

File No. 100637

Committee Item No. 1  
Board Item No. \_\_\_\_\_

### COMMITTEE/BOARD OF SUPERVISORS AGENDA PACKET CONTENTS LIST

Committee: Rules

Date July 20, 2010

Board of Supervisors Meeting

Date \_\_\_\_\_

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Completed by: Linda Wong  
Completed by: \_\_\_\_\_

Date July 16, 2010  
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[Municipal Transportation Agency: Appointments to Board of Directors, Transportation Fund, Budget Process, Inspector General and Labor Relations.]

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.100, 8A. 101, 8A.102, 8A.104, 8A.105, 8A.106, 8A.107, 8A.108, 8A.113, A8.409-1, A8.409-4 and A8.428, and repealing Section A8.404, to: provide for split appointments to the San Francisco Municipal Transportation Agency (MTA) Board of Directors; allocate a share of property tax revenues to the Transportation Fund; require the MTA to resubmit an Agency budget if its budget is rejected by the Board of Supervisors; establish an Office of the MTA Inspector General; and, eliminate formulas governing operator wages and benefit payments and subject these matters instead to collective bargaining.

The Board of Supervisors hereby submits to the qualified voters of the City and County, at an election to be held on November 2, 2010, a proposal to amend the Charter of the City and County by amending Sections 8A.100, 8A.101, 8A.102, 8A.104, 8A.105, 8A.106, 8A.107, 8A.108, 8A.113, A8.409-1, A8.409-4, and A8.428, and repealing Section A8.404, to read as follows:

NOTE: Additions are single-underline italics Times New Roman; deletions are ~~strike-through italics Times New Roman~~.

Section 1. The San Francisco Charter is hereby amended by amending Sections 8A.100, 8A.101, 8A.102, 8A.104, 8A.105, 8A.106, 8A.107, 8A.108, 8A.113, A8.409-1, A8409-4, and A8.428, to read as follows:

/ / /

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

(a) An effective, efficient, and safe transportation system is vital for San Francisco to achieve its goals for quality of life, environmental sustainability, public health, social justice, and economic growth. The Municipal Transportation Agency must manage San Francisco's transportation system — which includes automobile, freight, transit, bicycle, and pedestrian networks — to help the City meet those goals. Through this measure, the voters seek to provide the Municipal Transportation Agency with improved resources and expanded independence and authority in order to create a transportation system that is among the best in the world.

(b) This article requires the Municipal Transportation Agency to develop clear, meaningful and quantifiable measures of its performance and goals and to regularly publicize those standards. This article also recognizes that the workers of the Municipal Transportation Agency are vital to the success of the Agency and to achieving the improvements voters seek. Therefore, it authorizes incentives for excellence and requires accountability for both managers and employees.

(c) Specifically, San Francisco residents require:

1. Reliable, safe, timely, frequent, and convenient transit service to all neighborhoods;
2. A reduction in breakdowns, delays, over-crowding, preventable accidents;
3. Clean and comfortable transit 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;
6. Responsive, efficient, and accountable management;

7. Roads that are not gridlocked with congestion;
8. A safe and comprehensive network of bicycle lanes;
9. A safe and inviting environment for pedestrians;
10. Efficient movement of goods and deliveries;
11. A transportation sector that promotes environmental sustainability and does not contribute to global warming; and
12. A well-managed and well-coordinated transportation system that contributes to a livable urban environment.

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

(d) 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.

(e) 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 promotes accountability through the creation of an Office of Inspector General for the Agency and through the requirement requires that the Inspector General perform independent audits of Agency functions and operations outside audits be performed to ensure that required service levels are obtained with a minimum of waste.

(f) 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 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.

(g) The effective management of traffic flow and parking are 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.

(h) In addition, the residents of San Francisco require that the Agency: 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.

(i) 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 direct 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.

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

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

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 former 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) 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 under the direction of the Director of Transportation or his or her designee. 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 and taxi-related fares, fees, charges, budgets, and personnel that it has over the Municipal Railway and parking and traffic fares, fees, charges, budgets, and personnel. Once adopted, Agency regulations shall thereafter supercede all previously-adopted ordinances governing motor vehicles for hire that conflict with or duplicate such regulations.

(c) 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.

(d) 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.

(e) The Agency may contract with existing a City and County departments when it finds, after a public hearing, that such a contract is necessary to carry out or support any of its powers and or duties. Any such contract shall be in writing and 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.

(f) 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 nominated and appointed pursuant to this section.

1. Three members shall be nominated by the Mayor, three members shall be nominated by the Rules Committee of the Board of Supervisors or any successor committee, and one member shall be nominated by agreement between the Mayor and the President of the Board of Supervisors. The Board of Supervisors shall hold a public meeting and vote on each nomination within 60 days of its transmittal to the Clerk of the Board of Supervisors. If the Board of Supervisors fails to act on any nomination within 60 days, the nomination shall be deemed approved. Except as provided in paragraph 3 below, each appointment shall become effective on the date the Board adopts a motion approving the nomination or, if no motion approving a nomination is approved or disapproved within 60 days, 60 days after the date the nomination is transmitted to the Clerk of the Board of Supervisors. 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.



2. Each of the ~~The~~ directors must possess significant knowledge of, or professional experience in, one or more of the fields of government, finance, or labor relations. Taken together, the Board must reflect the diverse population and communities of interest served by the Municipal Transportation Agency, both in terms of demographic characteristics and in terms of the multiple modes of transportation provided, governed, regulated or affected by the work of the Municipal Transportation Agency. At least four of the directors must be regular riders of the Municipal Railway or users of paratransit services and must continue to be regular riders or users during their terms. 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 or use paratransit services on the average once a week.

3. The terms of office of the Directors who hold office as of February 1, 2011 shall expire at noon on that date, and the members appointed as described in paragraph 1 above shall succeed to office at that time, or as soon thereafter as may be provided above. In order to provide for staggered terms, two of the members nominated by the Mayor and one of the members nominated by the Rules Committee of the Board of Supervisors shall serve for a two year term commencing February 1, 2011 as designated by the nominating officer(s). The remaining members shall serve four year terms commencing February 1, 2011. Thereafter, 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 two year term shall constitute a term for purposes of this limitation. The officer(s) who nominated a Director A director may be removed may remove the director 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 \$500 per month.

~~*which amount the Agency shall adjust by the consumer price index on July 1 of each year. 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, over the temporary use or occupancy of public streets, 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. Notwithstanding section 9.118 of the Charter, have Have exclusive authority to apply for, accept, and expend state, federal, or other public or private grant funds for Agency purposes and to accept gifts for Agency purposes so long as such gifts are approved by the MTA Board of Directors;

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. Notwithstanding any restrictions set forth in the Administrative Code, have exclusive authority to use a best value or negotiated procurement approach to procure rolling stock or to procure technology systems that include construction services when the Agency determines that it is in the best interest of the City to select a vendor based on factors other than price alone, such as the performance specifications of goods or services, technical design, project approach, delivery schedule, and the experience, expertise and past performance of vendor personnel; and

16. 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~~ *may* 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 as 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.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 and shall establish regular meetings with labor to discuss issues within the scope of representation on terms to be determined through collective bargaining.

(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 in connection with job classifications within the Agency 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.

(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. 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.

(g) The Agency shall be responsible for creating and, as appropriate, modifying Agency 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.

(h) The Agency may create new classifications of Agency employees. Such classifications shall be subject to the civil service provisions of the Charter unless exempted pursuant to Section 10.104, or subsection (i).

(i) The Agency may create new classifications and positions in those classifications exempt from the civil service system for managerial employees in MTA bargaining units M and EM, and for employees of the Office of the Inspector General, in addition to those exempt positions provided in Section 10.104; provided, however, that the total number of ~~such~~ exempt managerial positions within the Agency shall not exceed 2.75 percent of the Agency's total workforce, exclusive of the exempt positions provided in Section 10.104 and those provided in the Office of the Inspector General. 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.

(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).

(k) Upon the expiration of 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 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.

(l) Notwithstanding subsection (k), 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 workforce.

(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 managers and employees in classifications designated by the Agency as "service-critical" shall 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 Board of Directors, including incentives to improve attendance. The Board of Directors ~~shall~~ *may* also establish a program under which a component of the compensation paid to the Director of Transportation and all exempt managers ~~may shall~~ be based upon the achievement of service standard adopted by the Board of Directors.

(n) For employees whose wages, hours and terms and conditions of employment are set by the Agency pursuant to ~~Sections A8.404 or~~ Sections 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 collective bargaining agreements must be submitted to the Board of Directors no later than June 15 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, 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).~~

(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.

(p) Before adopting any collective bargaining agreement, the Agency shall, ~~no later than June 15~~, at a duly noticed public meeting, disclose in writing the contents of such collective bargaining agreement, 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 agreement between the Agency and employee organization shall not be approved by the Agency ~~until 15~~ before the 14<sup>th</sup> day after the above disclosures have been made.

(g) Any agreement reached between the designated representatives for the Agency and the representatives of a recognized employee organization that is approved by the Board of Directors on or before June 30, and any decision of an arbitration/mediation board that is adopted by the Board of Directors on or before June 30, shall be effective at the beginning of the next fiscal year. Any agreement reached between the designated representatives for the Agency and the representatives of a recognized employee organization that is adopted by the Board of Directors after June 30, and any decision of an arbitration/mediation board that is approved by the Board of Directors after June 30, shall not be effective until the beginning of the succeeding fiscal year unless the agreement reduces or has no impact on economic provisions in the existing memorandum of understanding. Economic provisions include, but are not limited to wages, premium pay rates, overtime, any employer pickup of the employees' retirement contribution, paid time off, and any other compensation.

#### **SEC. 8A.105 MUNICIPAL TRANSPORTATION FUND.**

(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 the Agency, including any division 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, 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.

4. Beginning with fiscal year 2011-2012, an amount set aside from the annual tax levy equivalent to an annual tax of one cent (\$0.01) for each one hundred dollars (\$100) assessed valuation. Revenues obtained thereby shall be in addition to, and not in place of, any sums otherwise required to be deposited in the Transportation Fund; provided however that this subsection shall become effective only if the qualified voters of the City and County, at the election held on November 2, 2010, approve a measure or measures that the Controller's Statement in the ballot handbook estimates will generate more than \$40 million in new revenue to the City's General Fund that would not otherwise accrue to the General Fund. In the event that no such measure is approved, the City Attorney is authorized to take all steps necessary to remove this subsection 8A.105(b)(4) from the Charter.

(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 or perform continuing transit or transportation services or functions not provided in the Base Year, but excluding additional appropriations for one-time expenditures such as capital expenditures or litigation judgments and settlements.

(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 funds as provided in Administrative Code Section 10.117-35.

(f) 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 Agency's transit services an amount equivalent to 80 percent of the revenues received from the City's tax on occupation of parking spaces. ~~Additional amounts appropriated as a result of this subsection after July 1, 2008 which were not previously available to support transit service shall be used exclusively to:~~

~~1. support implementation of the transit service improvements recommended by the Transit Effectiveness Project or any subsequent system wide route and service evaluation, with first priority given to the hiring of full time on going staff and expansion of training for Agency employees, supervisors and managers; and~~

~~2. support the creation of a Labor Management Implementation and Service Improvement Committee consisting of the Director of Transportation and a designated representative of each union representing Agency employees. This committee shall meet quarterly to discuss implementation of this Section and ongoing system challenges.~~

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

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

(a) No later than May 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 with annual appropriation detail in a form approved by the



Controller for each of the next two fiscal years to the Mayor and the Board of Supervisors for their review and consideration. The Agency shall propose a 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 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 performance standards established pursuant to Section 8A.103 for the fiscal year covered by the budget.

(c) No later than ~~June 1~~ ~~August 1~~, the Board of Supervisors may allow the Agency's budget to take effect without any action on its part or it may reject but not modify the Agency's budget by a ~~seven-elevenths'~~ simple majority vote. Any fare change, or route abandonment, ~~or~~ revenue measure proposed in the budget shall be considered accepted unless rejected by a ~~seven-elevenths'~~ simple majority vote on the entire budget.

1. Should the Board of Supervisors vote to reject the budget on or before June 1, the Board of Supervisors shall, by June 1, adopt findings to support its decision. The Agency shall respond to the findings adopted by the Board of Supervisors and shall re-submit a budget to the Mayor and the Board of Supervisors by July 1.

2. No later than August 1, the Board of Supervisors may allow the Agency's resubmitted budget to take effect without any action on its part or it may reject but not modify the Agency's budget by a simple majority vote. Should the Board of Supervisors again reject the budget before August 1, it shall make additional interim appropriations to the Agency from the Municipal Transportation Fund sufficient to permit the Agency to maintain all operations at the level provided by the Agency as of June 30, given costs applicable on or after July 1 as certified

by the Controller, through the extended interim period until a budget is adopted. Any request for appropriation of General Fund revenues in excess of the adjusted Base Amount shall be approved, modified, or rejected under the general provisions of Article IX.

(d) No later than May 1 of each odd-numbered year, the Agency shall submit any budget amendment that may be required to increase appropriations over those approved in the two year budget or as may be required by law, following the same general procedures set forth in subsection (c) above, provided that such budget amendment shall establish a detailed plan with appropriation detail only for those anticipated revenues and expenditures exceeding those approved in the two year budget or as otherwise required by law. The Agency may submit to the Board of Supervisors such additional budget amendments or modifications during the term of the budget, including but not limited to amendments reflecting fare changes, route abandonments and revenue measures, as may be required in the discretion of the Agency. The Board of Supervisors may allow any budget amendment to take effect without any action on its part or it may reject but not modify the budget amendment by a ~~seven-elevenths'~~ simple majority 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 Controller may authorize the Agency to move funds within its budget and hire personnel without specific Controller approval so long as the Agency's periodic and verifiable projections of spending by the Agency show the Controller that the Agency's spending will be within the approved budget. However, should the projections show that the Agency spending 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.107. INSPECTOR GENERAL MUNICIPAL TRANSPORTATION QUALITY REVIEW.**

(a) The MTA Board of Directors shall appoint or reappoint an Inspector General who shall serve a five year term. The Inspector General may only be removed by the Board of Directors for cause. The inspector general shall be compensated at a salary at least equivalent to the average compensation paid to managers who report directly to the Director of Transportation.

(b) The purpose of the Office of Inspector General is to provide an independent unit, reporting directly to the Board of Directors, to conduct and supervise audits, reviews and analyses relating to the effectiveness and efficiency of MTA programs, operations, contracts and internal controls; to receive and investigate complaints from any source of alleged fraud, waste, or abuse of MTA resources; and to detect, investigate, deter, and prevent fraud, waste, or abuse in MTA programs and operations. Notwithstanding the provisions of Section 3.105(c), 8A.101(f) and Appendix F of the Charter, the MTA Inspector General shall perform the functions and exercise the powers of the City Services Auditor with respect to the MTA, including, but not limited to: (a) conducting management and performance audits of MTA programs and operations; (b) reviewing and reporting on MTA management practices; and (c) assessing the MTA's progress towards meeting Agency performance standards and implementing customer service plans.

(c) Nothing in this Section shall be construed to affect, limit or conflict with the authority of the Controller to: (a) provide financial oversight and control for the MTA according to any provision of Section 3.105 other than subsection (c); (b) conduct consumer satisfaction surveys; (c) receive and investigate whistleblower complaints regarding the MTA under Section F1.107 of Appendix F; (d) provide technical assistance requested by the MTA; or (e) conduct any audits of MTA programs or operations requested by the Mayor, the Board of Supervisors, the MTA Board of Directors or as determined by the Controller.

(d) The Inspector General shall have full, free and unrestricted access to all MTA records, facilities, equipment, officers, employees and contractors as may be necessary to carry

out the responsibilities of the Inspector General. Further, notwithstanding the authority of the Director of Transportation as appointing authority for MTA employees, the Inspector General shall have authority to select, appoint, discipline and remove such employees as may be necessary to carry out the functions, powers, and duties of the OIG in accordance with the budget approved by the Board of Directors.

(e) When, according to the terms of Section 8A.106, the Board approves a two year budget in each even-numbered year or any budget amendment that may be required in any odd-numbered year, the Board shall approve a rolling two year audit plan ("Performance Audit Plan") and a budget sufficient to enable the Inspector General and his or her staff to perform the audits included in the Performance Audit Plan and any other duties assigned by the Board of Directors. The budget shall include any revenues that may be available in accordance with subsection (f) of this Section as well as any additional revenues from the Transportation Fund. Among other matters selected by the Board of Directors after considering recommendations of the Citizens Advisory Committee, at least once in each two year period, the Performance Audit Plan shall include a detailed analysis of:

(i) The extent to which the Agency has met the goals, objectives, and performance standards established by or in accordance with Section 8A.103 and the accuracy of the Agency's reported performance under such goals, objectives and performance standards; (ii) the extent to which services provided to the MTA by one or more other City departments have met the requirements set forth in Section 8A.101(e); and

(ii) The extent to which the terms of one or more of the labor contracts approved pursuant to Section 8A.104 maximize the Agency's ability to perform the duties set forth and the goals, objectives and performance standards set forth in Chapter 8A of the San Francisco Charter.

(f) Notwithstanding the provisions of Section 3.105(b), 8A.101(f) and Appendix F of the Charter, 50% per cent of the revenues that would otherwise be apportioned to the Controller's

Audit Fund from the Transportation Fund shall be retained in the Transportation Fund and shall be appropriated by the Agency to support the functions of the Office of the Inspector General unless revenues are allocated to the Transportation Fund in accordance with Section 8A.105(b)(4), in which case the full MTA allocation to the Controller's Audit Fund shall be made and revenues in the Transportation Fund, in an amount at least equivalent to the MTA allocation to the Controller's Audit Fund, shall be used to support the functions of the Office of the Inspector General.

~~(a) The Agency shall biennially contract with a nationally recognized management or transportation consulting firm with offices in the City and County for an independent review of the quality of its operations. The contract shall be competitively bid and approved by the Controller and Board of Supervisors. The review shall contain:~~

~~1. A detailed analysis of the extent to which the Agency has met the goals, objectives, and performance standards it is required to adopt under Section 8A.103, and the extent to which the Agency is expected to meet those goals, objectives, and performance standards in the two fiscal years for which the review is submitted, and independent verification of the Agency's reported performance under the performance measures adopted pursuant to Section 4 of this measure; and~~

~~2. Such recommendations for improvement in the operation of the Agency as the firm conducting the review deems appropriate.~~

~~(b) The results of the review shall be presented promptly to the Citizens' Advisory Council, the Agency, the Board of Supervisors, and the Mayor by the reviewing firm; and the Citizens' Advisory Council, the Agency, and the Board of Supervisors shall each promptly hold at least one public hearing thereon.~~

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

(a) Except as otherwise provided in this Section, any proposed change in fares or route abandonments 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 ~~seven-elevenths'~~ simple majority vote of the Board on the budget or budget amendment. Any changes in fares or route abandonments proposed by the Agency specifically to implement a program of service changes identified in a system-wide strategic route and service evaluation such as the Transit Effectiveness Project may only be rejected by a single ~~seven-elevenths'~~ simple majority vote of the Board of Supervisors on the budget or budget amendment.

(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 and optimal maintenance of assets.
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) 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, the reduction of the span of service along a particular line by more than three hours on any service day, or the reduction of more than five per cent of total system-wide transit service hours, as measured by vehicle hours. Furthermore, when cumulative service reductions meet any of these standards over any 24 month period, the modification that causes

the Agency to meet one of these standards shall be considered a "route abandonment."

Discontinuation of any special, trial or pilot service which is provided for less than one year shall not be considered a route abandonment. 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, 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 ~~seven-eleventh~~ simple majority vote of its members taken within 30 days after the proposal is submitted by the Agency.

#### **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:

1. Provide 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 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 and implement 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 modern information and traffic-calming techniques to promote safer streets and promote usage of public transit;
5. Develop a safe, interconnected bicycle circulation network; and
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 Agency 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 8A.105(e) ~~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. A8.409-1. EMPLOYEES COVERED.**

(a) These Sections A8.409 through A8.409-6, inclusive, shall apply to all miscellaneous officers and employees except as set forth in Section A8.590-1 et seq. and including employees of San Francisco Unified School District and San Francisco Community College District to the extent authorized by state law. The provisions of Charter sections 8.400(h), 8.401-1, and 8.407 are hereby repealed and shall be of no further force and effect. Employee organizations representing employees in classifications covered by section A8.403 ~~and A8.404~~ of this Charter may elect to include those classifications within the coverage of this part as a separate bargaining unit, provided however, that the election shall not become effective without the written approval of the Mayor and Board of Supervisors. The election shall be irrevocable and such employees shall not thereafter be subject to the provisions of section A8.403 ~~and A8.404~~.

Employees in classifications not represented by a recognized employee organization shall be entitled to represent themselves with the City and County over wages, hours and other terms and conditions of employment to the extent required by state law and shall not be subject to the arbitration provisions of Section A8.409-4 of this Charter. The Mayor annually shall propose all forms of compensation for unrepresented employees including salaries, hours, benefits, and other terms and conditions of employment subject to approval or disapproval of the Board of



Supervisors. Consistent with other provisions of this Charter, the civil service commission may adopt rules and procedures relating to said unrepresented employees.

(b) Except as otherwise provided by this Charter the Civil Service Commission shall set the wages and benefits of all elected officials of the City and County of San Francisco as follows: The Commission shall conduct a salary survey of the offices of chief executive officer, county counsel, district attorney, public defender, assessor-recorder, treasurer, and sheriff, in the counties of Alameda, Contra Costa, Marin, San Mateo, and Santa Clara. The Commission shall then average the salaries for each of those offices to determine respectively the base five-year salaries for the Mayor, City Attorney, District Attorney, Public Defender, Assessor-Recorder, Treasurer, and Sheriff.

If any of the aforementioned counties do not have an office of public defender, that county shall be omitted from the salary survey for purposes of determining the base five-year salary of the Public Defender. Among the aforementioned counties, any freestanding county assessor's office or any county office in which the assessor's function is combined with other county functions, shall be deemed comparable to the office of Assessor-Recorder for purposes of determining the base five-year salary of the Assessor-Recorder. If any of the aforementioned counties do not have a comparable county office of treasurer, the county office whose functions most closely resemble the Treasurer's functions in San Francisco shall be deemed comparable to the office of Treasurer for purposes of determining the base five-year salary of the Treasurer.

The initial base five-year salary determination for the respective salaries of the Mayor, City Attorney, District Attorney, Public Defender, Assessor-Recorder, Treasurer, and Sheriff shall apply to the period from July 1, 2007 through June 30, 2012. Subsequent base five-year salary determinations for those offices shall apply to subsequent five-year periods, for example, July 1, 2012 through June 30, 2017.

For the second, third, fourth, and fifth years of the period for which any base five-year salary has been set, the Commission shall annually adjust the respective salaries of the Mayor,

City Attorney, District Attorney, Public Defender, Assessor-Recorder, Treasurer, and Sheriff, to account for upward annual movement in the Consumer Price Index during the prior calendar year; provided, that whenever the upward movement in the Consumer Price Index during the prior calendar year exceeds 5%, the cost-of-living adjustment shall not be the actual increase in the Consumer Price Index for the prior calendar year but instead shall be 5%. The annual cost-of-living adjustment shall take effect July 1 of the second, third, fourth, and fifth years of the period for which the base five-year salary has been set.

Except as noted below, in setting the initial and subsequent base five-year salary determinations for the offices of Mayor, City Attorney, District Attorney, Public Defender, Assessor-Recorder, Treasurer, and Sheriff, the Commission may not reduce the respective salaries of any of those offices. If implementation of the process for setting the base five-year salary would otherwise result in a salary reduction for any of those offices, the base five-year salary for the affected office or offices shall be the existing salary for the office.

If the City and County of San Francisco and employee organizations agree to amend the compensation provisions of existing memoranda of understanding to reduce costs, the Commission shall review and amend the respective salaries of the Mayor, City Attorney, District Attorney, Public Defender, Assessor-Recorder, Treasurer, and Sheriff as necessary to achieve comparable cost savings in the affected fiscal year or years.

The Commission shall annually set the benefits of elected officials, to take effect July 1 of each year. Benefits of elected officials may equal but may not exceed those benefits provided to any classification of miscellaneous officers and employees as of July 1 of each year.

In addition, subject to the approval or disapproval of the Board of Supervisors, the Mayor may create, for employees designated as management, a management compensation package that recognizes and provides incentives for outstanding managerial performance contributing to increased productivity and efficiency in the work force. In formulating such a package, the

Mayor shall take into account data developed in conjunction with the civil service commission regarding the terms of executive compensation in other public and private jurisdictions.

**SEC. A8.409-4. IMPASSE RESOLUTION PROCEDURES.**

(a) Subject to Section A8.409-4(g), disputes pertaining to wages, hours, benefits or other terms and conditions of employment which remain unresolved after good faith bargaining between the City and County of San Francisco, on behalf of its departments, boards and commissions, and a recognized employee organization representing classifications of employees covered under this part shall be submitted to a three-member mediation/arbitration board ("the board") upon the declaration of an impasse either by the authorized representative of the City and County of San Francisco or by the authorized representative of the recognized employee organization involved in the dispute; provided, however, that the arbitration procedures set forth in this part shall not be available to any employee organization that engages in a strike unless the parties mutually agree to engage in arbitration under this section. Should any employee organization engage in a strike either during or after the completion of negotiations and impasse procedures, the arbitration procedure shall cease immediately, and no further impasse resolution procedures shall be required.

(b) Not later than January 20 of any year in which bargaining on an MOU takes place, representatives designated by the City and County of San Francisco and representatives of the recognized employee organization involved in bargaining pursuant to this part shall each select and appoint one person to the board. The third member of the board shall be selected by agreement between the City and County of San Francisco and the recognized employee organization, and shall serve as the neutral chairperson of the board.

In the event that the City and County of San Francisco and the recognized employee organization involved in bargaining cannot agree upon the selection of the chairperson within ten (10) days after the selection of the City and County and employee organization members of the

board, either party may then request the American Arbitration Association or California State Mediation Service to provide a list of the seven (7) persons who are qualified and experienced as labor interest arbitrators. If the City and County and the employee organization cannot agree within three (3) days after receipt of such list on one of the seven (7) persons to act as the chairperson, they shall randomly determine which party strikes first, and shall alternately strike names from the list of nominees until one name remains and that person shall then become the chairperson of the board.

(c) Any proceeding convened pursuant to this section shall be conducted in conformance with, subject to, and governed by Title 9 of Part 3 of the California Code of Civil Procedure. The board may hold public hearings, receive evidence from the parties and, at the request of either party, cause a transcript of the proceedings to be prepared. The board, in the exercise of its discretion, may meet privately with the parties to mediate or mediate/arbitrate the dispute. The board may also adopt other procedures designed to encourage an agreement between the parties, expedite the arbitration hearing process, or reduce the cost of the arbitration process.

(d) In the event no agreement is reached prior to the conclusion of the arbitration hearings, the board shall direct each of the parties to submit, within such time limit as the board may establish, a last offer of settlement on each of the remaining issues in dispute. The board shall decide each issue by majority vote by selecting whichever last offer of settlement on that issue it finds by a preponderance of the evidence presented during the arbitration most nearly conforms to those factors traditionally taken into consideration in the determination of wages, hours, benefits and terms and conditions of public and private employment, including, but not limited to: changes in the average consumer price index for goods and services; the wages, hours, benefits and terms and conditions of employment of employees performing similar services; the wages, hours, benefits and terms and conditions of employment of other employees in the City and County of San Francisco; health and safety of employees; the financial resources of the City and County of San Francisco, including a joint report to be issued annually on the City's financial

condition for the next three fiscal years from the Controller, the Mayor's budget analyst and the budget analyst for the Board of Supervisors; other demands on the City and County's resources including limitations on the amount and use of revenues and expenditures; revenue projections; the power to levy taxes and raise revenue by enhancements or other means; budgetary reserves; and the City's ability to meet the costs of the decision of the arbitration board. In addition, the board shall issue written findings on each and every one of the above factors as they may be applicable to each and every issue determined in the award. Compliance with the above provisions shall be mandatory.

(e) To be effective the beginning of the next succeeding fiscal year, an agreement shall be reached or the board shall reach a final decision no later than sixty days before the date the Mayor is required to submit a budget to the Board of Supervisors, except by mutual agreement of the parties. After reaching a decision, the board shall serve by certified mail or by hand delivery a true copy of its decision to the parties. The decision and findings of the arbitration board shall not be publicly disclosed until ten (10) days after it is delivered to the parties. During that ten (10) day period the parties shall meet privately, attempt to resolve their differences, and by mutual agreement amend or modify the decision and findings of the arbitration board. At the conclusion of the ten (10) day period, which may be extended by mutual agreement between the parties, the decision and findings of the arbitration board, as it may be modified or amended by the parties, shall be publically disclosed for a period of fourteen (14) days after which time the decision shall be final and binding. Except as otherwise provided by this part, the arbitration decision shall supersede any and all other relevant formulae, procedures and provisions of this Charter relating to wages, hours, benefits and terms and conditions of employment, and it shall be final and binding on the parties to the dispute. However, the decision of the board may be judicially challenged by either party.

Thereafter, the City and County of San Francisco, its designated officers, employees and representatives and the recognized employee organization involved in the dispute shall take whatever action necessary to carry out and effectuate the final decision.

(f) The expenses of any proceedings convened pursuant to this part, including the fee for the services of the chairperson of the board, the costs of preparation of the transcript of the proceedings and other costs related to the conduct of the proceedings, as determined by the board, shall be borne equally by the parties. All other expenses which the parties may incur are to be borne by the party incurring such expenses.

(g) The impasse resolution procedures set forth in Section A8.409-4, or in any other provision of the Charter, ordinance or state law shall not apply to any rule, policy, procedure, order or practice which relates or pertains to the purpose, goals or requirements of a consent decree, or which is necessary to ensure compliance with federal, state or local laws, ordinances or regulations. In the event the City acts on a matter it has determined relates to or pertains to a consent decree, or in the event the City acts to ensure compliance with federal, state, or local laws, ordinances or regulations, and the affected employee organization disputes said determination, that determination or action shall not be subject to arbitration, but may be challenged in a court of competent jurisdiction.

(h) The impasse resolution procedures set forth in section A8.409-4, or in any other section of the Charter, shall not apply to any proposal pertaining to the right to strike.

(i) Charter sections A8.590-1 through A8.590-7 shall remain in full force and effect; provided, however, that the wages and other economic benefits and compensation of all classifications of employees covered by these sections shall be frozen for fiscal year 1995-96 at the rates in effect on June 30, 1995, except that wages and other economic benefits and compensation of all classifications of Airport Police shall be frozen for the fiscal year following expiration of the Memorandum of Understanding covering those classifications in effect on the effective date of this amendment.

(j) Subject to the election provisions of section A8.409-1, Charter sections A8.403 ~~and A8.404~~ shall remain in full force and effect, ~~provided, however, that the wages and other economic benefits and compensation of all classifications of employees covered by section A8.404 shall be frozen for fiscal year 1995-96 at the rates in effect on June 30, 1995.~~

#### **SEC. A8.428. HEALTH SERVICE SYSTEM TRUST FUND.**

There is hereby created a health service system trust fund. The costs of the health service system shall be borne by the members of the system and retired persons, the City and County of San Francisco because of its members and retired persons, the Parking Authority of the City and County of San Francisco because of its members and retired persons, the San Francisco Unified School District because of its members and retired persons and the San Francisco Community College District because of its members and retired persons.

##### **(a) Definitions.**

"Credited Service" means years of employment with the Employers.

"Employers " as used in this section means the City and County of San Francisco ("City and County"), the San Francisco Unified School District ("School District") and/or the San Francisco Community College District ("Community College District"). Employers shall also include the Superior Court of California, County of San Francisco ("Superior Court"), to the extent the Superior Court participates in the City's Health Service System, under A8.428(e).

"Hired on or Before January 9, 2009" as used in this section means employees of the City and County, the School District and/or the Community College District who were hired on or before January 9, 2009, excluding the following categories of employees: (1) as-needed employees who have, never earned 1,040 or more hours of compensation during any 12-month period ending on or before January 9, 2009; and/or (2) employees who have separated from the Employers on or before January 9, 2009, and have less than 5 years of Credited Service.

**"PERS" as used in this section shall mean the Public Employees' Retirement System of the State of California.**

**"Registered as Domestic Partners" as used in this section means persons who have established a domestic partnership according to the provisions of Chapter 62 of the San Francisco Administrative Code, as amended from time to time. Domestic partners who have formed their domestic partnership only by notarization of a declaration of Domestic Partnership as provided in Chapter 62 of the San Francisco Administrative Code shall not be recognized or treated as a domestic partnership under this Section unless and until the domestic partnership is registered or certified.**

**"Retirement System" as used in this section shall mean the San Francisco City and County Employees' Retirement System.**

**"Retired under the San Francisco City and County Employees' Retirement System" as used in this section includes persons who retire for service; retire for disability; or who receive a retirement or vesting allowance from the Retirement System.**

**A "Retired Person" as used in this section means:**

**(1) A former member of the health service system, hired by the Employers on or before January 9, 2009, retired under the San Francisco City and County Employees' Retirement System or PERS (hereinafter, "Retired Employee who was Hired on or Before January 9, 2009"); and,**

**(2) The surviving spouse or surviving domestic partner of an active employee hired on or before January 9, 2009, provided that the surviving spouse or surviving domestic partner and the active employee have been married or Registered as Domestic Partners for a period of at least one year prior to the death of the active employee;**

**(3) The surviving spouse or surviving domestic partner of a Retired Employee who was Hired on or Before January 9, 2009, provided that the surviving spouse or surviving domestic partner and the Retired Employee who was Hired on or Before January 9, 2009 have been**



married or Registered as Domestic Partners for a period of at least one year prior to the death of the Retired Employee who was Hired on or Before January 9, 2009;

(4) A former member of the health service system, hired by the Employers on or after January 10, 2009, and retired under the Retirement System or PERS for disability or retired under the Retirement System or PERS: (i) within 180 days of separation from employment from the Employers; and (ii) with 10 or more years of Credited Service with the Employers (hereinafter, "Retired Employee who was Hired on or After January 10, 2009");

(5) The surviving spouse or surviving domestic partner of an active employee hired on or after January 10, 2009, with 10 or more years of Credited Service with the Employers, or who died in the line of duty where the surviving spouse or surviving domestic partner is entitled to a death allowance as a result of the death in the line of duty, provided that the surviving spouse or surviving domestic partner and the active, employee have been married or Registered as Domestic Partners for a period of at least one year prior to the death of the active employee; or

(6) The surviving spouse or surviving domestic partner of a Retired Employee who was Hired on or After January 10, 2009, provided that the surviving spouse or surviving domestic partner and the Retired Employee who was Hired on or After January 10, 2009, have been married or Registered as Domestic Partners for a period of at least one year prior to the death of the Retired Employee who was Hired on or After January 10, 2009.

**(b) Employer Contributions.**

The City and County, the School District and the Community College District shall each contribute to the health service fund amounts sufficient for the following purposes, and subject to the following limitations:

- (1) All funds necessary to efficiently administer the health service system.
- (2) The City and County, the School, District and the Community College District shall contribute to the health service system fund with respect to each of their members an amount

equal to "the average contribution," as certified by the health service board in accordance with the provisions of Section A8.423.

**(3) Retired Employees Who Were Hired on or Before January 9, 2009.**

For Retired Persons identified in A8.428 Subsections (a)(1), (a)(2) and (a)(3), the Employers shall contribute to the health service fund, amounts subject to the following limitations: Monthly contributions required from Retired Persons and the surviving spouses and surviving domestic partners of active employees and Retired Persons participating in the system shall be equal to the monthly contributions required from members in the system for health coverage excluding health coverage or subsidies for health coverage paid for active employees as a result of collective bargaining, with the following modifications:

(i) the total contributions required from Retired Persons who are also covered under Medicare shall be reduced by an amount equal to the amount contributed monthly by such persons to Medicare;

(ii) because the monthly cost of health coverage for Retired Persons may be higher than the monthly cost of health coverage for active employees, the City and County, the School District and the Community College District shall contribute funds sufficient to defray the difference in cost to the system in providing the same health coverage to Retired Persons and the surviving spouses and surviving domestic partners of active employees and Retired Persons as is provided for active employee members excluding health coverage or subsidies for health coverage paid for active employees as a result of collective bargaining;

(iii) after application of Subsections (3), (3)(i) and (3)(ii), the City and County, the School District and the Community College District shall contribute 50% of Retired Persons' remaining monthly contributions.

**(4) Retired Employees Who Were Hired on or After January 10, 2009 - Categories of Employees Eligible for 100% Employer Contribution.**

For Retired Persons identified in A8.428 Subsections (a)(4), (a)(5) and (a)(6), the Employers shall contribute 100% of the employer contribution established in A8.428 Subsection (b)(3) for:

(i) A Retired Employee who was Hired on or After January 10, 2009, with 20 or more years of Credited Service with the Employers; and their surviving spouses or surviving domestic partners:

(ii) The surviving spouses or surviving domestic partners of active employees hired on or after January 10, 2009, with 20 or more years of Credited Service with the Employers;

(iii) Retired Persons who retired for disability; and their surviving spouses or surviving domestic partners; and

(iv) The surviving spouses or surviving domestic partners of active employees who died in the line of duty where the surviving spouse or surviving domestic partner is entitled to a death allowance as a result of the death in the line of duty.

**(5) Retired Employees Who Were Hired on or After January 10, 2009 - Categories of Employees Eligible for 50%--75% Employer Contribution.**

For Retired Persons identified in A8.428 Subsections (a)(4), (a)(5) and (a)(6), the Employers shall contribute:

(i) 50% percent of the employer contribution established in A8.428 Subsection (b)(3) for a Retired Employee who was Hired on or After January 10, 2009, with, at least 10 but less than 15 years of Credited Service with the Employers: their surviving spouses or surviving domestic partners: and the surviving spouses or surviving domestic partners of active employees hired on or after January 10, 2009, with at least 10 but less than 15 years of Credited Service with the Employers; and

(ii) 75% percent of the employer contribution established in A8.428 Subsection (b)(3) for a Retired Employee who was Hired on or After January 10, 2009, with at least 15 but less than 20 years of Credited Service with the Employers; their surviving spouses or surviving

domestic partners; and the surviving spouses or surviving domestic partners of active employees hired, on or after January 10, 2009, with at least 15 but less than 20 years of Credited Service with the Employers.

**(6) Employees Hired on or After January 10, 2009 - Categories of Employees Eligible for Access to Retiree Medical Benefits Coverage.**

An employee hired on or after January 10, 2009, and retired under the Retirement System or PERS with five (5) or more years Credited Service with the Employers, shall be eligible to receive health benefits as a member of the health service system, provided that he or she makes monthly contributions equal to one hundred percent, (100%) of the total premiums for health coverage as established by the Health, Service Board, including the total cost for dependent coverage. At such time as he or she becomes eligible to receive benefits under A8.428 Subsection (a)(4), the Employers shall contribute the amounts established in A8.428 Subsections (b)(4), (b)(5), and (c), as applicable.

**(7) Chart Summarizing Employer Contributions Under A8.428 Subsections (b)(4), (b)(5) and (b)(6) For Employees Hired on or After January 10, 2009.**

Years of Credited Service At Retirement	Percentage of Employer Contribution Established in A8.428 Subsection (b)(3)
1. Less than 5 years of Credited Service with the Employers (except for the surviving spouses or surviving domestic partners of active employees who died in the line of duty)	No Retiree Medical Benefits Coverage
2. At least 5 but less than 10 years of	0%

<p>Credited Service with the Employers; or greater than 10 years of Credited Service with the Employers but not eligible to receive benefits under Subsections (a)(4), (b)(4) and (b)(5) (A8.428 Subsection (b)(6))</p>	<p>Access to Retiree Medical Benefits Coverage, Including Access to Dependant Coverage, But No Employer Contribution; Employee Pays Health Insurance Premium</p>
<p>3. At least 10 but less than 15 years of Credited Service with the Employers (A8.428 Subsection (b)(5))</p>	<p>50%</p>
<p>4. At least 15 but less than 20 years of Credited Service with the Employers (A8.428 Subsection (h)(5))</p>	<p>75%</p>
<p>5. At least 20 years of Credited Service with the Employers; Retired Persons who retired for disability; surviving spouses or surviving domestic partners of active employees who died in the line of duty (A8.428 Subsection (b)(4))</p>	<p>100%</p>

The above chart is a simplified summary of Employer contributions under A8.428 Subsections (b)(4), (b)(5) and (b)(6) for employees hired on or after January 10, 2009. The express language of Subsections (b)(4), (b)(5) and (b)(6), and not the summary chart or its content, shall determine Employer contributions.

(c) The City and County, the San Francisco Unified School District and the San Francisco Community College District shall contribute to the health service system fund 50% of the monthly contributions required for the first dependent of Retired Persons in the system.

Except as hereinbefore set forth, the City and County, the School District and the Community College District shall not contribute to the health service system fund any sums on account of participation in the benefits of the system by members' dependents, except surviving spouses and surviving domestic partners, Retired Persons' dependents, except surviving spouses and surviving domestic partners, persons who retired and elected not to receive benefits from the Retirement System; resigned employees and teachers defined in Section A8.425, and any employee whose compensation is fixed in accordance with Sections A8.401, or A8.403, ~~or~~ A8.404 of this Charter and whose compensation therein includes an additional amount for health and welfare benefits or whose health service costs are reimbursed through any fund established for said purpose by ordinance of the Board of Supervisors.

(d) It shall be the duty of the Board of Supervisors, the Board of Education and the Governing Board of the Community College District annually to appropriate to the health service system fund such amounts as are necessary to cover the respective obligations of the City and County, the School District and the Community College District hereby imposed. Contributions to the health service system fund of the City and County, of the School District and of the Community College District shall be charged against the general fund or the school, utility, bond or other special fund concerned.

(e) To the extent the Superior Court elects to participate in the City's Health Service System for the provision of active and retiree health care benefits, Superior Court employees shall be treated the same as City employees for the purposes of vesting, employer contribution rates, and benefit levels, in accordance with the Trial Court Employment Protection and Governance Act and applicable State law. The Superior Court shall pay all administrative and health care costs related to the Superior Court's covered employees or retirees as a participating Employer. The Superior Court may withdraw from participation in the City's Health Service System at any time, which shall not require an amendment to this Charter.

The amendments of this section contained in the proposition therefore submitted to the electorate on June 3, 2008 shall be operative January 10, 2009. The purpose of the January 10, 2009, Charter amendment is to amend Section A8.428 to change the required years of service and employer retiree health care contribution amounts for employees hired on or after January 10, 2009. Nothing in this Charter amendment shall expand or contract the groups of employees eligible for retiree health care benefits beyond, those groups eligible as of June 3, 2008.

Section 2. The San Francisco Charter is hereby amended by repealing Section A8.404 in its entirety:

~~**A8.404 SALARIES AND BENEFITS OF CARMEN**~~

~~*The wages, conditions and benefits of employment 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 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 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 platform employees and coach and bus operators of the municipal railway which shall not be 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 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 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 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 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 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 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 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 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 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 operators, fix wages and benefits of employment other than wages for 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 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 platform men and bus or coach operators at a level reflecting the current labor market but below the basic hourly rate for motorman, conductor and bus operator.~~

Section 3. This measure shall govern setting of wages and benefits for transit operators to be effective July 1, 2011 and thereafter. Before July 1, 2011, transit operator wages shall be set and payments into the Transport Workers Union-San Francisco Municipal Railway Trust Fund shall be made in accordance with the provisions of Section A8.404 of the Charter as it read immediately preceding the effective date of this measure. Any amounts remaining in the Transport Workers Union-San Francisco Municipal Railway Trust Fund as of July 1, 2011 shall be paid out according to the requirements of Section A8.404 as it read immediately preceding the effective date of this measure.

Section 4. The Office of the MTA Inspector General created by this measure shall commence operations July 1, 2011.

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

By:   
JULIA M.C. FRIEDLANDER  
Deputy City Attorney

## LEGISLATIVE DIGEST

[Municipal Transportation Agency: Appointments to Board of Directors, Transportation Fund, Budget Process, Inspector General and Labor Relations.]

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 Section(s) 8A.100, 8A.101, 8A.102, 8A.104, 8A.105, 8A.106, 8A.107, 8A.113, 8A.108, A8.409-1, A8.409-4 and A8.428 and deleting Section and A8.404 to provide for split appointments to the San Francisco Municipal Transportation Agency (MTA) Board of Directors, allocate a share of property tax revenues to the Transportation Fund, require the MTA to resubmit an Agency budget if its budget is rejected by the Board of Supervisors, establish an Office of the MTA Inspector General, and eliminate formulas governing operator wages and benefit payments and subject these matters instead to collective bargaining.

### Existing Law

Under current law:

1. All seven members of the MTA Board of Directors are appointed by the Mayor and confirmed by the Board of Supervisors.
2. The MTA is entitled to a guaranteed "base amount" of general fund revenue reflecting the level of general fund revenue that supported the Municipal Railway and Department of Parking and Traffic when the MTA was originally established in 2000, as that amount is adjusted annually by the Controller.
3. The Board of Supervisors cannot amend the MTA budget; rather, it can reject the budget as a whole by a vote of 7 of its 11 members, approve the budget, or allow the budget to go into effect by operation of law. If the Board of Supervisors rejects the MTA budget, the MTA does not have to resubmit a budget.
4. The MTA is required to submit Muni "route abandonments" to the Board of Supervisors for approval or rejection by a vote of 7 of its 11 members on the MTA budget. Other service changes are within the authority of the MTA.
5. The MTA is required to contract every two years with a consultant to conduct an independent review of the quality of its operations and the extent to which it has met its goals, objectives, and performance standards. In addition, the Controller serves as City Services Auditor to monitor the level and effectiveness of services rendered by the City, including the MTA, to its residents.

6. Transit operator wages must be at least as high as the wages paid by the two highest paying comparable transit systems in the United States. In addition, if City health and retirement benefits are not as generous as those provided in the highest paying comparable transit systems, the MTA makes payment into a trust fund to benefit transit operators.
7. Collective bargaining agreements approved by the MTA Board of Directors for service critical MTA employees are required to include incentive compensation.
8. Gifts to the MTA with a value exceeding \$10,000 must be approved by the Board of Supervisors.
9. The MTA must use a low bid process to purchase any portion of a technology systems that includes construction.

#### Amendments to Current Law

Under the proposed Charter Amendment:

1. Three members of the MTA Board of Directors would be nominated by the Mayor, three members would be nominated by the Rules Committee of the Board of Supervisors, and one member would be nominated jointly by the Mayor and the President of the Board of Supervisors. All nominees would be confirmed by the Board of Supervisors.
2. If the voters approve new revenue measures In addition to the base amount of general fund revenue, the MTA would receive an amount set aside from the annual property tax levy equivalent to one cent for each one hundred dollars of assessed valuation.
3. The Board of Supervisors could reject the MTA budget by a simple majority vote, and the MTA would be required to respond to findings made by the Board of Supervisors and re-submit a budget.
4. The definition of "route abandonment" requiring submission to the Board of Supervisors would be expanded to include reductions in any particular line by more than three service hours/day and reduction of more than 5% of total system wide transit service hours.

5. The MTA Board of Directors would appoint an MTA Inspector General reporting directly to the Board for a five year term. The Inspector General would conduct audits and analyses, receive and investigate complaints of fraud, waste or abuse of MTA resources, prevent fraud, waste and abuse, and perform the functions and duties of the City Services Auditor with respect to the MTA. The Inspector General's activities would be guided by a two year rolling Performance Audit Plan, approved by the MTA Board, which would at a minimum require routine evaluation of the extent to which the MTA has met the goals, objectives and performance standards set by and as required by the Charter, the extent to which work order agreements with other City departments fulfill MTA needs and comply with the law, and the extent to which MTA labor agreements maximize the Agency's ability to perform its duties in accordance with its goals, objectives, and performance standards. The biennial consultant contract would be eliminated.
6. Transit operator base wages and benefits would be set by collective bargaining and would not be subject to any formula setting a wage floor or trust fund payments.
7. Incentive compensation for service critical MTA employees would become optional.
8. Gifts to the MTA with a value exceeding \$10,000 could be approved by the MTA Board of Directors without Board of Supervisors approval.
9. The MTA would be able to use a "best-value" or "negotiated procurement" process to purchase technology systems that include both professional services and construction where the Agency determines that it would be in the best interests of the City to consider factors other than price alone.



**CITY AND COUNTY OF SAN FRANCISCO**  
**OFFICE OF THE CONTROLLER**

**Ben Rosenfield**  
**Controller**

**Monique Zmuda**  
**Deputy Controller**

July 14, 2010

Ms. Angela Calvillo  
Clerk of the Board of Supervisors  
1 Dr. Carlton B. Goodlett Place Room 244  
San Francisco, CA 94102-4689

RE: File 100637 - Charter amendment to provide for split appointments to the Municipal Transportation Agency (MTA) Board of Directors, allocate property tax revenues to the MTA, and other changes

Dear Ms. Calvillo,

Should the proposed Charter amendment be approved by the voters, in my opinion, it will affect the cost of government primarily in that it would set aside funds for the Municipal Transportation Agency (MTA) which are currently available for any public purpose. To the extent that funds are shifted to the MTA, other City spending would have to be reduced or new revenues identified.

The amendment specifies that the City appropriate property tax revenues in the amount of 1 cent out of the one dollar base property tax collected on every \$100 of assessed valuation beginning in fiscal year 2011-2012 and dedicate those funds to MTA. As of the fiscal year 2010-2011 budget, that amount would be \$13.7 million. However, the amendment makes this appropriation contingent upon the voters approving measures that will generate in excess of \$40 million of new revenue for the City's General Fund in this November's election. The amendment would also continue the City's existing 'baseline' required funding of the MTA. As of the fiscal year 2010-2011 budget, that amount is \$178.3 million.

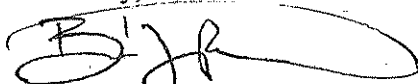
The amendment provides for changes to the method by which wages are set for the MTA transit operators. Currently, wages for these employees are set through a national survey of comparable transit agencies, averaging the two highest wage levels found in the survey and setting that amount as a floor. In addition, if benefits for the comparable agencies exceed the actuarial value of those provided by the City, a payment is made to a trust fund for transit operator benefits. The proposed charter amendment would instead have wage levels set through collective bargaining and impasse arbitration procedures as are used with other City employee unions, and would eliminate the trust fund. Currently, MTA transit operators' wage rate is set at \$27.92 per hour using the method described above. For the last five years, the City has been required to make deposits averaging \$5 to \$7 million annually to the transit operators benefit trust fund. In addition, the amendment makes special pay now mandated for 'service critical' MTA employees an option within the collective bargaining process. As of fiscal year 2009-2010, the amount of such special pay that could be affected is approximately \$3 million. Overall, negotiation and collective bargaining methods could result in either a decrease or an increase to drivers' wage, pay and benefit levels.

The amendment provides for a new Office of the Inspector General (OIG) reporting to the MTA Board of Directors to provide independent audits, reviews and analyses of the Agency. The amendment specifies that half of the funding currently dedicated to this same purpose under the Controller's City Services Auditor (Charter Appendix F) be allocated instead to the OIG. As of the fiscal year 2009-2010 budget, the Controller's City Services Auditor allocation is 2/10<sup>th</sup> of 1% of MTA's annual budget, which is \$1.5 million. However, if voters approve in the November 2010 election measures that will generate new revenue in excess of \$40 million in the City's General Fund, the amendment provides that the full amount be awarded to the City Services Auditor and an equal amount be provided to the OIG. As of the fiscal year 2009-2010 budget, this would be 4/10<sup>th</sup> of 1% of MTA's annual budget, which is \$3 million. The amendment specifies that the OIG Director be paid at least the average of the salary provided to managers reporting to the MTA General Manager.

Currently, all seven members of the MTA Board are appointed by the Mayor and confirmed by the Board of Supervisors. The amendment would provide instead that three members of the Board be appointed by the Mayor, three by the Board of Supervisors, and one jointly by the Mayor and Board President, with all members subject to confirmation by the Board of Supervisors.

Please note that this amendment involves the Controller's office, which has prepared this statement.

Sincerely,



Ben Rosenfield  
Controller

Note: This analysis reflects our understanding of the proposal as of the date shown. At times further information is provided to us which may result in revisions being made to this analysis before the final Controller's statement appears in the Voter Information Pamphlet.