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

# Second Amendment to Agreement between the City and County of San Francisco and IMCO Parking LLC for Management of the Group B Off-Street Parking Facilities

## Contract No. SFMTA-2021-64/2

This Second Amendment to the Agreement between the City and County of San Francisco and IMCO Parking LLC for Management of the Group B Off-Street Parking Facilities, Contract No. SFMTA-2021-64/2 (Second Amendment), is made as of December 20, 2024 in San Francisco, California, by and between IMCO Parking LLC, a California limited liability company (Manager), and the City and County of San Francisco, a municipal corporation (City), acting by and through its Municipal Transportation Agency (SFMTA).

## Recitals

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

B. City and Manager desire to modify the Agreement on the terms and conditions set forth herein to add the Music Concourse Garage to the facilities Manager manages and increase the Contract Amount $27,000,000 to compensate Manager for that additional work.

C. The Local Business Enterprise (LBE) subcontracting participation requirement for this Agreement is 12 percent.

D. The Agreement was competitively procured as required by San Francisco Administrative Code Chapter 21.1 through Request for Proposals No. SFMTA-2021-64 issued on January 27, 2022, and this Amendment is consistent with that process and the terms of the Agreement at Appendix A, Section 1.4(1) (Addition or Deletion of Facilities), which allows the SFMTA to assign additional parking facilities to Manager.

E. The City's Board of Supervisors approved the Agreement by Resolution No. 221094 on November 8, 2022.

F. This Amendment is consistent with an approval obtained on July 15, 2024, from the Civil Service Commission under Modification No. 1 to PSC number 46036-21/22 which authorizes the award of multiple agreements, the total value of which cannot exceed $387,000,000 and the individual duration of which cannot exceed 5 years.

G. The SFMTA has filed Ethics Form 126f4 (Notification of Contract Approval) because this Agreement, as amended herein, has a value of $100,000 or more in a fiscal year and will require the approval of City's Board of Supervisors.

NOW, THEREFORE, Manager 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 between the City and County of San Francisco and IMCO Parking LLC for Management of the Group B Off-Street Parking Facilities, Contract No. SFMTA-2021-64/2, dated January 20, 2023, (including Appendices to that Agreement and documents referenced in that Agreement), as modified by the First Amendment to Agreement, dated July 5, 2023, and this Second Amendment.

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

2.1 **Amended Scope of Work – Addition of Music Concourse Garage.** In accordance with Appendix A, Section 1.4(1) (Addition or Deletion of Facilities) of the Agreement, the SFMTA adds the Music Concourse Garage (as described in Appendix A to this Second Amendment) to the parking facilities (also referenced as "Group B" parking facilities) that the Manager manages under the Agreement. Except as expressly stated in this Second Amendment (and as the SFMTA may direct in its discretion as provided in the Agreement), all requirements of the Agreement apply to Manager's operation and management of the Music Concourse Garage. Manager shall operate the Music Concourse Garage and manage the business of that facility in the same manner, to the same standards and requirements as the Agreement requires of Manager's operation and management of the other City parking facilities it operates and manages under the Agreement.

2.2 **Compensation and Reimbursable Expenses.** Section 3.3.1 (Calculation of Charges) of the Agreement is modified to increase the Contract Amount $27,000,000 (for a total Contract Amount not to exceed $207,000,000) to compensate Manager its costs and expenses to operate the Music Concourse Garage and to pay Manager management fees for the additional Services it will perform managing the Music Concourse Garage commencing on the later of July 1, 2024 or the date on which this Second Amendment is approved by the San Francisco Board of Supervisors, and continuing for the remaining Term of the Agreement. Section 3.3.1 is replaced in its entirety to read as follows:

> **3.3.1 Calculation of Charges**. Manager shall provide an invoice to the SFMTA on a monthly basis for Services completed (including goods delivered, if any) in the immediately preceding month, unless a different schedule is set out in

Appendix B (Calculation of Charges). Compensation shall be made for goods and/or Services identified in the invoice that the Director of Transportation, or his or her designee, in his or her sole discretion, concludes have been satisfactorily performed. In no event shall the amount of this Agreement exceed **Two Hundred Seven Million Dollars ($207,000,000)**. The breakdown of charges associated with this Agreement are stated in Appendix B to this Agreement. As described in Appendix B, the City may withhold a portion of payment as retainage until the conclusion of the Agreement if agreed to by both Parties. In no event shall City be liable for interest or late charges for any late payments. City will not honor minimum service order charges for any Services covered by this agreement.

2.3 **Modification of Appendix A - Addition of Music Concourse Garage to Contract.** Appendix A, Section 6 (Garage Group B) is amended to add a new subsection 13 describing the Music Concourse Garage:

Appendix A, Section 6.13. **Music Concourse Garage -** The Parking structure consists of two two-level parking structures, one located beneath Tea Garden Drive between the new M.H. de Young Museum and the Music Concourse (North Garage), and the second beneath Music Concourse Drive between the California Academy of Sciences and the Music Concourse (South Garage). The North and South Garage are connected at the lower levels by an underground tunnel at the East end of the Music Concourse.

2.4 **Modification of Appendix B - Management Fee and Operating Expenses.** Appendix B, Section 1.2 (Management Fee and Reimbursement of Operating Expenses), of the Agreement is amended to increase the Monthly Management Fee in the amount of $1,600 (for a total Monthly Management Fee of $11,600) that SFMTA will pay Manager and to increase the annual budgeted costs and expenses that the SFMTA will reimburse Manager for managing the Music Concourse Garage, for a total increase to the Contract Amount of $27,000,000, resulting in an amended total Contract Amount not to exceed **Two Hundred Seven Million Dollars ($207,000,000)**. Appendix B, Section 1.2 (Management Fee and Reimbursement of Operating Expenses) is replaced in its entirety to read as follows:

Appendix B, Section 1.2, Management Fee and Reimbursement of Operating Expenses

(1) Manager shall be paid a monthly Management Fee of Eleven Thousand Six Hundred Dollars ($11,600) for Services that Managers performs under this Agreement. Commencing on the sixth anniversary of the Effective Date (and again at the eighth anniversary of the Effective Date, 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 6.9 of the Facility Regulations, provided the SFMTA receives the Monthly Report required by Section 6.8 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 annual operating budget (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 11.1 (Notice Requirements).

## Article 3 Effective Date

Each of the modifications set forth in Article 2 shall be effective on and after the later of July 1, 2024, or the date on which this Second Amendment is approved by the San Francisco Board of Supervisors.

## 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.

*Signatures on following page.*

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

| CITY | MANAGER |
|---|---|
| **San Francisco**<br>**Municipal Transportation Agency** | **IMCO Parking LLC** |
| Jeffrey P. Tumlin<br>Director of Transportation | Tarek Moussa<br>Chief Revenue Officer |
| Authorized By:<br>Municipal Transportation Agency Board of Directors | City Supplier Number: **0000018478** |
| Resolution No: 240604-058<br>Adopted: June 4, 2024<br>Attest: _____<br>Secretary to the Board | |
| Board of Supervisors<br>Resolution No: 478-24<br>Adopted: September 24, 2024<br>Attest: _____<br>Clerk of the Board | |
| Approved as to Form:<br>David Chiu<br>City Attorney | |
| By: _____<br>Stephanie Stuart<br>Deputy City Attorney | |

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