

1 [Urging the San Francisco Municipal Transportation Agency to Enforce Labor Harmony
2 Provisions with Respect to Bauer's Intelligent Transportation, Inc., and its Labor Harmony
2 Violations]

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4 **Resolution urging the San Francisco Municipal Transportation Agency (SFMTA) Board**
5 **and SFMTA Director to deny the Commuter Shuttle Program permit application**
6 **submitted by Bauer's Intelligent Transportation, Inc., until such time as Bauer's**
7 **demonstrates full compliance with Labor Harmony, under the provisions of Board of**
8 **Supervisors Resolution No. 96-15 and Transportation Code, Section 914.**

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10 WHEREAS, On March 24, 2015, the Board of Supervisors of the City and County of
11 San Francisco ("City") adopted Resolution No. 96-15, on file with the Clerk of the Board of
12 Supervisors in File No. 150227, which is hereby declared to be a part of this resolution as if
13 set forth fully herein, urging the Board of Directors of the San Francisco Municipal
14 Transportation Agency ("SFMTA Board") to adopt requirements of permittees of the
15 Commuter Shuttle Program, including a provision that permittees demonstrate and maintain
16 labor harmony as a condition of their voluntary participation in the Commuters Shuttle
17 Program; and

18 WHEREAS, The Labor Harmony provision was based on the City's need for
19 assurances that the orderly and regulated use of private commuter shuttles in conjunction with
20 the operations of the SFMTA's Muni bus service ("Muni") would not hinder or impede standard
21 Muni operations or cause unsafe conditions for private vehicles, cyclists or pedestrians; and

22 WHEREAS, Resolution No. 96-15 urges the SFMTA Board to provide for enforcement,
23 including revocation of city-issued permits, in instances where permittees' voluntary
24 participation in the Commuter Shuttle Program is occasioned by disruptions, including those
25 arising from labor disputes; and

1 WHEREAS, On November 17, 2015, the SFMTA Board formally adopted an enhanced
2 Commuter Shuttle Program and thereby amended Transportation Code, Section 914; and

3 WHEREAS, Permits issued through the Commuter Shuttle Program are conditioned
4 upon continued compliance with all requirements as set forth by the SFMTA Board and
5 Director, including adherence to the principles set forth in Resolution No. 96-15; and

6 WHEREAS, The Commuter Shuttle Program requires that a permittee must ensure its
7 operations do not cause or contribute to Muni disruption or threaten public safety, with an
8 understanding that failure to comply with these requirements can result in permit revocation;
9 and

10 WHEREAS, Transportation Code, Section 914(d)(9)(a), requires permittees to provide
11 plans for the prevention of disruptions to service, including subpart (v) which requires
12 permittees to identify their efforts to maintain positive employment relationships with their
13 shuttle drivers and otherwise address the principles set forth in Resolution No. 96-15; and

14 WHEREAS, Transportation Code, Section 914(h)(4), sets forth the terms and
15 conditions of the Commuter Shuttle Program permits and provides that permittees shall
16 comply with all applicable federal, state, and local laws; and

17 WHEREAS, Transportation Code, Section 914(k)(1-4), establishes the grounds for
18 suspension or revocation of a permit by the Director, upon written notice to a permittee and
19 with the opportunity for a hearing; and

20 WHEREAS, The Commuter Shuttle Program's requirements went into effect on
21 February 1, 2016; and

22 WHEREAS, Bauer's Intelligent Transportation, Inc. ("Bauer's") has voluntarily engaged
23 in the Commuter Shuttle Program as a permittee and beneficiary of the privileges associated
24 with regulated use of the City's public transit infrastructure; and

25

1 WHEREAS, Bauer's continues to be engaged in a protracted labor dispute, including
2 complaints on file with the National Labor Relations Board, labor litigation in federal court and
3 administrative proceedings (e.g. 20-CA-148119; 20-RC-150089; 20-CA-151225, 20-CA-
4 160321, 20-CA-161534, 20-CA-167627 and 15-CV-03829 (JST) (N.D.Cal); and

5 WHEREAS, Bauer's involvement in its labor dispute has resulted in a failure to adhere
6 to the requirements of the Commuter Shuttle Program including the Labor Harmony provision
7 of Resolution No. 96-15; and

8 WHEREAS, Bauer's protracted labor dispute has caused disruption to Muni operations,
9 impeded access to and threatened the safety of the public in their attempts to utilize city-
10 owned and maintained bus stops identified within the Commuter Shuttle Program; and

11 WHEREAS, A denial of Bauer's permit application for participation in this voluntary
12 program does not, in any way, prevent or restrict Bauer's continued operation of its business
13 as a private licensed commuter shuttle company outside the scope of the Commuter Shuttle
14 Program; and

15 WHEREAS, The Board of Supervisors, the SFMTA Board and the SFMTA Director are
16 empowered and obliged to secure the public health, safety and welfare of the people of San
17 Francisco and their unimpeded access to and operation of the public Muni transit system,
18 prioritizing the public's well-being over the accommodation and convenience of private shuttle
19 companies whose participation in the Commuter Shuttle Program is voluntary and conditional;
20 now, therefore, be it

21 RESOLVED, That the Board of Supervisors finds that Bauer's continued participation in
22 the Commuter Shuttle Program during the pendency of its labor dispute will disrupt public
23 access and use of the Muni bus system and its citywide infrastructure, threaten public safety
24 and disrupt routine Muni bus operations, which average 700,000 passenger boardings on a
25 typical day; and, be it

1 FURTHER RESOLVED, That, for the foregoing reasons, the Board of Supervisors
2 urges the SFMTA Board and the SFMTA Director to deny the permit application submitted by
3 Bauer's Intelligent Transportation, Inc. for participation in the Commuter Shuttle Program until
4 such time as Bauer's can demonstrate compliance with the Labor Harmony provision laid out
5 in Resolution No. 96-15 and the requirements of the Commuter Shuttle Program.

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