

[Dividing appointments to the Municipal Transportation Agency's Board of Directors between the Mayor and the Board of Supervisors.]

## 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 Section 8A.102, to divide appointments to the Municipal Transportation Agency's Board of Directors between the Mayor and the Board of Supervisors.

The Board of Supervisors hereby submits to the qualified voters of the City and County, at an election to be held on November 8, 2005, a proposal to amend the Charter of the City and County by amending Section 8A.102, to read as follows:

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

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

(a) The Agency shall be governed by a board of seven directors ~~*appointed by the Mayor and confirmed after public hearing by the Board of Supervisors.*~~

1. The Mayor shall nominate four members to the board. The President of the Board of Supervisors shall nominate three other members to the board. Each nomination shall be subject to confirmation by the Board of Supervisors, and the Mayor's nominations shall be the subject of a public hearing and vote within 60 days.

2. The directors must possess significant knowledge of, or professional experience in, one or more of the fields of government, finance, or labor relations. At least two of the directors nominated by the Mayor and two of the directors nominated by the President of the Board must be regular riders of the Municipal Railway at the time of their nomination, and must continue to

be regular riders during their terms. During their terms, all directors shall be required to ride the Municipal Railway on the average once a week. At least one of the directors nominated by the Mayor and one of the director nominated by the President of the Board must possess significant knowledge of, or professional experience in, the field of public transportation.

3. If the Board of Supervisors fails to act on a mayoral nomination within 60 days of the date the nomination is transmitted to the Clerk of the Board of Supervisors, the nominee shall be deemed confirmed.

4. The Mayor shall make nominations to fill vacancies occurring in the offices of those members of the board nominated by the Mayor, either during or at the expiration of a term. The President of the Board shall make nominations to fill vacancies occurring in the offices of those members nominated by the Committee, either during or at the expiration of a term.

5. Appointments to fill a vacancy on the board shall become operative on the date the Board of Supervisors adopts a motion confirming the nomination, or on the 61st day following the date a mayoral nomination is transmitted to the Clerk of the Board of Supervisors if the Board of Supervisors fails to vote on the nomination prior to such date. Confirmations of nominations to fill a vacancy that will be created upon the expiration of a sitting member's term shall become operative upon the expiration of the sitting member's term, or, if the Board of Supervisors fails to act on a mayoral nomination to fill such anticipated vacancy, on the 61st day following the date the nomination was transmitted to the Clerk of the Board of Supervisors or on the expiration of the sitting member's term, whichever occurs later.

6. The terms and tenures of all members sitting on the board as of the effective date of the amendments to this Section approved at the November 2005 election shall terminate at 12 noon on April 30, 2006. To stagger the terms of the seven members thereafter, of the first four

members nominated by the Mayor, two members shall serve terms of two years and two members shall serve terms of four years, and of the three members nominated by the President of the Board, one member shall serve a term of two years. The Clerk of the Board of Supervisors shall designate such initial terms by lot. All subsequent appointments to the board shall be for four-year terms. No person may serve more than three terms as a director.

7. The tenure of each member shall terminate upon the expiration of the member's term. The Mayor shall transmit a nomination or renomination to the Clerk of the Board of Supervisors no later than 60 days prior to the expiration of the term of a member nominated by the Mayor. For vacancies occurring for reasons other than the expiration of a member's term, within 60 days following the creation of such vacancy, the Mayor shall nominate a member to fill such vacancy if the vacancy is for a seat filled by nomination of the Mayor.

8. The Mayor, with the consent of the Board of Supervisors, may remove for cause pursuant to Section 15.105 a member the Mayor has nominated. The Board of Supervisors may remove for cause pursuant to Section 15.105 a member the President of the Board has nominated. All initial appointments must be made by the Mayor and submitted to the Board of Supervisors for confirmation no later than February 1, 2000. The Board of Supervisors shall act on those initial appointments no later than March, 1, 2000 or those appointments shall be deemed confirmed.

At least four of the directors must be regular riders of the Municipal Railway, and must continue to be regular riders during their terms. The directors must possess significant knowledge of, or professional experience in, one or more of the fields of government, finance, or labor relations. At least two of the directors must possess significant knowledge of, or

~~professional experience in, the field of public transportation. During their terms, all directors shall be required to ride the Municipal Railway on the average once a week.~~

~~9. Directors shall serve four year terms, provided, however, that two of the initial appointees shall serve for terms ending March 1, 2004, two for terms ending March 1, 2003, two for terms ending March 1, 2002, and one for a term ending March 1, 2001. Initial terms shall be designated by the Mayor. No person may serve more than three terms as a director. A director may be removed only for cause pursuant to Article XV.~~ The directors shall annually elect a chair. The chair shall serve as chair at the pleasure of the directors. Directors shall receive reasonable compensation for attending meetings of the Agency which shall not exceed the average of the two highest compensations paid to the members of any board or commission with authority over a transit system in the nine Bay Area counties.

(b) The Agency shall:

1. Have exclusive charge of the construction, management, supervision, maintenance, extension, operation, use, and control of all property, as well as the real, personal, and financial assets of the Municipal Railway; and have exclusive authority over contracting, leasing, and purchasing by the Municipal Railway, provided that any Agency contract for outside services shall be subject to Charter Sections 10.104(12) and 10.104(15). Ownership of any of the real property of the City and County shall not be transferred to any private entity pursuant to any such contract;

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

3. Have the sole power and 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. Have the 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;

5. 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 and all other rates, fees, and charges for services provided by the Agency;

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

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

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

1. Appoint a director of transportation, who shall serve at the pleasure of the board. The director shall be employed pursuant to an individual contract. His or her compensation shall be comparable to the compensation of the chief executive officers of the public transportation systems in the United States which the directors, after an independent survey, determine most closely resemble the Agency in size, mission, and complexity. In addition, the Agency shall provide an incentive compensation bonus plan for the director of transportation based upon the Agency's achievement of the milestones adopted pursuant to Section 8A.103.

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

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

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

(f) The Agency's board of directors, and its individual members, shall deal with administrative matters solely through the director of transportation or his or her designees. Any dictation, suggestion, or interference by a director in the administrative affairs of the Agency, other than through the director of transportation or his or her designees, shall constitute official misconduct; provided, however, that nothing herein contained shall restrict the directors' powers of hearing and inquiry as provided in this Section.

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

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

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