

1 [Urging the San Francisco Municipal Transportation Agency Board to Adopt Proof of Labor
2 Harmony Conditions for Commuter 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 Shuttle Pilot Program and any other permanent Commuter Shuttle Program.**

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7 WHEREAS, The San Francisco Municipal Transportation Agency (SFMTA) has
8 adopted a Commuter Shuttle Policy and Pilot Program (Program); and

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

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

18 WHEREAS, The SFMTA adopted Transportation Code, Section 914, to establish the
19 program to regulate the use of Muni stops by commuter shuttles; and

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

24 WHEREAS, In adopting the Program, the SFMTA made the following general findings
25 of purpose: 1) Provide a safe environment for commuter shuttle riders as well as other street

1 users; 2) Support the commuter shuttle operations; 3) Integrate commuter shuttles into the
2 existing multi-modal transportation system; 4) Ensure that commuter shuttles do not adversely
3 affect operations of public transportation in San Francisco; 5) Consistently and fairly apply and
4 enforce any regulations/policies governing shuttle operations; 6) Work collaboratively with
5 shuttle sector to develop policies and resolve concerns and conflicts; 7) Establish a program
6 structure that meets current needs, and that has the potential to evolve as the sector grows
7 and needs change; 8) Develop processes with attention to effective enforcement and ease of
8 administration and on-going oversight; and

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

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

14 WHEREAS, Under State law the City has plenary authority to regulate the use of its
15 streets and sidewalks, subject to the rights retained by the people over public places pursuant
16 to the state and federal constitutions; and

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

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

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1 WHEREAS, By permitting commuter shuttles to access and utilize SFMTA bus stops,
2 the SFMTA may establish the terms of use and ensure the operations of the SFMTA system
3 are 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, Federal law authorizes and permits the resolution of labor disputes
7 through economic action, including picketing at the place of business of the employer that is
8 involved in the labor dispute; and

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

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

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

22 WHEREAS, The Board of Supervisors further finds, for the reasons set forth in
23 SFMTA's findings related to the adoption of Transportation Code, Section 914, including the
24 fact that on a daily basis commuter shuttle services make 2,497 stops in the City, that the
25 coordination of commuter shuttle services within the existing SFMTA bus transportation

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

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

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

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

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

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

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

3 FURTHER RESOLVED, That the Board of Supervisors urges the SFMTA Board to
4 adopt Labor Harmony Conditions as part of any later permanent Commuter Shuttle Program;
5 and, be it

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

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