

**City and County of San Francisco
Municipal Transportation Agency
One South Van Ness Ave. 7th floor
San Francisco, California 94103**

**Second Amendment to Agreement for Operation and Management of Off-Street Parking
Facilities, Group A, Contract No. SFMTA-2011/12-10**

THIS AMENDMENT (this "Amendment") is made and is effective as of January 31, 2018, in San Francisco, California, by and between **Imperial Parking (U.S.), LLC**, a Delaware limited liability company ("Manager" or "Contractor"), and the San Francisco Municipal Transportation Agency, hereinafter referred to as "SFMTA" or "City."

RECITALS

A. City and Manager have entered into the Agreement (as defined below).

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

1. Definitions. The following definitions shall apply to this Amendment:

1a. Agreement. The term "Agreement" shall mean the Agreement dated December 12, 2011, between Pacific Park Management and the SFMTA, as modified by the First Amendment, dated July 1, 2012, by the Assignment and Assumption Agreement dated July 1, 2014, and by this Second Amendment, dated January 31, 2018.

1b. Contract Monitoring Division. Effective July 28, 2012, with the exception of Sections 14B.9(D) and 14B.17(F), all of the duties and functions of the Human Rights Commission under Chapter 14B of the Administrative Code (LBE Ordinance) were transferred to the City Administrator, Contract Monitoring Division ("CMD"). Wherever "Human Rights Commission" or "HRC" appears in the Agreement in reference to Chapter 14B of the Administrative Code or its implementing Rules and Regulations, it shall be construed to mean "Contract Monitoring Division" or "CMD" respectively.

1c. 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.

2a. Extension of Term. The term of the Agreement is hereby extended by 18 months, pursuant to the terms outlined in Section 5.1 of the Agreement. The revised expiration date of the Agreement is July 31, 2019.

2b. Addition of Sutter Stockton Garage to Group A, effective February 1, 2018.

(1) Effective February 1, 2018, Manager shall provide the parking operations, maintenance and security services set forth in Exhibit E and Appendix A for the Sutter Stockton Street Garage, located at 444 Stockton Street, San Francisco, CA 94108, as more particularly described below. The Management Fee shall not be increased except as provided in Section 6.1(1).

(2) Section 6.1. Section 6.1, Management Fee and Reimbursement of Operating Expenses, is amended in its entirety to read as follows:

6.1 Management Fee and Reimbursement of Operating Expenses.

(1) Manager shall be paid a monthly Management Fee of Thirteen Thousand Nine Hundred Forty-Three Dollars (\$13,943) for services performed by it under this Agreement, including any services performed at the Sutter Stockton Garage under Section 4.7 and Exhibit F to this Agreement. Beginning the first month of contract years four (4), and seven (7) if the term is extended, the monthly Management Fee will be increased by five percent (5%). Provided Manager is not in default under this Agreement, or an event has not occurred that, with the giving of notice or the passage of time, would constitute a default, the Management Fee shall be due and payable under the requisition procedure required by **Section 6.8 of the Facility Regulations**, provided the SFMTA receives the Monthly Report required by **Section 6.7 of the Facility Regulations**. Should the Commencement Date or the Expiration Date occur on any day other than the first day of a calendar month, the Management Fee for that particular month shall be prorated based on a 30-day month.

(2) Manager shall be entitled to reimbursement from the SFMTA for all Operating Expenses properly incurred and paid by Manager in the performance of Manager's duties hereunder and as specified in the approved Budget in accordance with the Facility Regulations. Such reimbursement shall be subject to Manager's compliance with the submittal procedures set forth in the Facility Regulations and shall be subject to all City approvals required under this Agreement. The SFMTA's obligation to reimburse Manager for wages, salaries or benefits is limited to reimbursement for time that employees of Manager are actually working at the Facilities for the benefit of the SFMTA. Manager shall not be reimbursed for overhead expenses that have not been specifically set out as reimbursable expenses. All costs not identified as reimbursable expenses shall be borne by Manager.

(3) The City shall make all payments to Manager at the address specified in **Section 17** (Notice Requirements).

(3) Exhibit A of the Agreement is amended to add the following:

Sutter Stockton Garage

The Sutter Stockton Garage is a 745,000 square foot, 1,865 space surface parking lot located at 444 Stockton Street in San Francisco, more fully described below:

Beginning at the point of intersection of the northerly line of Sutter Street with the easterly line of Stockton Street; running thence easterly along said line of Sutter Street 275 feet; thence at

a right angle northerly 126 feet to the southerly line of Harlan Place; thence at a right angle westerly along said line of Harlan Place 23 feet and 1-3/8 inches to a point distant thereon 130 feet and 10-5/8 inches westerly from the westerly line of Grant Avenue; thence northerly at a right angle to said line of Harlan Place 23 feet to the northerly line of said Harlan Place; thence continuing northerly 58 feet and 0-1/2 of an inch to a point which is perpendicularly distant 130 feet and 8-1/8 inches westerly from the westerly line of Grant Avenue and also perpendicularly distant 67 feet and 11-1/2 inches southerly from the southerly line of Bush Street; thence easterly parallel with said southerly line of Bush Street 23 feet and 2-1/8 inches; thence at a right angle northerly 67 feet and a 11-1/2 inches to the southerly line of Bush Street; thence at a right angle westerly along said line of Bush Street 137 feet and 6 inches to a point distant thereon 137 feet and 6 inches easterly from the easterly line of Stockton Street; thence southerly at a right angle to said line of Bush Street 137 feet and 6 inches; thence at a right angle westerly 137 feet and 6 inches to the easterly line of Stockton Street; thence at a right angle southerly along said line of Stockton Street 137 feet and 6 inches to the point of beginning.

2c. Sugar-Sweetened Beverage Prohibition. Section 18.39 is added to the Agreement, as follows:

18.39. Sugar-Sweetened Beverage Prohibition. Contractor agrees that it will not sell, provide, or otherwise distribute Sugar-Sweetened Beverages, as defined by San Francisco Administrative Code Chapter 101, as part of its performance of this Agreement.

2d. Section 7.11 (Earned Income Credit (EIC) Forms) is deleted and replaced in its entirety with the following section:

7.11 Consideration of Criminal History in Hiring and Employment Decisions.

7.11.1 Contractor agrees to comply fully with and be bound by all of the provisions of Chapter 12T, "City Contractor/Subcontractor 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>. A partial listing of some of Contractor's obligations under Chapter 12T is set forth in this Section. Contractor 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.

7.11.2 The requirements of Chapter 12T shall only apply to a Contractor's or Subcontractor'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.

2e. Large Vehicle Driver Safety Training Requirements. Section 18.41 is added to the Agreement, as follows:

18.41 Large Vehicle Driver Safety Training Requirements

18.41.1 Contractor agrees that before any of its employees and subcontractors drive large vehicles within the City and County of San Francisco, those employees and subcontractors shall successfully complete either (a) the SFMTA's Large Vehicle Urban Driving Safety training program or (b) a training program that meets the SFMTA's approved standards for large vehicle urban driving safety. The SFMTA's approved standards for large vehicle urban driving safety is available for download at www.SFMTA.com/largevehicletainingstandards. This requirement does not apply to drivers providing delivery services who are not employees or subcontractors of the Contractor. For purposes of this section, "large vehicle" means any single vehicle or combination of vehicle and trailer with an unladen weight of 10,000 pounds or more, or a van designed to carry 10 or more people.

18.41.2 By entering into this Agreement, Contractor agrees that in the event the Contractor fails to comply with the Large Vehicle Driver Safety Training Requirements, the City will suffer actual damages that will be impractical or extremely difficult to determine; further, Contractor agrees that the sum of up to One Thousand Dollars (\$1,000) per employee or subcontractor who is permitted to drive a large vehicle in violation of these requirements is not a penalty, but is a reasonable estimate of the loss that City will incur based on the Contractor's failure to comply with this requirement, established in light of the circumstances existing at the time this Contract was awarded. City may deduct a sum representing the liquidated damages from any money due to Contractor. Such deductions shall not be considered a penalty, but rather agreed monetary damages sustained by City because of Contractor's failure to comply.

2f. PCI Data Security Standards. Section 18.42 is added to the Agreement as follows:

18.42 PCI Data Security Standards

18.42.1 Manager shall manage credit card payment transactions for the Facility in accordance with Payment Card Industry Data Security Standards ("PCI DSS") as established by the PCI Security Standards Council ("PCI SCC"), which may be found at <https://www.pcisecuritystandards.org>, and as the PCI Council may update those requirements and publish them at that website. Capitalized terms in this Agreement pertaining to PCI DSS, if not defined in this Agreement, shall have the meanings provided by PCI SCC, and "PCI compliance" as used herein shall mean compliance with PCI DSS.

18.42.2 Manager shall operate the Facilities using Parking Access and Revenue Control System (PARCS) equipment provided by the City. The PARCS vendor, pursuant to its contract with the City, is responsible for establishing and maintaining the PCI compliance of the PARCS equipment and software configuration and deployment at the Facility. (As described in Appendix A to this Amendment.) The PARCS vendor's

responsibilities are described in Appendix A of this Agreement. Manager is not liable for the negligence of the PARCS vendor or failure of the PARCS vendor to ensure that the PARCS is PCI compliant or for the PARCS vendor's failure to otherwise comply with its obligations in Appendix A.

18.42.3 The City and the PARCS vendor will collaborate to design, install and implement an IT network controlled by the City by which the PARCS equipment at the Facilities will communicate with the City, the PARCS vendor, the Manager, and any other entities approved by the City. Manager will collaborate with the City and the PARCS vendor to install and implement a firewall that will connect to the Payment Express card readers in the PARCS payment stations for processing of credit card transactions. When the City's IT network and the Manager's firewall and network are both deployed, Manager and City shall not make any changes to their respective networks without first notifying the other party, in writing.

18.42.4 In its use of the PARCS equipment and software to operate the Facilities, Manager shall utilize business procedures and practices and data security procedures and practices that comply with the most current PCI DSS.

18.42.5 Manager shall not store, retain or otherwise utilize Credit Card Data except as required by PCI DSS and only to the extent necessary to identify a transaction for accounting and refund purposes.




18.42.6 When the Manager services any part of the PARCS pay stations, it shall visually inspect the pay stations to discover sniffers and other unauthorized equipment installed in the pay stations, and shall notify the City of any such unauthorized equipment or other anomalies it discovers.

3. Effective Date. Each of the modifications set forth in Section 2 shall be effective on and after the date of this Amendment, as stated 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.

The remainder of this page has been intentionally left blank.

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

<p>San Francisco Municipal Transportation Agency</p> <p>APPROVED:</p> <p>By:  _____ Edward D. Reiskin Director of Transportation</p> <p>Approved as to Form: Dennis J. Herrera City Attorney</p> <p>By:  _____ Robert K. Stone Deputy City Attorney</p>	<p>MANAGER: Imperial Parking (U.S), LLC</p> <p>APPROVED:</p> <p>By:  _____ Ed Danyluk Regional Manager, Western U.S.</p>
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APPENDIX A

Below, for reference, is detail regarding the PARCS Vendor's contractual responsibilities regarding PCI Data Security. The text is excerpted from the conformed agreement #SFMTA-2015-36, dated December 1, 2016, between the City and Skidata, Inc.

63. PCI Data Security Requirements.

a. The requirements referenced in this Section are established by the PCI Security Standards Council ("PCI SCC") and may be found at <https://www.pcisecuritystandards.org>, and as the PCI Council may update its requirements and publish them at that website.

b. Capitalized terms in this Section, if not defined in this PARCS Agreement, shall have the meanings provided by PCI SCC. For the term of this PARCS Agreement and any related maintenance or other service agreement between the SFMTA and the City concerning the PARCS, the PARCS Application shall be validated by a Payment Application Qualified Security Assessor (PA-QSA). A Vendor whose application has achieved PA-DSS certification must then be listed on the PCI Council's list of PA-DSS approved and validated payment applications.

c. Vendor shall ensure that the PARCS Software meets all applicable requirements of the PCI SCC's Data Security Standards. Vendor shall provide a letter from its Qualified Security Assessor (QSA) affirming its compliance with PCI DSS requirements and current PCI compliance certificate or proof thereof. Vendor shall provide to the SFMTA proof of PCI compliance for each version of PARCS software that is installed during the term of this PARCS Agreement, including the Warranty Period and any Maintenance Period. Vendor shall be responsible for furnishing City with proof of PCI compliance from a QSA 30 days prior to the expiration of said certificates. In addition, the City may at any time, at its own cost and following reasonable notice, audit Vendor's compliance with the PCI DSS and other data security requirements stated in the PARCS Agreement, and Vendor shall fully cooperate with such audit. All applicable updates to the Licensed Software shall be PCI DSS certified.

d. Vendor represents that the PARCS retains credit card data in a manner that complies with PCI DSS requirements, and does so only to the extent necessary to identify a transaction for accounting and refund purposes. Vendor represents that the credit card readers in payment stations and imbedded software operating such readers for the PARCS will be supplied by the Gateway provider recommended by Vendor and approved by the SFMTA. The data connection between said card readers and software and the PARCS shall not allow Primary Account Number (PAN), credit card number, Credit Card Verification Code (CCV), Credit Card Expiry date or cardholder name to be accessed by the PARCS or a PARCS operator. Vendor shall maintain said credit card readers. The payment processor shall be responsible for electronically monitoring the credit card readers for malfunctions, sniffers, and data security. When Vendor services pay stations, Vendor shall visually inspect the pay stations to discover sniffers and other unauthorized equipment.

Gateway providers shall have appropriate Payment Card Industry Data Security Standards (PCI DSS) certification as service providers, as determined by PCI SCC. (See <https://www.pcisecuritystandards.org/index.shtml>). PARCS Components that process or retain data from PIN Debit Cards shall be validated against the PCI SCC's PIN Transaction Security (PTS) program.