs, fabrication costs, installation costs, initial electricity costs (including flagging), if any, and the cost of financing.
 - 1.3 Section 1.25 is replaced in its entirety to read as follows:

Monthly Payment. Beginning on July 1, 2019, a payment made by Contractor to the SFMTA each month consisting of 1/12 of the MAG; notwithstanding the above, for the

period from March 1, 2020 to December 31, 2020, a payment made by Contractor to the SFMTA each month consisting of 65% of receipts collected for the preceding month.

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

2. Modifications to the Agreement.

a. Section 2 (Term of the Agreement) is replaced in its entirety to read as follows:

“The term of this Agreement shall be from July 1, 2014 to June 30, 2029.”

b. Section 3.4.1(c) (Guaranteed Space on Vehicles) is replaced in its entirety to read as follows:

Guaranteed Space. In each contract month, SFMTA shall have the right to the exclusive use of no more than 15 percent of Advertising Spaces on the exterior of Vehicles and in Transit Stations. The SFMTA retains the right to use all interior Advertising Space on each Vehicle unless Contractor notifies the SFMTA, at least thirty (30) Days in advance, that it has sold the interior Advertising Space. Contractor shall install, maintain and remove interior and other Advertisements for the SFMTA free of charge. Notwithstanding the above, Contractor shall provide guaranteed use of additional digital and print advertising space and other media services equivalent to amounts commercially available in an amount of \$1,000,000 (based on Contractor’s then current rates) in each of Fiscal Years 20/21 and 21/22.

c. Section 8.1.3, Table 8.1.3 (MAG Amount and Revenue Share Percentage—Option Years) is replaced in its entirety to read as follows:

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

- d. Section 8.1.4 (Monthly Payment) is replaced in its entirety to read as follows:

Monthly Payment. On or before the 50th day of each month during each Fiscal Year, Contractor shall pay the Monthly Payment to the SFMTA.

- e. A new section 8.1.5 is added to read as follows:

Annual Revenue Share. Beginning on July 1, 2021, by September 1 of each Fiscal Year, Contractor shall provide the SFMTA with documentation of its Net Revenue for the previous Fiscal Year as part of its Annual Financial Report. Contractor shall apply the annual revenue share percentage included in Section 8.1.3, as it may be amended by Sections 7.4.3(c) and 10.2.1, to the Net Revenue for the previous Fiscal Year to determine the SFMTA's "Annual Revenue Share." If the Annual Revenue Share exceeds the MAG payments made to the SFMTA for that Fiscal Year, then Contractor shall pay the SFMTA any difference between the MAG and the Annual Revenue Share by September 1. Contractor shall make a similar determination for the six-month period from January 1, 2021 to June 30, 2021. In the event that this Agreement terminates for any reason before the completion of a Fiscal Year, Contractor shall submit the documentation required by this subsection and any prorated final payment required by this subsection, which shall reflect the partial Fiscal Year, within 60 Days of termination.

- f. Section 3.4.1(a) (Vehicle Count and Description) is replaced in its entirety to read as follows:

Vehicle Count and Description. For Vehicle advertising, City initially authorizes Contractor to use the spaces on the Vehicles listed in Appendix A, provided, however, that said authorization is subject to change in the sole and exclusive discretion of the Director. The City reserves the right to negotiate with the Contractor for the use of other Vehicles for advertising at a future date. SFMTA will provide to Contractor a "Fleet Inventory Report" at the inception of this Agreement and on or about the first day of the month following the increase or decrease of Vehicle fleet by 150 Vehicles or more. If new Vehicles are added, the revenue generated from Advertising Spaces on such Vehicles shall be credited towards fulfilling the MAG and included in the Revenue Share. In the event of a reduction of 150 Vehicles or more below the Vehicle count in Appendix A, the SFMTA and the Contractor will negotiate in good faith to reduce the MAG by a reasonable amount to reflect the reduction; in such event, the Director shall have the discretion to reduce the MAG.

- g. Section 3.4.3 (Central Subway) is replaced in its entirety to read as follows:

Central Subway. The City and Contractor may implement an advertising program in the new Central Subway stations and tunnel at the start of revenue service on the terms set forth in Sections 3.4.2 and 7.4.3 for print and digital advertising, respectively.

- h. Section 7.4.3 (Reserved) is replaced in its entirety to read as follows:

Digital Displays. Digital advertising displays are permitted in Transit Stations subject to the following:

(a) **Limitations.** Contractor shall limit digital advertising to no more than a total of seven digital kiosks, five digital walls and 18 digital posters in Transit Stations. Digital advertising must be capable of being overridden when the SFMTA determines that such Infrastructure must be used for emergency signage.

(b) **Rollout Plan.** Not later than 90 days prior to any planned placement of digital advertising displays in Transit Stations, Contractor shall submit a rollout plan to the SFMTA for approval. The rollout plan shall set forth the types and locations of such displays, including coordination with any planned retail kiosks, the Infrastructure costs, software needs and coordination, electrical connections and projected advertising revenue. Contractor shall include a pro forma spreadsheet showing how long it will take to recoup its capital costs from advertising revenues based on the revenue share allocation in subsection (c) below. The SFMTA will have 60 days from submission of the rollout plan to review the rollout plan and either approve it, disapprove it or submit any comments to Contractor. The SFMTA and Contractor shall mutually agree on the number and locations of digital kiosks, digital walls and digital posters in the rollout plan.

(c) **Revenue.** Notwithstanding any provision of Section 7.4.2 or Section 8.1, Contractor may recoup all Digital Infrastructure Costs directly from New Revenues generated from digital displays. Net Revenues from digital displays shall be allocated as follows: 75 percent of Net Revenues from digital displays to Contractor and 25 percent of Net Revenues from digital displays to the SFMTA until Contractor has recouped its Digital Infrastructure Costs for the digital displays, in accordance with the schedule in its rollout plan. Beginning the Fiscal Year following the recoupment of Contractor's Digital Infrastructure Costs, Net Revenues from digital displays shall be credited towards fulfilling the MAG and included in the Revenue Share and the Revenue Share percentage shall be increased by 1%. In the event that Contractor has not fully recouped its Digital Infrastructure Costs at the expiration of the Agreement, Contractor shall be entitled to collect those unrecouped Digital Infrastructure Costs from any payments owed to the SFMTA.

(d) **Maintenance.** Contractor shall maintain all digital advertising displays as provided in Section 6. In addition, Contractor shall install a decal on each such display with a telephone number that a member of the public may call to report any maintenance issue to Contractor.

- i. Section 10.2.1 (Letter of Credit—Requirements) is replaced in its entirety to read as follows:

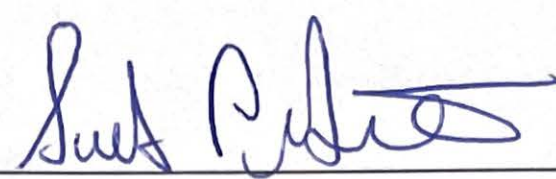
Requirements. No later than June 15, 2014, Contractor shall provide to City and shall maintain, throughout the term of this Agreement and for ninety (90) Days after the expiration or termination of this Agreement or the conclusion of all of Contractor's

obligations under the Agreement, whichever occurs later, a confirmed, clean, irrevocable letter of credit in favor of the City and County of San Francisco, a municipal corporation, in the amount of seventy-five percent (75%) of the MAG. The letter of credit must have an original term of one year, with automatic renewals no later than July 1 of each Fiscal Year in the amount of seventy-five percent (75%) of the MAG for each Fiscal Year throughout the term of the Agreement, including any extensions. If Contractor fails to deliver the letter of credit as required, City may deem Contractor to be in default in the performance of its obligations hereunder. In such event, City, in addition to all other available remedies, may terminate the Agreement. The letter of credit must provide that payment of its entire face amount, or any portion thereof, will be made to City upon presentation of a written demand to the bank signed by the Director on behalf of the City. Notwithstanding the above, the letter of credit shall be in the amount of \$2,362,500 from the date of this contract Amendment through June 30, 2024 and the Revenue Share percentage shall be increased by 1% through June 30, 2024.

- 3. Effective Date.** The modification set forth in Section 2 shall be effective on and after the date first referenced above.
- 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.

[SIGNATURES ON FOLLOWING PAGE]

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

CITY	CONTRACTOR
San Francisco Municipal Transportation Agency	Intersection Media, LLC (formerly known as Titan Outdoor LLC)
<hr/> Jeffrey P. Tumlin Director of Transportation	 <hr/> SCOTT GOLDSMID, President
MTA Board of Directors Resolution No. _____ Dated: _____	
Attest:	
<hr/> Secretary, Municipal Transportation Agency Board of Directors	
Board of Supervisors Resolution No. _____ Dated: _____	
Attest: <hr/> Clerk of the Board	
Approved as to Form: Dennis J. Herrera, City Attorney	
By: _____ Stephanie Stuart Deputy City Attorney	