

1 [Urging the San Francisco Municipal Transportation Agency Board to Adopt Proof of Labor
2 Harmony Conditions for Shuttle Operators]

3 **Resolution urging the San Francisco Municipal Transportation Agency Board to adopt**
4 **a requirement that applicants demonstrate labor harmony conditions as part of the**
5 **Commuter Pilot Program and any other permanent Commuter Shuttle Program.**

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7 WHEREAS, The City and County of San Francisco (City) has authorized and directed
8 the San Francisco Municipal Transportation Agency (SFMTA) to adopt a Commuter Shuttle
9 Policy and Pilot Program (Program); and

10 WHEREAS, The purpose of the program is to ensure the orderly use of private
11 commuter shuttles in conjunction with, and without interference to, the operations of the
12 SFMTA's Muni bus service, to ameliorate any impedance or dangers to vehicular, bicycle and
13 pedestrian traffic occasioned by the increased deployment of commuter shuttle services, and
14 to otherwise ensure the safety of the public; and

15 WHEREAS, The City found that the promotion of the use of private mass transportation
16 has significant beneficial effects, provided operational precautions, which include permitting,
17 the enforcement of standards, and the monitoring of the impact of the program on the
18 community; and

19 WHEREAS, The City adopted Transportation Code, Section 914, to provide for Shuttle
20 Stop Permits and a means of regulating and enforcing compliance with the terms of the
21 Program; and

22 WHEREAS, Because the Program entails the conditional sharing of access to such
23 stops by permitted private commuter shuttles, a chief concern and purpose of the Program is
24 to ensure the effective operation of the City's public mass transit system and, specifically, to
25 ensure the expedient and safe access by Muni buses to SFMTA bus stops; and

1 WHEREAS, In adopting the Program, the City made the following general findings of
2 purpose: 1) Provide a safe environment for commuter shuttle riders as well as other street
3 users; 2) Support the commuter shuttle operations; 3) Integrate commuter shuttles into the
4 existing multi-modal transportation system; 4) Ensure that commuter shuttles do not adversely
5 affect operations of public transportation in San Francisco; 5) Consistently and fairly apply and
6 enforce any regulations/policies governing shuttle operations; 6) Work collaboratively with
7 shuttle sector to develop policies and resolve concerns and conflicts; 7) Establish a program
8 structure that meets current needs, and that has the potential to evolve as the sector grows
9 and needs change; 8) Develop processes with attention to effective enforcement and ease of
10 administration and on-going oversight; and

11 WHEREAS, The SFMTA provides an essential public function to the citizens of San
12 Francisco, the interference with which has a significant impact on the lives of the public and
13 the commerce of the City; and

14 WHEREAS, The Program must ensure that commuter shuttles do not adversely affect
15 public transportation operations; and

16 WHEREAS, The City has plenary authority to regulate the use of its streets and
17 sidewalks, subject to the rights retained by the people over public places pursuant to the state
18 and federal constitutions; and

19 WHEREAS, The City's authority extends to the regulation and control of traffic and the
20 operation of public transportation within its borders; and

21 WHEREAS, The City further finds that considerable public resources have been
22 expended to develop an integrated public transit system, which includes the development of
23 bus routes, the designation and construction of regular bus stops, the analysis and monitoring
24 of traffic, bicycle and pedestrian routes, and the enforcement of rules and regulations; and

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1 WHEREAS, By permitting commuter shuttles to access and utilize SFMTA bus stops,
2 the City may establish the terms of use and ensure the operations of the SFMTA system are
3 not hampered or disrupted; and

4 WHEREAS, Unlike the SFMTA, commuter shuttle services are private companies
5 whose labor relations are governed by federal law; and

6 WHEREAS, The City notes that federal law authorizes and permits the resolution of
7 labor disputes through economic action, including picketing at the place of business of the
8 employer that is involved in the labor dispute; and

9 WHEREAS, The City further notes that federal law prohibits the picketing of secondary
10 employers and, with respect to transportation businesses, requires any such action to be
11 performed by roving pickets that must follow the vehicles from location to location or meet the
12 vehicle where it stops; and

13 WHEREAS, The City further notes that it is not an employer protected by the
14 prohibition of secondary picketing under federal law, and further notes that peaceful picketing
15 in a public forum, such as the sidewalks, is a constitutionally-protected activity; and

16 WHEREAS, The City finds that a labor dispute involving a commuter shuttle service
17 that has requested to participate in the Program, and that has been granted a permit to utilize
18 Designated Stops, will likely result in the disruption of the orderly operation of SFMTA buses,
19 namely the impedance of SFMTA buses to arrive at Designated Stops, the disruption of traffic
20 around such Designated Stops, and the impedance of rider access to board or alight SFMTA
21 buses at Designated Stops; and

22 WHEREAS, The City further finds, for the reasons set forth in its findings related to the
23 adoption of Transportation Code, Section 914, including the fact that on a daily basis
24 commuter shuttle services make 4,121 stops in the City, that the coordination of commuter
25 shuttle services within the existing SFMTA bus transportation network requires assurances

1 that public bus service will not be interrupted, delayed or otherwise affected by labor disputes
2 involving the commuter shuttles which have been permitted to share SFMTA bus stops; and

3 WHEREAS, Because there is a substantial likelihood of disruption of SFMTA's
4 operations in the event of a labor dispute involving a commuter shuttle that participates in the
5 Program, the City finds that consideration of the extent to which a commuter shuttle service
6 has secured or provided for labor harmony must be a component of the Program, and a
7 criterion of the Shuttle Service Providers' application process; and

8 WHEREAS, The City finds it has a proprietary interest in ensuring the uninterrupted
9 operation of the SFMTA and specifically, the provision of public bus transportation to its
10 citizens; and

11 WHEREAS, The City further finds that considerable public resources have been
12 expended on developing the SFMTA bus system, and that considerable additional resources
13 will continue to be expended to implement, administer and develop the Program; and

14 WHEREAS, The City further finds that a Shuttle Service provider's participation in the
15 Program is voluntary; now, therefore, be it

16 RESOLVED, That the Board of Supervisors urges the Municipal Transportation
17 Agency's Board of Directors to amend Transportation Code, Section 914, by adopting
18 Commuter Shuttle Labor Harmony Conditions with respect to Shuttle Service Providers that
19 choose to participate in this Program and obtain permits or renew permits to utilize SFMTA
20 Designated Stops; and, be it

21 FURTHER RESOLVED, That in order to minimize the possibility of disruption to
22 SFMTA, the Board of Directors incorporate into the Program's permit application process the
23 consideration of the extent to which an applicant can assure Labor Harmony in its operations;
24 and, be it

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1 FURTHER RESOLVED, That the SFMTA Board also adopt Labor Harmony Conditions
2 as part of any later permanent Commuter Shuttle Program; and, be it

3 FURTHER RESOLVED, That the ordinance broadly define the term “Labor Harmony”
4 and does not require an applicant to adopt any particular method of assuring labor harmony,
5 but requires an applicant seeking a permit to utilize Designated Stops to provide a Labor
6 Harmony Certification indicating the extent of such applicant’s commitment to labor harmony
7 as a condition of the application process.

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