

[Municipal Transportation Agency Board of Directors; Parking Authority Commission.]

## 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.102, 8A.112, and 15.105 to divide the power to nominate members of the Municipal Transportation Agency's Board of Directors between the Mayor, the President of the Board of Supervisors, and the Controller, subject to confirmation of all nominations by the Board of Supervisors, setting the compensation of members of the Board of Directors at \$1,000 per month, and fixing the status of the Board of Directors as members of the Parking Authority Commission.

The Board of Supervisors hereby submits to the qualified voters of the City and County, at an election to be held on November 4, 2008, a proposal to amend the Charter of the City and County by amending Sections 8A.102, 8A.112, and 15.105 to read as follows:

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

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

(a) The Agency shall be governed by a board of seven directors *nominated and appointed pursuant to this Section. Three of the members shall be nominated by the Mayor, three of the members shall be nominated by the President of the Board of Supervisors, and one of the members shall be nominated by the Controller. Each nomination shall be subject to confirmation by the Board of Supervisors, and the Board shall hold a public meeting and vote on the nomination within 60 days of its transmittal to the Clerk of the Board of Supervisors. If the Board fails to act on the nomination within 60 days of the date the nomination is transmitted, the nominee shall be deemed approved. The appointment shall become effective on the date the*

Board adopts a motion approving the nomination or after 60 days of the date the nomination is transmitted. 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.

The respective terms of office of the members of the Board of Directors who hold office on March 1, 2009 shall expire at noon on that date, and the three members nominated by the Mayor, the three members nominated by the President of the Board of Supervisors, and the one member nominated by the Controller shall succeed to said office at that time. In order to provide for staggered terms, one of the members nominated by the Mayor, one of the members nominated by the President of the Board of Supervisors, and the member nominated by the Controller shall be nominated for an initial term of two years from March 1, 2009. The remaining two members nominated by the Mayor and the two members nominated by the President of the Board of Supervisors shall serve for an initial term of four years from March 1, 2009, and thereafter the terms of all members shall be four years.

At least ~~two~~ ~~four~~ of the directors nominated by the Mayor and two of the directors nominated by the President of the Board 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 one ~~two~~ of the directors nominated by the Mayor and one of the directors nominated by the President of the Board 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. *The officer who nominated a* A director may remove that director ~~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 in the amount of \$1,000 per month ~~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 over 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; and have exclusive authority over contracting, leasing, and purchasing by the Agency, provided that any Agency contract for outside services shall be subject to Charter Sections 10.104(12) and 10.104(15) and that the Agency may not transfer ownership of any of the real property of the City and County without approval from the Board of Directors and the Board of Supervisors;

2. Have 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 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. Have 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. Notwithstanding Section 2.109, and except as provided in Sections 8A.106 and 8A.108, have exclusive authority to fix the fares charged by the Municipal Railway, rates for off-street and on-street parking, and all other, rates, fees, fines, penalties and charges for services provided or functions performed by the Agency;

7. 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 adopt regulations that control the flow and direction of motor vehicle, bicycle and pedestrian traffic, including regulations that limit the use of certain streets or traffic lanes to categories of vehicles and that limit the speed of traffic; and 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 City jurisdiction, provided that:

(i) Notwithstanding the authority established in subsection 7, the Board of Supervisors may by ordinance establish procedures by which the public may seek Board of Supervisors review of any Agency decision with regard to the installation or removal of a stop sign or the creation or elimination of a bicycle lane. In any such review, the Agency's decision shall stand unless the Board of Supervisors reverses the decision of the Agency not later than 60 days after submission of a request to the Board of Supervisors.

(ii) Nothing in this subsection 7 shall modify the authority of ISCOTT, or any successor body, or the authority of the Board of Supervisors to hear appeals regarding the temporary use or occupancy of public streets.

(iii) Nothing in subsection 7 shall modify the power of the Board of Supervisors to establish civil offenses, infractions and misdemeanors.

(iv) Notwithstanding the authority established in subsection 7, to the extent state law contemplates that Agency action authorized by subsection 7 be effectuated by ordinance, such action shall be effectuated by resolution of the Board of Directors and shall be subject to referendum in accordance with Article 14, and, if a referendum petition contains the requisite number of signatures, the Board of Supervisors shall have the power to reconsider or repeal the action as provided in Article 14.

8. Have exclusive authority to adopt regulations limiting parking, stopping, standing or loading as provided by state law and to establish parking privileges and locations subject to such privileges for categories of people or vehicles as provided by state law; to establish parking meter zones, to set parking rates, and to select, install, locate and maintain systems and equipment for payment of parking fees, provided that:

(i) Notwithstanding the authority established in subsection 8, the Board of Supervisors may by ordinance establish procedures by which the public may seek Board of Supervisors review of any Agency decision with regard to the creation or elimination of any preferential parking zone, the creation or elimination of any parking meter zone, the adoption of any limitation on the time period for which a vehicle may be parked, or reservation of any parking space for persons with a disability that qualifies for parking privileges under state law. In any review of a decision of the Agency pursuant to this section, the Agency's decision shall stand unless the Board of Supervisors reverses the decision of the Agency not later than 60 days after submission of a request to the Board of Supervisors.

(ii) Nothing in subsection 8 shall modify the power of the Board of Supervisors to establish civil offenses, infractions and misdemeanors.

(iii) Notwithstanding the authority established in subsection 8, to the extent state law contemplates that any Agency action authorized by subsection 8 be effectuated by ordinance, such action shall be effectuated by resolution of the Board of Directors and, if

a referendum petition contains the requisite number of signatures, shall be subject to referendum in accordance with Article 14, and the Board of Supervisors shall have the power to reconsider or repeal the action as provided in Article 14.

9. Have exclusive authority to establish policies regarding and procure goods and services for the enforcement of regulations limiting parking, stopping, standing or loading and the collection of parking-related revenues and, along with the Police Department, have authority to enforce parking ,stopping, standing or loading regulations;

10. Be responsible for chairing the Interdepartmental Staff Committee on Traffic and Transportation (ISCOTT) or any successor body;

11. 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;

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

13. To the maximum extent permitted by law, with the concurrence of the Board of Supervisors, and notwithstanding the requirements and limitations of Sections 9.107, 9.108, and 9.109, have authority without further voter approval to incur debt for Agency purposes and to issue or cause to be issued bonds, notes, certificates of indebtedness, commercial paper, financing leases, certificates of participation or any other debt instruments. Upon recommendation from the Board of Directors, the Board of Supervisors may authorize the Agency to incur on behalf of the City such debt or other obligations 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.

14. 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

15. 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 of Transportation 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 Board of Directors, after an independent survey, determine most closely resemble the Agency in size, mission, and complexity. In addition, the Board of Directors shall provide an incentive compensation plan consistent with the requirements of Section 8A.104(k) under which a portion of the Director's compensation is based on achievement of service standards adopted by the Board of Directors.

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

3. In addition to any training that may be required by City, State or federal law, attend a minimum of four hours of training in each calendar year, provided by the City Attorney and the Controller regarding the legal and financial responsibilities of the Board and the Agency.

(d) The Director of Transportation shall appoint all subordinate personnel of the Agency, including deputy directors. The deputy directors shall serve at the pleasure of the Director of Transportation.

(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 Board of 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 and his or her designees may approve contracts.

(h) 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, 6.102, 9.118, 16.100, and A8.346. Sections 4.102, 4.126, and 4.132 shall not be applicable to the Agency.

#### **SEC. 8A.112. PARKING AND TRAFFIC.**

(a) The Municipal Transportation Agency Board of Directors shall succeed to all powers and duties of the former Parking and Traffic Commission, ~~including the power of~~ The members of the Agency's Board of Directors shall ~~to~~ serve ex officio as members of the Parking Authority Commission under Section 32657 of the Streets and Highways Code. Members of the Agency's Board of Directors shall not receive any additional compensation for service as ex officio



~~members of the Parking Authority Commission. 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.

(b) 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.

#### **SEC. 15.105. SUSPENSION AND REMOVAL.**

(a) **Elective and Certain Appointed Officers.** Any elective officer, and any member of the Airport Commission, Asian Art Commission, Civil Service Commission, Commission on the Status of Women, Golden Gate Concourse Authority Board of Directors, Health Commission, Human Services Commission, Juvenile Probation Commission, ~~Municipal Transportation Agency Board of Directors~~, Port Commission, Public Utilities Commission, Recreation and Park Commission, Fine Arts Museums Board of Trustees, Taxi Commission, War Memorial and Performing Art Center Board of Trustees, Board of Education or Community College Board is subject to suspension and removal for official misconduct as provided in this section. Such officer may be suspended by the Mayor and the Mayor shall appoint a qualified person to discharge the duties of the office during the period of suspension. Upon such suspension, the Mayor shall immediately notify the Ethics Commission and Board of Supervisors thereof in writing and the cause thereof, and shall present written charges against such suspended officer to the Ethics Commission and Board of Supervisors at or prior to their next regular meetings following such suspension, and shall immediately furnish a copy of the same to such officer, who shall have the right to appear with counsel before the Ethics

Commission in his or her defense. The Ethics Commission shall hold a hearing not less than five days after the filing of written charges. After the hearing, the Ethics Commission shall transmit the full record of the hearing to the Board of Supervisors with a recommendation as to whether the charges should be sustained. If, after reviewing the complete record, the charges are sustained by not less than a three-fourths vote of all members of the Board of Supervisors, the suspended officer shall be removed from office; if not so sustained, or if not acted on by the Board of Supervisors within 30 days after the receipt of the record from the Ethics Commission, the suspended officer shall thereby be reinstated.

(b) **Building Inspection Commission, Planning Commission, Board Of Appeals, Elections Commission, Ethics Commission, ~~and~~ Entertainment Commission, and Municipal Transportation Agency's Board of Directors.** Members of the Building Inspection Commission, the Planning Commission, the Board of Appeals, the Elections Commission, the Ethics Commission, ~~and~~ the Entertainment Commission, and the Municipal Transportation Agency's Board of Directors may be suspended and removed pursuant to the provisions of subsection (a) of this section except that the Mayor may initiate removal only of the Mayor's appointees and the appointing authority shall act in place of the Mayor for all other appointees.

(c) **Removal for Conviction of a Felony Crime Involving Moral Turpitude.**

(1) Officers Enumerated in Subsections (a) and (b).

(A) An appointing authority must immediately remove from office any official enumerated in subsections (a) or (b) upon:

(i) a court's final conviction of that official of a felony crime involving moral turpitude;  
and

(ii) a determination made by the Ethics Commission, after a hearing, that the crime for which the official was convicted warrants removal.

(B) For the purposes of this subsection, the Mayor shall act as the appointing authority for any elective official.

(C) Removal under this subsection is not subject to the procedures in subsections (a) and (b) of this section.

(2) Other Officers and Employees.

(A) At will appointees. Officers and employees who hold their positions at the pleasure of their appointing authority must be removed upon:

(i) a final conviction of a felony crime involving moral turpitude; and

(ii) a determination made by the Ethics Commission, after a hearing, that the crime for which the appointee was convicted warrants removal.

(B) For cause appointees. Officers and employees who by law may be removed only for cause must be removed upon:

(i) a final conviction of a felony crime involving moral turpitude; and

(ii) a determination made by the Ethics Commission, after a hearing, that the crime for which the appointee was convicted warrants removal.

(3) Penalty for Failure to Remove. Failure to remove an appointee as required under this subsection shall be official misconduct.

(d) **Disqualification.**

(1) (A) Any person who has been removed from any federal, state, County or City office or employment upon a final conviction of a felony crime involving moral turpitude shall be ineligible for election or appointment to City office or employment for a period of ten years after removal.

(B) Any person removed from any federal, state, County or City office or employment for official misconduct shall be ineligible for election or appointment to City office or employment for a period of five years after removal.

(2) (A) Any City department head, board, commission or other appointing authority that removes a City officer or employee from office or employment on the grounds of official

misconduct must invoke the disqualification provision in subsection (d)(1)(B) and provide notice of such disqualification in writing to the City officer or employee.

(B) Upon the request of any former City officer or employee, the Ethics Commission may, after a public hearing, overturn the application of the disqualification provision of subsection (d)(1)(B) if: (i) the decision that the former officer or employee engaged in official misconduct was not made after a hearing by a court, the Board of Supervisors, the Ethics Commission, an administrative body, an administrative hearing officer, or a labor arbitrator; and (ii) if the officer or employee does not have the right to appeal his or her restriction on holding future office or employment to the San Francisco Civil Service Commission.

(e) **Official Misconduct.** Official misconduct means any wrongful behavior by a public officer in relation to the duties of his or her office, willful in its character, including any failure, refusal or neglect of an officer to perform any duty enjoined on him or her by law, or conduct that falls below the standard of decency, good faith and right action impliedly required of all public officers and including any violation of a specific conflict of interest or governmental ethics law. When any City law provides that a violation of the law constitutes or is deemed official misconduct, the conduct is covered by this definition and may subject the person to discipline and/or removal from office.

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

By: \_\_\_\_\_  
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