

[Emissions Reduction and Transit Reform]

## CHARTER AMENDMENT

### PROPOSITION \_\_\_\_

Describing and setting forth a proposal to the qualified voters of the City and County of San Francisco to amend the Charter of the City and County of San Francisco by: amending Sections 8A.101 through 8A.106, 8A.108 through 8A.110, 8A.112 through 8A.113, 9.118, and A8.404, repealing Section 16.110; and by re-numbering Sections 16.100 and 16.102 as 8A.114 and 8A.115, respectively, all to increase the efficiency, effectiveness and autonomy of the Municipal Transportation Agency.

The Board of Supervisors hereby submits to the qualified voters of the City and County, at an election to be held on November 6, 2007, a proposal to amend the Charter of the City and County by: amending Sections 8A.101 through 8A.106, 8A.108 through 8A.110, 8A.112 through 8A.113, 9.118, and A8.404, repealing Section 16.110; and by re-numbering Sections 16.100 and 16.102 as 8A.114 and 8A.115, to read as follows:

Note:                    Additions are *single-underline italics Times New Roman*.  
                          Deletions are *strikethrough italics Times New Roman*.

#### **SEC. 8A.100. PREAMBLE.**

(a) The Municipal Railway and the Department of Parking and Traffic are vital to the economic and social fabric of San Francisco. San Francisco's transit system *and management of parking and traffic* should be comparable to *their highest-performing counterparts the best urban transit systems* in the world's major cities. Specifically, San Francisco residents require:

1. Reliable, safe, timely, frequent, and convenient service to all neighborhoods;
2. A reduction in breakdowns, delays, over-crowding, preventable accidents;
3. Clean and comfortable vehicles and stations, operated by competent, courteous, and well trained employees;

4. Support and accommodation of the special transportation needs of the elderly and the disabled;

5. Protection from crime and inappropriate passenger behavior on the Municipal Railway; and

6. Responsive, efficient, and accountable management.

Through this measure, the voters seek to provide the transportation system with the resources, independence and focus necessary to achieve these goals.

The voters find that one of the impediments to achieving these goals in the past has been that responsibility for transportation has been diffused throughout City government.

Accordingly, this Article places within the Municipal Transportation Agency the powers and duties relating to transit now vested in other departments, boards, and commissions of the City and County. This Article further requires that, to the extent other City and County agencies provide services to the Municipal Transportation Agency, those departments must give the highest priority to the delivery of such services.

At the same time, this Article is intended to ensure sufficient oversight of the Municipal Transportation Agency by, among other things, preserving the role of the City's Controller as to financial matters, the City Attorney as to legal matters, and the Civil Service Commission, as to merit system issues. In addition, this Article requires that outside audits be performed to ensure that required service levels are obtained with a minimum of waste.

This Article also requires that the Municipal Transportation Agency develop clear, measured performance goals, and publicize both its goals and its performance under those goals. As the workers of the Municipal Transportation Agency are vital to the improvements the voters seek, this Article authorizes incentives for excellence, and requires accountability—for both managers and employees—when performance falls short.

Finally, this Article is intended to strengthen the Municipal Transportation Agency's authority to: 1) manage its employees; 2) establish efficient and economical work rules and work

practices that maximize the Agency's responsiveness to public needs; and 3) protect the Agency's Railway's right to select, train, promote, demote, discipline, layoff and terminate employees, managers, and supervisors based upon the highest standards of customer service, efficiency and competency.

(b) The effective management of traffic flow and parking are The Department of Parking and Traffic performs functions vital to the operation of the Municipal Railway. Congestion on city streets causes delays in transit operations. Therefore, the Municipal Transportation Agency must manage parking and traffic flow to ensure that transit vehicles move through City streets safely and efficiently.

In addition, the residents of San Francisco require that the Agency Department of Parking and Traffic: 1) value and protect the safety of pedestrians and bicyclists; 2) reduce congestion and air pollution through efficient use of the streets; and 3) protect the City's economic health by giving priority to commercial deliveries and access to local businesses.

(c) The voters find that reducing the carbon emissions from San Francisco's transit sector is fundamental to the City's health and wellbeing and shall be among the Agency's policy priorities. Because the Agency has significant influence on San Francisco's transportation sector, which is responsible for fully half of the carbon emissions produced within the City, the voters find that it shall be the duty of the Agency to develop and implement strategies for substantially reducing those emissions. The voters further affirm the goals of the city's Climate Action Plan.

(e)(d) This Article shall be interpreted and applied in conformance with the above goals.

## **SEC. 8A.101. MUNICIPAL TRANSPORTATION AGENCY.**

(a) There shall be a Municipal Transportation Agency. The Agency shall include a Board of Directors and a Director of Transportation. The Agency shall include the Municipal Railway and the Department of Parking and Traffic, as well as any other departments, bureaus or

operating divisions hereafter created or placed under the Agency. There shall also be a Citizens Advisory Committee to assist the Agency.

(b) Effective March 1, 2000, the Agency shall succeed to and assume all powers and responsibilities of the Public Transportation Commission.

(c) Effective July 1, 2000, the *powers and duties of the* Municipal Railway shall *become a department of the* be transferred to the Agency and the full provisions of this Article shall be applicable.

(d) *The Department of Parking and Traffic, upon Upon* its incorporation into the Agency pursuant to Section 8A.112, *the powers and duties of the Department of Parking and Taffic* shall *be transferred to the Agency* become a separate department of the Agency.

(e) The Board of Supervisors shall have the power, by ordinance, to abolish the Taxi Commission created in Section 4.133, and to transfer the powers and duties of that commission to *the Agency and the Director of Transportation or his or her designee Board of Directors. In order to fully integrate taxi-related functions into the Agency should such a transfer occur, the Agency shall have the same exclusive authority over taxi-related functions that it has over the Municipal Railway and parking and traffic functions, and shall have the same control over taxi-related fares, fees, charges, budgets, and personnel. Once adopted, Agency regulations shall thereafter supercede all previously-adopted ordinances governing motor vehicles for hire.*

(f) Any transfer of functions occurring as a result of the above provisions shall not adversely affect the status, position, compensation, or pension or retirement rights and privileges of any civil service employees who engaged in the performance of a function or duty transferred to another office, agency, or department pursuant to this measure.

(g) Except as expressly provided in this Article, the Agency shall comply with all of the restrictions and requirements imposed by the ordinances of *general application of* the City and County, including ordinances prohibiting discrimination of any kind in employment and contracting, such as Administrative Code Chapters 12B et seq., as amended from time to time.

The Agency shall be solely responsible for the administration and enforcement of such requirements.

(h) The Agency may contract with existing City and County departments to carry out any of its powers and duties. Any such contract shall establish performance standards for the department providing the services to the Agency, including measurable standards for the quality, timeliness, and cost of the services provided. All City and County departments must give the highest priority to the delivery of such services to the Agency.

(i) The Agency may not exercise any powers and duties of the Controller or the City Attorney and shall contract with the Controller and the City Attorney for the exercise of such powers and duties.

#### **SEC. 8A.102. GOVERNANCE AND DUTIES.**

(a) The Agency shall be governed by a board of seven directors appointed by the Mayor and confirmed after public hearing by the Board of Supervisors. All initial appointments must be made by the Mayor and submitted to the Board of Supervisors for confirmation no later than February 1, 2000. The Board of Supervisors shall act on those initial appointments no later than March, 1, 2000 or those appointments shall be deemed confirmed.

At least four of the directors must be regular riders of the Municipal Railway, and must continue to be regular riders during their terms. The directors must possess significant knowledge of, or professional experience in, one or more of the fields of government, finance, or labor relations. At least two of the directors must possess significant knowledge of, or professional experience in, the field of public transportation. During their terms, all directors shall be required to ride the Municipal Railway on the average once a week.

Directors shall serve four-year terms, provided, however, that two of the initial appointees shall serve for terms ending March 1, 2004, two for terms ending March 1, 2003, two for terms ending March 1, 2002, and one for a term ending March 1, 2001. Initial terms shall be

designated by the Mayor. No person may serve more than three terms as a director. A director may be removed only for cause pursuant to Article XV. The directors shall annually elect a chair. The chair shall serve as chair at the pleasure of the directors. Directors shall receive reasonable compensation for attending meetings of the Agency which shall not exceed the average of the two highest compensations paid to the members of any board or commission with authority over a transit system in the nine Bay Area counties.

(b) The Agency shall:

1. Have exclusive authority overcharge of the acquisition, construction, management, supervision, maintenance, extension, operation, use, and control of all property, as well as the real, personal, and financial assets of the Agency Municipal Railway; and have exclusive authority over contracting, leasing, and purchasing by the Agency Municipal Railway, provided that: (a) any Agency contract for outside services shall be subject to Charter Sections 10.104(12) and 10.104(15); (b) with respect to Agency personnel and contracts, the Agency shall have exclusive power to approve contracts for expert professional temporary services under Section 10.104(12) of the Charter and shall have exclusive authority to approve determinations by the Controller under Section 10.104(15) of the Charter; and (c) the Agency may not transfer ownership. ~~Ownership~~ of any of the real property of the City and County without approval from the Board of Supervisors shall not be transferred to any private entity pursuant to any such contract;

2. Have the sole power and exclusive authority to enter into such arrangements and agreements for the joint, coordinated, or common use with any other public entity owning or having jurisdiction over rights-of-way, tracks, structures, subways, tunnels, stations, terminals, depots, maintenance facilities, and transit electrical power facilities;

3. Have the sole power and exclusive authority to make such arrangements as it deems proper to provide for the exchange of transfer privileges, and through-ticketing arrangements,

and such arrangements shall not constitute a fare change subject to the requirements of Sections 8A.106 and 8A.108;

4. Notwithstanding any restrictions on contracting authority set forth in the Administrative Code, have exclusive authority to enter into agreements for the distribution of transit fare media and media for the use of parking meters or other individual parking services;

5. 4. Have the exclusive authority to arrange with other transit agencies for bulk fare purchases, provided that if passenger fares increase as a result of such purchases, the increase shall be subject to review by the Board of Supervisors pursuant to Sections 8A.106 and 8A.108;

6. 5. Notwithstanding Section 2.109, and except as provided in Sections 8A.106 and 8A.108 and to the maximum extent permitted by state law, have exclusive authority to fix the fares charged by the Municipal Railway and all other, rates, fees, fines, penalties and charges for services provided or functions performed by the Agency;

7. Except as otherwise provided in the Charter or prohibited by state law, exercise the powers over parking and traffic management and control otherwise vested in the Board of Supervisors under state and local law.

8. Except as prohibited by state law and notwithstanding any provision of the San Francisco Municipal Code (except requirements administered by the Department of Public Works governing excavation, street design and official grade) have exclusive authority to design, select, locate, install, operate, maintain and remove all official traffic control devices, signs, roadway features and pavement markings that control the flow of traffic with respect to streets and highways within its jurisdiction; provided, however that the Board of Supervisors may by ordinance establish procedures by which adults representing no fewer than twenty households may appeal to the Board of Supervisors any Agency decision with regard to the installation or removal of a stop sign. In any appeal from a decision of the Agency pursuant to this section, the Agency's decision shall stand unless the Board of Supervisors reverses or

modifies the decision of the Agency not later than 60 days after submission of an appeal to the Board of Supervisors.

9. Except as prohibited by state law, have exclusive authority to designate locations subject to preferential parking privileges for residents, commercial vehicles, carpools, and other categories of people or vehicles in which parking, stopping, standing or loading are subject to specified restrictions or privileges, including the authority to locate and maintain colored curb markings, establish parking meter zones, and select, install, locate and maintain systems and equipment for payment of parking fees, provided, however that the Board of Supervisors may by ordinance establish procedures by which adults representing no fewer than twenty households and/or businesses may appeal any such decision to the Board of Supervisors with regard to the creation or elimination of any preferential parking zone, the creation or elimination of any parking meter zone, or the adoption of any limitation on the time period for which a vehicle may be parked; and provided further that the Board of Supervisors may by ordinance establish procedures by which any adult may appeal to the Board of Supervisors any decision related to the reservation of any parking space for persons with disabilities that qualify for parking privileges under state law. In any appeal from a decision of the Agency pursuant to this section, the Agency's decision shall stand unless the Board of Supervisors reverses or modifies the decision of the Agency not later than 60 days after submission of an appeal to the Board of Supervisors. Nothing in this section shall modify the authority of ISCOTT or the authority of the Board of Supervisors to hear appeals regarding the temporary use or occupancy of public streets.

10. Have exclusive authority to establish policies regarding the enforcement of parking limitations and the collection of parking-related revenues;

11. Be responsible for chairing the Interdepartmental Staff Committee on Traffic and Transportation (ISCOTT);

12. Be responsible for cooperating with and assisting the Police Department in the promotion of traffic safety; studying and responding to complaints related to street design, traffic control devices, roadway features and pavement markings; collecting compiling and analyzing traffic data and traffic accident data and planning improvements to improve the safety of the City's roadways; and conducting traffic research and planning;

13. Have exclusive authority to apply for, accept, and expend state, federal, or other public or private grant funds for Agency purposes;

14. To the maximum extent permitted by law, and notwithstanding the requirements of Sections 9.107, 9.108, and 9.109, have authority to incur debt without further voter approval for Agency purposes and issue or cause to be issued bonds, notes, certificates of indebtedness, commercial paper, financing leases, certificates of participation or any other debt instruments. The Board of Directors may authorize the incurrence of such debt or other obligations without further approval of the Board of Supervisors provided: 1) the Controller first certifies that sufficient unencumbered balances are expected to be available in the proper fund to meet all payments under such obligations as they become due; and 2) any debt obligation, if secured, is secured by revenues or assets under the jurisdiction of the Agency.

15. 6. Have the authority to conduct investigations into any matter within its jurisdiction through the power of inquiry, including the power to hold public hearings and take testimony, and to take such action as may be necessary to act upon its findings; and

16. 7. Exercise such other powers and duties as shall be prescribed by ordinance of the Board of Supervisors.

(c) The Agency's board of directors shall:

1. Appoint a director of transportation, who shall serve at the pleasure of the board. The director shall be employed pursuant to an individual contract. His or her compensation shall be comparable to the compensation of the chief executive officers of the public transportation systems in the United States which the directors, after an independent survey, determine most

closely resemble the Agency in size, mission, and complexity. In addition, the Agency shall provide an incentive compensation *plan under which a minimum of 10 percent of the total annual compensation for which the director of transportation is eligible shall be paid as incentive compensation according to the Agency's achievement of service standards adopted by the Board of Directors*—~~bonus plan for the director of transportation based upon the Agency's achievement of the milestones adopted pursuant to Section 8A.103.~~

2. Appoint an executive secretary who shall be responsible for administering the affairs of the directors and who shall serve at the pleasure of the board.

(d) The director of transportation shall appoint all subordinate personnel of the Agency, including *deputy directors, a deputy director for the Municipal Railway, and, upon its incorporation into the Agency, a deputy director for Parking and Traffic.* The deputy directors shall serve at the pleasure of the director of transportation. *The director of transportation may serve as the deputy director for the Municipal Railway, but shall not be entitled to any greater compensation or benefits on that basis.*

(e) Upon recommendation of the city attorney and the approval of the board of directors, the city attorney may compromise, settle, or dismiss any litigation, legal proceedings, claims, demands or grievances which may be pending for or on behalf of, or against the Agency relative to any matter or property solely under the Agency's jurisdiction. Unlitigated claims or demands against the Agency shall be handled as set forth in Charter Section 6.102. Any payment pursuant to the compromise, settlement, or dismissal of such litigation, legal proceedings, claims, demands, or grievances, unless otherwise specified by the Board of Supervisors, shall be made from the Municipal Transportation Fund.

(f) The Agency's board of directors, and its individual members, shall deal with administrative matters solely through the director of transportation or his or her designees. Any dictation, suggestion, or interference by a director in the administrative affairs of the Agency, other than through the director of transportation or his or her designees, shall constitute official

misconduct; provided, however, that nothing herein contained shall restrict the directors' powers of hearing and inquiry as provided in this Section.

(g) Notwithstanding any provision of Chapter 6 or 21 of the Administrative Code establishing any threshold amount for exercise of executive authority to execute contracts (or any successor provision of the San Francisco Municipal Code), the Agency's board of directors may adopt threshold amounts under which the Director of Transportation may approve contracts.

(h) (g) Except provided in this Article, the Agency shall be subject to the provisions of this Charter applicable to boards, commissions, and departments of the City and County, including Sections 2.114, 3.105, 4.101, 4.103, 4.104, 4.113, 9.118, 16.100, and A8.346. Sections 4.102, 4.126, and 4.132 shall not be applicable to the Agency.

#### **SEC. 8A.103. SERVICE STANDARDS AND ACCOUNTABILITY.**

(a) The Municipal Railway shall be restored as soon as practicable to a level of service measured in service hours which is not less than that provided under the schedule of service published in the April 1996 timetable, although not necessarily in that configuration.

(b) No later than July 1, 2000, and by By July 1 of each year thereafter, the Agency shall adopt mile-stones for the toward achievement of the goals specified in subsections (c) and (d). Milestones shall be adopted for each mode of transportation of the Municipal Railway, and for the Municipal Railway as a whole, with the goal of full achievement of the standards set in subsection (c)no later than July 1, 2004.

(c) The standards for the Agency with respect to the services provided by the Municipal Railway shall include the following minimum standards for on-time performance and service delivery:

1. On-time performance: at least 85 percent of vehicles must run on-time, where a vehicle is considered on-time if it is no more than one minute early or four minutes late as measured against a published schedule that includes time points; and
2. Service delivery: 98.5 percent of scheduled service hours must be delivered, and at least 98.5 percent of scheduled vehicles must begin service at the scheduled time.

(d) ~~The standards for both managers and employees of the Agency with respect to the services, provided by the Municipal Railway shall also include other~~ The Board of Directors shall adopt Agency rules setting additional measurable standards for system reliability, system performance, staffing performance, and customer service, including:

1. Passenger, public, and employee safety and security;
2. Coverage of neighborhoods and equitable distribution of service;
3. Level of crowding;
4. Frequency and mitigation of accidents and breakdowns;
5. Improvements in travel time, taking into account adequate recovery and lay-over times for operators;
6. Vehicle cleanliness, including absence of graffiti;
7. Quality and responsiveness of customer service;
8. Employee satisfaction;
9. Effectiveness of the preventive maintenance program; and
10. Frequency and accuracy of communications to the public.

11. The Agency's duties related to parking and traffic functions and any other functions that may be added to the Agency's responsibilities.

(e) ~~The Board of Directors shall adopt Agency rules setting forth the methods by which performance shall be measured with respect to each standard. The performance measures adopted in Section 4 of this measure shall be published as rules of the Agency and utilized to determine the achievement of the performance standards and milestones adopted by the Agency~~

~~for the Municipal Railway. The performance measures shall be subject to amendment after public hearing by a vote of the Agency board.~~ The Agency shall regularly publish reports documenting the Agency's performance for each standard. Each performance report shall note any changes in the rules governing the methods by which performance is measured so as to inform interpretation of performance trends over time. ~~on its attainment of those standards and milestones.~~ Nothing herein shall prohibit the Agency from using additional performance measures.

(f) The Agency shall issue a Climate Action Plan to the Board of Supervisors and the Commission on the Environment by January 1, 2009, and every two years thereafter. The plan shall describe measures taken and progress made toward the goal of reducing greenhouse gas emissions from San Francisco's transportation sector to 80% of 1990 levels by 2012 and shall further address progress toward the following goals:

1. Zero greenhouse gas emissions for Municipal Railway transit vehicles;
2. Lowering energy consumption in Agency facilities and by non-transit vehicles;
3. Maximizing waste reduction in Agency operations;
4. Increasing transit trips and reducing private vehicle trips within the City;
5. Increasing the use of bicycles as an alternate form of transportation; and
6. Improving regional transit connections to reduce private vehicle use by commuters.

#### **SEC. 8A.104. PERSONNEL AND MERIT SYSTEM.**

(a) The Agency shall establish its own personnel/labor relations office. The director of transportation shall appoint a personnel/labor relations manager, who shall serve at the pleasure of the director of transportation.

(b) Except as otherwise provided in this Section, the Agency shall be governed by the rules of the civil service system administered by the City and appeals provided in civil service rules shall be heard by the City's Civil Service Commission. Unless otherwise agreed by the

Agency and affected employee organizations, appeals to the Civil Service Commission shall include only those matters within the jurisdiction of the Civil Service Commission which establish, implement, and regulate the civil service merit system as listed in Section A8.409-3.

(c) Effective July 1, 2000, except for the administration of health services, the Agency shall assume all powers and duties vested in the Department of Human Resources and the Director of Human Resources under Articles X and XI of this Charter with respect to all job classifications previously designated as performing "service critical functions." Effective July 1, 2008, except for the administration of health services, the Agency shall assume all powers and duties vested in the Department of Human Resources and the Director of Human Resources under Articles X and XI of this Charter with respect to all Agency employees. in connection with job classifications within the Municipal Railway performing "service critical" functions. Except for the matters set forth in subsection (f), the Department of Human Resources and the Director of Human Resources shall maintain all powers and duties under Articles X and XI as to all other Agency employees.

(d) On or before April 15, 2000, the Agency shall designate "service critical" classifications and functions for all existing classifications used by the Municipal Railway; provided, however, that employees in classifications designated as "service critical" shall continue to be covered by any Citywide collective bargaining agreement covering their classifications until the expiration of that agreement.

(e) For purposes of this Article, "service critical" functions are:

1. Operating a transit vehicle, whether or not in revenue service;
2. Controlling dispatch of, or movement of, or access to, a transit vehicle;
3. Maintaining a transit vehicle or equipment used in transit service, including both preventive maintenance and overhaul of equipment and systems, including system related infrastructure;
4. Regularly providing information services to the public or handling complaints; and

5. Supervising or managing employees performing functions enumerated above.  
The Agency shall consult with affected employee organizations before designating particular job classifications as performing "service critical" functions. If an employee organization disagrees with the Agency's designation of a particular job classification as "service critical" pursuant to the above standards, the organization may, within seven days of the Agency's decision, request immediate arbitration. The arbitrator shall be chosen pursuant to the procedures for the selection of arbitrators contained in the memorandum of understanding of the affected employee organization. The arbitrator shall determine only whether the Agency's designation is reasonable based on the above standards. The arbitrator's decision shall be final and binding.

The Agency may designate functions other than those listed above, and the job classifications performing those additional functions, as "service critical," subject to the consultation and arbitration provisions of this Section. In deciding a dispute over such a designation, the arbitrator shall decide whether the job functions of the designated classes relate directly to achievement of the goals and milestones adopted pursuant to Section 8A.103 and are comparable to the above categories in the extent to which they are critical to service.

(d) (f) In addition, the Agency shall, with respect to all Agency employees, succeed to the powers and duties of the Director of Human Resources under Article X to review and resolve allegations of discrimination, as defined in Article XVII, against employees or job applicants, or allegations of nepotism or other prohibited forms of favoritism; provided, however, that the Agency's resolution of allegations of discrimination must be approved by the City's Director of Human Resources. To the extent resolution of a discrimination complaint or request for accommodation involves matters or employees beyond the Agency's jurisdiction, the Agency shall coordinate with and be subject to applicable determinations of the Director of Human Resources.

(e) (g) The Agency shall be responsible for creating and, as appropriate, modifying Agency Municipal Railway bargaining units ~~for classifications designated by the Agency as "service critical"~~ and shall establish policies and procedures pursuant to Government Code sections 3507 and 3507.1 for creation and modification of such bargaining units. When the Agency creates or modifies a bargaining unit, employees in existing classifications placed in such bargaining unit shall continue to be represented by their current employee organizations.

(f) (h) The Agency may create new classifications of Agency employees ~~doing specialized work for the Agency~~. Such classifications shall be subject to the civil service provisions of the Charter unless exempted pursuant to Section 10.104, 8A.102(d) or subsection (g) (i).

(g) (i) The Agency may create new classifications and positions in those classifications exempt from the civil service system for managerial employees in addition to those exempt positions provided in Section 10.104 and 8A.102(d); provided, however, that the total number of such exempt new positions shall not exceed 4.5 10 percent of the Agency's total workforce, exclusive of the exempt positions provided in Section 10.104. This provision shall not be utilized to eliminate personnel holding existing permanent civil service managerial positions on November 2, 1999.

Persons serving in exempt managerial positions shall serve at the pleasure of the director of transportation. Such exempt management employees, to the extent they request placement in a bargaining unit, shall not be placed in the same bargaining units as non-exempt employees of the Agency.

(h) (j) The Civil Service Commission shall annually review both exempt and non-exempt classifications of the Agency to ensure compliance with the provisions of subsections (h) and (i).

(i) (k) Upon the expiration of current labor contracts negotiated by the Department of Human Resources and approved by the Board of Supervisors, and except for retirement benefits,

the wages, hours, working conditions, and benefits of the employees ~~in classifications within the Municipal Railway designated by the Agency as "service critical"~~ shall be fixed by the Agency after meeting and conferring as required by the laws of the State of California and this Charter, including Sections A8.346, A8.404 and A8.409. These agreements shall utilize, and shall not alter or interfere with, the health plans established by the City's Health Service Board; provided, however, that the Agency may contribute toward defraying the cost of employees' health premiums. For any job classification that exists ~~both as a "service critical" classification~~ in the Agency Municipal Railway and elsewhere in City service, the base wage rate negotiated by the Agency for that classification shall not be less than the wage rate set in the Citywide memorandum of understanding for that classification.

(j) (4) Notwithstanding subsection (i) (4), the Agency may, in its sole discretion, utilize the City's collective bargaining agreements with any employee organization representing less than 10 percent of the Agency's Municipal Railway's workforce.

(k) (m) Notwithstanding any limitations on compensation contained in Section A8.404, and in addition to the base pay established in collective bargaining agreements, all agreements negotiated by the Agency relating to compensation for Agency Municipal Railway managers and employees ~~in classifications designated by the Agency as "service critical" shall may~~ provide incentive bonuses based upon the achievement of the service standards in Section 8A.103(c) and other standards and milestones adopted pursuant to Section 8A.103. Such agreements may provide for additional incentives based on other standards established by the Agency, including incentives to improve attendance. The Agency shall also establish a program provide an incentive compensation plan under which a minimum of 10 percent of the total annual compensation for which each manager of the Agency who is exempt from the civil service system is eligible shall be paid as incentive compensation according to the Agency's or division's achievement of service standards adopted by the Board of Directors. that provides incentive

~~bonuses for all managers, including all managers exempt from the civil service system, based on the achievement of these standards and milestones.~~

(l) (n) For employees whose wages, hours and terms and conditions of employment are set by the Agency pursuant to Sections A8.404 or A8.409 et seq., the Agency shall exercise all powers of the City and County, the Board of Supervisors, the Mayor, and the Director of Human Resources under those sections. For employees covered by Section A8.409 et seq., the mediation/arbitration board set forth in Section A8.409-4 shall consider the following additional factors when making a determination in any impasse proceeding involving the Agency: the interests and welfare of transit riders, residents, and other members of the public; and the Agency's ability to meet the costs of the decision of the arbitration board without materially reducing service. Notwithstanding the timelines described in Section A8.409-4, to be effective the beginning of the next succeeding fiscal year, all negotiated agreements, mediated agreements and/or arbitration awards must be submitted to the MTA Board of Directors no later than May 31 for final adoption on or before June 30. For employees whose wages, hours and terms and conditions of employment are set by the Agency pursuant to Sections A8.404, t~~he~~ The Agency shall perform the functions of the Civil Service Commission with respect to certification of the average of the two highest wage schedules for transit operators in comparable jurisdictions pursuant to Section A8.404(a), and conduct any actuarial study necessary to implement Section A8.404(f).

(m) (o) The voters find that unscheduled employee absences adversely affect customer service. Accordingly, not later than January 1, 2001, the agency shall create a comprehensive plan for the reduction of unscheduled absences. In addition, the Agency shall take all legally permitted steps to eliminate unexcused absences. The Agency shall have no authority to approve any memorandum of understanding or other binding agreement which restricts the authority of the Agency to administer appropriate discipline for unexcused absences.

(n) (P) Before adopting any tentative agreement reached as a result of negotiations, or mediation or an award issued through arbitration, the Agency shall, no later than May 31, at a duly noticed public meeting, disclose in writing the contents of such tentative agreement or award, a detailed analysis of the proposed agreement, a comparison of the differences between the agreement reached and the prior agreement, and an analysis of all costs for each year of the term of such agreement. Such tentative agreement between the Agency and employee organization shall not be approved by the Agency until 30 days after the above disclosures have been made.

**SEC. 8A.105. MUNICIPAL TRANSPORTATION FUND; REVENUES FOR PUBLIC TRANSIT.**

(a) There is hereby established a fund to provide a predictable, stable, and adequate level of funding for the Agency, which shall be called the Municipal Transportation Fund. The fund shall be maintained separate and apart from all other City and County funds. Monies therein shall be appropriated, expended, or used by the Agency solely and exclusively for the operation including, without limitation, capital improvements, management, supervision, maintenance, extension, and day-to-day operation of ~~1) the Agency, including any division; 2) the Municipal Railway; 3) upon its incorporation into the Agency, the Department of Parking and Traffic; and 4) any other division of the Agency~~ subsequently created or incorporated into the Agency and performing transportation-related functions. Monies in the Fund may not be used for any other purposes than those identified in this Section.

(b) Beginning with the fiscal year 2000-2001 and in each fiscal year thereafter, there is hereby set aside to the Municipal Transportation Fund the following:

1. An amount (the "Base Amount") which shall be no less than the amount of all appropriations from the General Fund, including all supplemental appropriations, for the fiscal year 1998-1999 or the fiscal year 1999-2000, whichever is higher (the "Base Year"), adjusted as

provided in subsection (c), below, for (1) the Municipal Railway; and (2) all other City and County commissions, departments and agencies providing services to the Municipal Railway, including the Department of Human Resources and the Purchasing Department, for the provision of those services. The Base Amount for the Department of Parking and Traffic and the Parking Authority shall be established in the same fashion but using fiscal years 2000-2001 and 2001-2002 for the services being incorporated into the Agency.

2. Subject to the limitations and exclusions in Sections 4.113 and 16.110, the revenues of the Municipal Railway, and, upon their incorporation into the Agency, the revenues of the Department of Parking and Traffic, and the Parking Authority; and

3. All other funds received by the City and County from any source, including state and federal sources, for the support of the *Agency Municipal Railway*.

(c) The Base Amount shall initially be determined by the Controller. Adjustments to the Base Amount shall be made as follows:

1. The Base Amount shall be adjusted for each year after fiscal year 2000-2001 by the Controller based on calculations consistent from year to year, by the percentage increase or decrease in aggregate City and County discretionary revenues. In determining aggregate City and County discretionary revenues, the Controller shall only include revenues received by the City which are unrestricted and may be used at the option of the Mayor and the Board of Supervisors for any lawful City purpose. Errors in the Controller's estimate of discretionary revenues for a fiscal year shall be corrected by adjustment in the next year's estimate.

2. An adjustment shall also be made for any increases in General Fund appropriations to the Agency in subsequent years to provide continuing services not provided in the Base Year, but excluding additional appropriations for one-time expenditures such as capital expenditures or litigation judgments and settlements.

~~3. Further, when new parking revenues increase due to policy changes in fines, taxes or newly created positions, the Base Amount shall be reduced by 50 percent of such increase to reduce the Agency's reliance on the General Fund.~~

(d) The Treasurer shall set aside and maintain the amounts required to be set aside by this Section, together with any interest earned thereon, in the Municipal Transportation Fund, and any amounts unspent or uncommitted at the end of any fiscal year shall be carried forward, together with interest thereon, to the next fiscal year for the purposes specified in this Article.

(e) It is the policy of the City and County of San Francisco to use parking-related revenues to support public transit. To that end, the following parking-related revenues deposited in the Transportation Fund shall be used to support the capital and operating expenses arising from the Agency's transit functions:

1. Revenues from parking meters, except those amounts collected from parking meters operated by the Recreation and Park Department and the Port Commission and except to the extent that they are required by law to be dedicated to other traffic regulation and control functions;

2. Revenues from off-street parking facilities under the jurisdiction of the Agency (excluding facilities owned by the Parking Authority), including facilities leased to private owners and non-profit corporations, except those amounts generated from any parking on or below any land or facilities under the jurisdiction of the Recreation and Park Department and except those amounts obligated by contract executed before 1993 to pay debt service;

3. Revenues from fines, forfeited bail, or penalties for parking violations, except those amounts to be credited to the courthouse construction fund as provided in Administrative Code Section 10.117-35.

In addition, there is hereby set aside from the general revenues of the City and County and deposited in the Transportation Fund to support the capital and operating expenses arising

from the Agency's transit functions an amount equivalent to 80 percent of the revenues received from the City's tax on occupation of parking spaces.

## **SEC. 8A.106. BUDGET.**

The Agency shall be subject to the provisions of Article IX of this Charter except:

(a) No later than May March 1 of each even-numbered year, after professional review, public hearing and after receiving the recommendations of the Citizens' Advisory Council, the Agency shall submit its proposed budget for the next two fiscal years year to the Mayor and the Board of Supervisors for their review and consideration. The Agency shall propose a base budget that is balanced without the need for additional funds over the Base Amount, but may include fare increases and decreases, and reductions or abandonment of service. The Mayor shall submit the base budget to the Board of Supervisors, without change. Should the Agency request additional general fund support over the Base Amount, it shall submit an augmentation request for those funds in the standard budget process and subject to normal budgetary review and amendment under the general provisions of Article IX.

(b) At the time the budget is adopted, the Agency shall certify that the budget is adequate in all respects to make substantial progress towards meeting the goals, objectives, and performance standards established pursuant to Section 8A.103 for the fiscal year covered by the budget.

(c) No later than August 1, the Board of Supervisors may allow the Agency's base budget to take effect without any action on its part or it may reject but not modify the Agency's base budget by a two-thirds' vote. Any fare or service change, route abandonment, or revenue measure proposed in the base budget shall be considered accepted unless rejected by a two-thirds' vote on the entire base budget. Should the Board reject the base budget, it shall make additional interim appropriations to the Agency from the Municipal Transportation Fund sufficient to permit the Agency to maintain all operations through the extended interim period

until a base budget is adopted. Any request for *appropriation of General Fund revenues in excess of the Base Amount augmentation funding* shall be approved, modified, or rejected under the general provisions of Article IX.

(d) Subsequent budget amendments or modifications proposed by the Agency during the term of the budget, including but not limited to amendments reflecting fare changes, route abandonments and revenue measures, shall be submitted to the Board of Supervisors. The Board of Supervisors may allow a budget amendment to take effect without any action on its part or it may reject but not modify the budget amendment by a two-thirds' vote taken within 30 days after its submission to the Board of Supervisors.

(e) Notwithstanding any other provisions of this Charter or requirements of the Annual Salary Ordinance, the Agency may move funds within its budget and hire personnel without Controller approval so long as the Controller's periodic and verifiable projections of spending by the Agency show the Agency's spending will be within the approved budget. However, should the Controller's projection show that the Agency is likely to exceed its budget, the Controller may impose appropriate controls in his or her discretion to keep the agency within budget.

## **SEC. 8A.108. FARE CHANGES AND ROUTE ABANDONMENTS.**

(a) Any proposed change in fares shall be submitted to the Board of Supervisors as part of the Agency's budget or as a budget amendment under Section 8A.106, and may be rejected at that time by a two-thirds' vote of the Board.

(b) The Agency shall base any proposed change in Municipal Railway fares on the following criteria:

1. The Municipal Railway's need for additional funds for operations and capital improvements.
2. The extent to which the increase is necessary to meet the goals, objectives, and performance standards previously established by the Agency pursuant to Section 8A.103.

3. The extent to which the Agency has diligently sought other sources of funding for the operations and capital improvements of the Municipal Railway.

4. The need to keep Municipal Railway fares low to encourage maximum patronage.

5. The need to increase fares gradually over time to keep pace with inflation and avoid large fare increases after extended periods without a fare increase.

(c) (b) For purposes of this Article, a "route abandonment" shall mean the permanent termination of service along a particular line or service corridor where no reasonably comparable substitute service is offered. If the Agency proposes to abandon a route at any time other than as part of the budget process as provided in Section 8A.106 ~~8A.106(a)~~, it shall first submit the proposal to the Board of Supervisors. The Board of Supervisors may, after a noticed public hearing, reject the proposed route abandonment by a two-thirds' vote of its members taken within 30 days after the proposal is submitted by the Agency.

#### **SEC. 8A.109. ADDITIONAL SOURCES OF REVENUE.**

(a) To the extent allowed by law, the Board of Supervisors may, by ordinance, dedicate to the Agency revenues from sources such as gas taxes, motor vehicle licensing taxes or other available motor vehicle-related revenue sources.

(b) The Mayor, the Board of Supervisors, and the Agency diligently shall seek to develop new sources of funding for the Agency's operations, including sources of funding dedicated to the support of such operations, which can be used to supplement or replace that portion of the Municipal Transportation Fund consisting of appropriations from the General Fund of the City and County. To the extent permitted by State law, Unless prohibited by preemptive state law, the Agency may submit any proposal for increased or reallocated funding to support all or a portion of the operations of the Agency, including, without limitation, a tax or special assessment directly to the electorate for approval, or to the owners of property or businesses to be specially assessed, or to any other persons or entities whose approval may be

legally required, without the further approval of the Mayor or the Board of Supervisors. The Agency shall be authorized to conduct any necessary studies in connection with considering, developing, or proposing such revenue sources.

#### **SEC. 8A.110. PLANNING AND ZONING.**

The planning and zoning provisions of this Charter and the Planning Code, as they may be amended from time to time, shall apply to all real property owned or leased by the Agency but shall not impede the Agency's exclusive authority to set rates and other charges pursuant to Section 8A.102(b)(5).

#### **SEC. 8A.112. PARKING AND TRAFFIC; ~~INCORPORATION INTO AGENCY~~.**

(a) By July 1, 2001, the Agency and the Department of Parking and Traffic shall prepare and submit to the Mayor and the Board of Supervisors a joint plan for incorporating the Department into the Agency.

(b) Effective July 1, 2002, the Department of Parking and Traffic shall become a separate department of the Municipal Transportation Agency and Charter Section 4.116, establishing the Parking and Traffic Commission, shall be repealed. Effective that date, the Agency shall have all the same powers and duties with respect to the Department of Parking and Traffic that it has with respect to the Municipal Railway, and shall succeed to all powers and duties of the Parking and Traffic Commission.

The Municipal Transportation Agency board of directors shall succeed to all powers and duties of the former Parking and Traffic Commission. Effective July 1, 2002, the Agency's board of directors shall also exercise all remaining powers of the Parking and Traffic Commission for all purposes, including the power of members of the Parking and Traffic Commission to serve ex officio as members of the Parking Authority Commission under Section 32657 of the Streets and Highways Code. The chair of the Agency's board of directors shall designate annually the

directors to serve as members of the Parking Authority Commission. Any person may serve concurrently as a member of the Agency's board of directors and as a member of the Parking Authority Commission. It is the policy of the City and County that the Agency exercise all powers vested by State law in the Parking Authority.

*It shall be City policy that the offices of Director of Transportation and Parking Authority Executive Director are not incompatible offices, and the Director of Transportation may serve ex officio as Parking Authority Executive Director, but shall not receive any additional compensation for that service.*

~~(e) Except as provided in subsection (a), no provision of this Article shall apply to the Department of Parking and Traffic prior to July 1, 2002.~~

#### **SEC. 8A.113. PARKING AND TRAFFIC; GOVERNANCE.**

(a) The Agency shall be responsible for management of parking and traffic functions within the City, so as to manage the functions of the Department of Parking and Traffic so that the department:

1. Provide ~~Provides~~ priority to transit services in the utilization of streets, particularly during commute hours while maintaining the safety of passengers, pedestrians, cyclists and motorists;
2. Facilitate ~~Facilitates~~ the design and operation of City streets to enhance alternative forms of transit, such as pedestrian, bicycle, and pooled or group transit (including taxis);
3. Propose ~~Proposes~~ and implement ~~implements~~ street and traffic changes that gives the highest priority to public safety and to impacts on public transit, pedestrians, commercial delivery vehicles, and bicycles;
4. Integrate ~~Integrates~~ modern information and traffic-calming techniques to promote safer streets and promote usage of public transit; and
5. Develop ~~Develops~~ a safe, interconnected bicycle circulation network.

6. Ensure that parking policies and facilities contribute to the long term financial health of the Agency.

(b) It shall be City policy that the The Agency shall manage the Parking Authority so that it does not acquire or construct new or expanded parking facilities unless the Agency finds that the costs resulting from such acquisition, construction, or expansion and the operation of such facilities will not reduce the level of funding to the Municipal Railway from parking and garage revenues under Section 16.110 to an amount less than that provided for fiscal year 1999-2000, as adjusted by the Controller for inflation; further provided that it shall be City policy that before approving the acquisition, construction or expansion of a parking garage, the Agency's Board of Directors shall make a finding that the operation of the garage will advance or be consistent with the City's Transit First Policy.

**SEC. 8A.114. 16.100. CABLE CARS.**

In the conduct of the public transportation system there shall be maintained and operated cable car lines as follows:

1. A line commencing at Powell and Market Streets; thence along Powell Street to Jackson Street; thence along Jackson Street to Mason Street; thence along Mason Street to Columbus Avenue; thence along Columbus Avenue to Taylor Street; thence along Taylor Street to a terminal at Bay Street; returning from Bay and Taylor Streets along Taylor Street to Columbus Avenue; thence along Columbus Avenue to Mason Street; thence along Mason Street to Washington Street; thence along Washington Street to Powell Street; and thence along Powell Street to Market Street, the point of commencement.

2. A line commencing at Powell and Market Streets; thence along Powell Street to Jackson Street; thence along Jackson Street to Hyde Street; thence along Hyde Street to a terminal at Beach; returning from Beach and Hyde Streets along Hyde Street to Washington

Street; thence along Washington Street to Powell Street; thence along Powell Street to Market Street, the point of commencement.

3. A line commencing at Market and California; thence along California Street to a terminal at Van Ness Avenue; returning from Van Ness Avenue along California Street to Market Street, the point of commencement.

To fully effectuate the intent of this section, these lines shall be maintained and operated at the normal levels of scheduling and service in effect on July 1, 1971; provided, however, that nothing herein contained shall prevent the increasing of the levels of scheduling and service.

#### **SEC. 8A.115. 16.102. TRANSIT-FIRST POLICY.**

The following principles shall constitute the City and County's transit-first policy and shall be incorporated into the General Plan of the City and County. All officers, boards, commissions, and departments shall implement these principles in conducting the City and County's affairs:

1. To ensure quality of life and economic health in San Francisco, the primary objective of the transportation system must be the safe and efficient movement of people and goods.

2. Public transit, including taxis and vanpools, is an economically and environmentally sound alternative to transportation by individual automobiles. Within San Francisco, travel by public transit, by bicycle and on foot must be an attractive alternative to travel by private automobile.

3. Decisions regarding the use of limited public street and sidewalk space shall encourage the use of public rights of way by pedestrians, bicyclists, and public transit, and shall strive to reduce traffic and improve public health and safety.

4. Transit priority improvements, such as designated transit lanes and streets and improved signalization, shall be made to expedite the movement of public transit vehicles (including taxis and vanpools) and to improve pedestrian safety.

5. Pedestrian areas shall be enhanced wherever possible to improve the safety and comfort of pedestrians and to encourage travel by foot.

6. Bicycling shall be promoted by encouraging safe streets for riding, convenient access to transit, bicycle lanes, and secure bicycle parking.

7. Parking policies for areas well served by public transit shall be designed to encourage travel by public transit and alternative transportation.

8. New transportation investment should be allocated to meet the demand for public transit generated by new public and private commercial and residential developments.

9. The ability of the City and County to reduce traffic congestion depends on the adequacy of regional public transportation. The City and County shall promote the use of regional mass transit and the continued development of an integrated, reliable, regional public transportation system.

10. The City and County shall encourage innovative solutions to meet public transportation needs wherever possible and where the provision of such service will not adversely affect the service provided by the Municipal Railway.

#### **SEC. 9.118. CONTRACT AND LEASE LIMITATIONS.**

(a) Unless otherwise provided for in this Charter, contracts entered into by a department, board or commission having anticipated revenue to the City and County of one million dollars or more, or the modification, amendment or termination of any contract which when entered into had anticipated revenue of one million dollars or more, shall be subject to approval of the Board of Supervisors by resolution.

(b) Unless otherwise provided for in this Charter, and with the exception of construction contracts entered into by the City and County, any other contracts or agreements entered into by a department, board or commission having a term in excess of ten years, or requiring anticipated expenditures by the City and County of ten million dollars, or the modification or amendments to

such contract or agreement having an impact of more than \$500,000 shall be subject to approval of the Board of Supervisors by resolution.

(c) Unless otherwise provided for in this Charter, any lease of real property for a period of ten or more years, including options to renew, or having anticipated revenue to the City and County of one million dollars or more; the modification, amendment or termination of any lease, which when entered into was for a period of ten or more years, including options to renew, or had anticipated revenue to the City and County of one million dollars or more; and any sale or other transfer of real property owned by the City and County, shall first be approved by resolution of the Board of Supervisors. Leases of property under the jurisdiction of the Port Commission for maritime use shall be exempt from the requirements of this section.

(d) Approval of the Board of Supervisors shall not be required for contracts and leases of property authorized by the Municipal Transportation Agency Board of Directors as part of a lease financing or other debt financing arrangement the proceeds of which are used exclusively for Agency purposes.

**SEC. 16.110. REVENUES FOR PUBLIC TRANSIT.**

~~It is the policy of the City and County of San Francisco to use parking related revenues, where available, to support public transit. To the extent allowed by law, there is hereby set aside from the general revenues of the City and County for the operations and capital improvements of the Department of Public Transportation for each fiscal year an amount equivalent to the City and County's share of revenues realized from:~~

- ~~1. Parking meters, except those amounts to be credited to the off street parking fund as provided in Traffic Code Section 213 and those amounts collected from parking meters operated by the Recreation and Park Department and the Port Commission;~~
- ~~2. City owned off street parking facilities, including facilities leased to private owners and non profit corporations, except those amounts to be credited to the off street parking fund or~~

~~otherwise dedicated as provided in Traffic Code Section 213 and except those amounts generated from any parking on or below any land or facilities under the jurisdiction of the Recreation and Park Department;~~

~~3. Fines, forfeited bail, or penalties for parking violations, except those amounts to be credited to the courthouse construction fund as provided in Administrative Code Section 10.117-35; and,~~

~~4. The tax on occupation of parking spaces, except for the amounts attributable to any surcharges imposed since 1978 and except for the amounts set aside for senior citizens' programs as provided in Section 615 of Part III of the Municipal Code.~~

~~In determining the amounts to be credited to the off street parking fund as set forth in subparagraphs (1) and (2) above, sufficient revenues shall be credited to such fund to ensure adequate funding for the purposes for which such fund was created, including without limitation the following: capital outlays for the acquisition of property, construction, completion, and leasing of public parking lots, storage space, garages, structures, and other off street parking facilities; maintenance and operation of such parking facilities; public works improvements that increase the supply of on street parking; engineering and construction of on street parking bays in parking meter districts in neighborhood commercial districts; installation and maintenance of on and off street parking meters; and the administration of the parking programs of the City and County.~~

~~The Treasurer shall set aside and maintain said amounts, together with any interest earned thereon, in a special fund, and any amounts unspent or uncommitted at the end of any fiscal year shall be carried forward to the next fiscal year and, subject to the budgetary and fiscal limitations of the Charter, shall be appropriated then or thereafter for the purposes specified in this section.~~

~~To the extent allowed by law, the Board of Supervisors may, by ordinance, dedicate additional revenues to the department of public transportation from sources including, but not~~

~~limited to, gas taxes, motor vehicle licensing taxes or other available motor vehicle related revenue sources.~~

**SEC. A8.404. SALARIES AND BENEFITS OF TRANSIT OPERATORS~~CARMEN~~.**

The wages, conditions and benefits of employment ~~for transit operators as provided for in this section of the various classifications of employment of platform employees and coach or bus operators of the municipal railway as compensation~~, shall be determined and fixed annually as follows:

(a) On or before the first Monday of August of each year, the civil service commission shall certify to the board of supervisors for each classification of employment the average of the two highest wage schedules in effect on July 1st of that year for comparable ~~transit operators platform employees and coach or bus operators~~ of other surface street railway and bus systems in the United States operated primarily within the municipalities having each a population of not less than 500,000 as determined by the then most recent census taken and published by the director of the census of the United States, and each such system normally employing not less than 400 ~~transit operators platform employees or coach or bus operators, or platform employees, coach and bus operators~~.

(b) The board of supervisors shall thereupon fix a wage schedule for each classification of ~~transit operators platform employees and coach and bus operators~~ of the municipal railway which shall not be *in excess of less than* the average of the two highest wage schedules so certified by the civil service commission for each such classification.

(c) When, in addition to their usual duties, such employees are assigned duties as instructors of ~~transit operators platform employees or coach or bus operators~~ they shall receive additional compensation that shall be subject to negotiation in addition to the rate of pay to which they are otherwise entitled under the wage schedule as herein provided.

(d) The rates of pay fixed for ~~transit operators platform employees and coach and bus operators~~ as herein provided shall be effective from July 1st of the year in which such rates of pay are certified by the civil service commission.

(e) The terms "wage schedule" and "wage schedules" wherever used in this section are hereby defined and intended to include only the maximum rate of pay provided in each such wage schedule.

(f) At the time the board of supervisors fixes the wage schedule as provided in (b) above, the board of supervisors may fix as conditions and benefits of employment other than wages as compensation for ~~transit operators platform employees and coach or bus operators~~ of the municipal railway, conditions and benefits not to exceed those conditions and benefits granted by collective bargaining agreements to the comparable ~~transit operators platform employees and coach or bus operators~~ of the two systems used for certification of the average of the two highest wage schedules by the civil service commission. The board of supervisors may establish such conditions and benefits notwithstanding other provisions or limitations of this charter, with the exception that such conditions and benefits shall not involve any change in the administration of, or benefits of the retirement system, health service system or vacation allowances as provided elsewhere in this charter. For all purposes of the retirement system as related to this section, the word "compensation" as used in Section 8.509 of this charter shall mean the "wage schedules" as fixed in accordance with paragraphs (a) and (b) above, including those differentials established and paid as part of wages to ~~transit operators platform employees and coach and bus operators~~ of the municipal railway, but shall not include the value of those benefits paid into the fund established as herein provided. Provided that when in the two systems used for certification as provided above, vacation, retirement and health service benefits are greater than such similar benefits provided by this charter for ~~transit operators platform employees, coach or bus operators~~ of the municipal railway, then an amount not to exceed the difference of such benefits may be converted to dollar values and the amount equivalent to these dollar values shall be paid

into a fund. The fund shall be established to receive and to administer said amounts representing the differences in values of the vacation, retirement and health service benefits, and to pay out benefits that shall be jointly determined by representatives of the city and county government and the representatives of the organized *transit operators platform employees and coach and bus operators* of the municipal railway. The civil service commission shall adopt rules for the establishment and general administration of the fund as herein provided. Such rules shall provide for a joint administration of the fund by representatives of the city and county government, which shall include representatives of the administrator of the agency responsible for the municipal railway and representatives of the organized *transit operators platform employees, coach and bus operators* of the municipal railway. Such rules may provide a procedure for final and binding arbitration of disputes which may arise between representatives of the city and county government and the representatives of the organized *transit operators platform employees and coach and bus operators* of the municipal railway. Such rules shall provide that all investments of the fund shall be of the character legal for insurance companies in California. Such rules and any amendments thereto shall be effective upon approval by the board of supervisors by ordinance.

(g) Notwithstanding any provisions of this charter, including other subparts of this section, the board of supervisors may, after meeting and conferring with and reaching agreement with the employee organization certified as the representative for municipal railway *transit* operators, fix wages and benefits of employment other than wages for *transit operators platform employees and coach and bus operators* of the municipal railway under this section for periods in excess of one year. Any ordinance fixing wages and benefits of employment other than wages adopted pursuant to this section for a period of more than one year shall contain a provision to the effect that during said period of time it shall be unlawful for the employees receiving the compensation so fixed to engage in a strike, work stoppage or conduct delaying or interfering with work at city and county facilities. Wages and benefits of employment other than wages

established under this section shall not in any year exceed the limits established under paragraphs (b) and (f) of this section.

(h) Not later than the 25th day of August, the board of supervisors shall have the power and it shall be its duty, subject to the fiscal provisions of the charter but, without reference or amendment to the annual budget, to amend the annual appropriation ordinance and the annual salary ordinance as necessary to include the provisions for paying the rates of compensation and conditions and benefits other than wages fixed by the board of supervisors as in this section provided for transit operators platform employees and coach or bus operators for the then current fiscal year.

On recommendation of the civil service commission the board of supervisors shall establish a rate of pay for trainee transit operators platform men and bus or coach operators at a level reflecting the current labor market but below the basic hourly rate for transit operators motorman, conductor and bus operator.

APPROVED AS TO FORM:  
DENNIS J. HERRERA, City Attorney

By: \_\_\_\_\_  
THOMAS J. OWEN  
Deputy City Attorney