CITY AND COUNTY OF SAN FRANCISCO
IN INTEREST ARBITRATION PROCEEDINGS
PURSUANT TO CHARTER SECTIONS A8.409

International Brotherhood of Electrical Workers, Local 6, AFL-CIO Union	/	
and	/	OPINION AND AWARD
The City and County of San Francisco Employer	/	

Board Members

Christopher D. Burdick:	Neutral Chairperson
Martin R. Gran	City Board Member
John Doherty	Union Board Member

Appearances

On Behalf of The Union:
Peter W. Saltzman, Esq.,
Leonard Carder, LLP,
600 Harrison Street,
San Francisco, CA,
94102

On Behalf of the Employer
Erik Rapoport, Esq.,
Deputy City Attorney,
1390 Market Street, 5th Floor,
San Francisco, CA, 94102

INTRODUCTION

The impasse between the parties came on for interest arbitration hearings on April 22 and May 9, 2019, at the Union Hall at 55 Filmore Street, San Francisco, pursuant to Section A8.409-4 of the Charter ("Charter") of the City and County of San Francisco ("City").

Christopher D. Burdick, an attorney at law and arbitrator/mediator, had been previously agreed upon by the parties to act as the neutral Chairperson of the Arbitration Board. Martin Gran, the Bay Area Rapid Transit District's Chief Labor Relations Officer, was selected by the Employer as its Board Member; and John Doherty, Business Manager of the International Brotherhood of Electrical Workers, Local 6, AFL-CIO ("IBEW", "Local 6" or "The Union") was selected by the Union as its Board Member. As anticipated by the charter, the parties also agreed in informal mediation sessions on April 10, 23, 26 and May 8, 2019.

The City was represented in mediation and at the arbitration hearings by Erik Rapoport, Esq., Deputy City Attorney. The Union was represented by Peter W. Saltzman, Esq., of Leonard, Carder, PC. The hearing was recorded by a Certified Shorthand Reporter, and the parties were afforded the full opportunity to present and call witnesses, to cross-examine the witnesses of the other party, and to present evidence and arguments in support of their positions. After conclusion of the evidentiary hearing on May 9, the parties elected to submit their last, best, and final offers (LBFO") electronically on the morning of Saturday, May 11.

I
TENTATIVE AGREEMENTS AND OPEN ISSUES

Prior to and during the hearing, the parties had been able to arrive at the following tentative agreements:

City 1 (Union Security)
City 3 (Gender Pronouns)
City 4 (Bulletin Boards)
City 6 (Jury Duty)
City 8 (Non-Discrimination)
City 9 (Personnel Files)
City 10 (Probationary Period)

City 12 (Union Access)
City 14 (Grievance Procedure)
City 15 (Paperless Pay Policy)
City 16 (Substance Abuse Prevention Policy)
City 20, 25 & 28 (Appendix B)
City 21 (Apprenticeships)
City 22 (Airport Employee Commute Program)
City 30 (Compensatory Time)
City 33 (Bilingual Pay)

Union 2 (Certification Premium)
Union 5 (Underwater Diving Premium)
Union 14 (Hetch Hetchy Meals)
Union 19 (Safety Shoes)
Union 20 (Work Clothing)
Union 23 (Hours Between Shifts)
Union 24 (Night Duty Differential)
Union 25 (Overtime Eligibility)
Union 28 (Airport Pager Pay)
Union 37 (Tuition Reimbursement)
Union 33 & 39 (Labor Management Committee)

TA (Step Clean Up)
Side agreement to include compensation schedules in MOU

The Board approves each of these tentative agreements and directs their inclusion into the new Collective Bargaining Agreement for the 2019-2021 term.

At the conclusion of the evidentiary hearing, several matters were submitted to the Board for final and binding, arbitral resolution. They are described more fully hereinafter and will be referred to, for the purposes of this Award, as follows:

Equity Adjustments for Certain Classes and Class Series

Wages

II

RELEVANT CHARTER PROVISIONS

Under the Charter, unresolved differences in negotiations between the City and a recognized employee organization which persist to the point of impasse are submitted to final and binding interest arbitration, to be heard and decided by a three-member board. The City appoints one member thereto, the union appoints its member, and those two members select a third, neutral person to chair the board.

Charter Section A8.409 requires the arbitration board to decide each issue in dispute by

> "selecting whichever last offer of settlement on that issue it finds by a preponderance of the evidence submitted during the arbitration most nearly conforms to those factors traditionally taken into consideration in the determination of ages, 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 of conditions of employment of employees performing similar services; the wages, hours, benefits and terms and conditions of employment of the 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 revenues by enhancements or other means; budgetary reserves; and the City's ability to meet the costs of the decision of the arbitration board."

This Charter interest arbitration system is referred to in the labor world as "issue-by-issue, baseball arbitration." The Charter's arbitration board may only select the offer on each disputed issue made by one party. The Board may not modify or alter, to its choosing, any proposal but may approve only one of the competing proposals on each subject still at impasse.

III

LAST, BEST, AND FINAL OFFERS/DEMANDS OF THE UNION

The last, best, and final offers ("LBFO") of Local 6 on these disputed Issues (described more fully hereinafter) were as follows:

WAGES

ARTICLE III - PAY, HOURS AND BENEFITS

III.A. WAGES

105. All base wage increases shall be rounded to the nearest whole dollar, bi-weekly salary.

106. The biweekly schedules of compensation contained in this agreement for the classifications indicated will be adjusted to an hourly amount by dividing said schedule by 80 and then multiplying by the number of hours of employment of the particular classification in a bi-weekly period to the nearest whole cent to determine the bi-weekly rate of pay.

Unit-Wide Base Wage Increases

107. All members of the bargaining unit shall receive the following base wage increases:

~~Effective October 11, 2014: 3%~~

~~Effective October 10, 2015 3.25%~~

~~Effective July 1, 2016, represented employees will receive a base wage increase between 2.25% and 3.25%, depending on inflation, and calculated as (2.00% ≤ CPI-U ≤ 3.00%) + 0.25%, which is equivalent to the CPI-U, but no less than 2% and no greater than 3%, plus 0.25%.~~

~~In calculating CPI-U, the Controller's Office shall use the Consumer Price Index — All Urban Consumers (CPI-U), as reported by the Bureau of Labor Statistics for the San Francisco Metropolitan Statistical Area. The growth rate shall be calculated using the percentage change in price index from February 2015 to February 2016.~~

~~Effective July 1, 2017, represented employees will receive a base wage increase of 3%.~~

~~Effective July 1, 2018, represented employees will receive a base wage increase of 3%, except that if the March 2018 Joint Report, prepared by the Controller, the Mayor's Budget Director and the Board of Supervisors' Budget Analyst, projects a budget deficit for fiscal year 2018-2019 that exceeds $200 million, then the base wage adjustment of 3% due on July 1, 2018, will be delayed by six (6) months and be effective the pay period including January 1, 2019.~~

~~108. Effective July 1, 2015, the following classification shall receive the specified internal adjustments:~~

~~7338 Electrical Line Worker: 3.4 % wage increase~~

107a. Effective July 1, 2019: 3.0 %

107b. Effective December 28, 2019: 1.0 %

107c. Effective July 1, 2020, represented employees will receive a base wage increase of 3.0%, except that if the March 2020 Joint Report, prepared by the Controller, the Mayor's Budget Director, and the Board of Supervisors' Budget Analyst, projects a budget deficit for fiscal year 2020-2021 that exceeds $200 million, then the base wage adjustment due on July 1, 2020, will be delayed by approximately six (6) months, to be effective December 26, 2020.

107d. Effective December 26, 2020, represented employees will receive a base wage increase of 0.5%, except that if the March 2020 Joint Report, prepared by the Controller, the Mayor's Budget Director, and the Board of Supervisors' Budget Analyst, projects a budget deficit for fiscal year 2020-2021 that exceeds $200 million, then the base wage adjustment due on December 26, 2020, will be delayed by approximately six (6) months, to be effective close of business June 30, 2021. If the Comprehensive Annual Financial Report for the year ended June 30, 2019, as prepared by the Controller, details an excess of revenues over expenditures in the CHANGES IN FUND BALANCES OF GOVERNMENTAL FUNDS that exceeds $350 million, then the base wage adjustment of 0.5% due on January 1, 2021, will be moved forward by three (3) months and be effective the pay period including October 1, 2020.

107e. Effective July 1, 2021, represented employees will receive a base wage increase of 3.0%, except that if the March 2021 Joint Report, prepared by the Controller, the Mayor's Budget Director, and the Board of Supervisors' Budget Analyst, projects a budget deficit for fiscal year 2021-2022 that exceeds $200 million, then the base wage adjustment due on July 1, 2021, will be delayed by approximately six (6) months, to be effective January 8, 2022.

107f. Effective January 8, 2022, represented employees will receive a base wage increase of 0.5%, except that if the March 2021 Joint Report, prepared by the Controller, the Mayor's Budget Director, and the Board of Supervisors' Budget Analyst, projects a budget deficit for fiscal year 2021-2022 that exceeds $200 million, then the base wage adjustment due on January 8, 2022, will be delayed by approximately six (6) months, to be effective close of business on June 30, 2022. If the Comprehensive Annual Financial Report for the year ended June 30, 2020, as prepared by the Controller, details an excess of revenues over expenditures in the CHANGES IN FUND BALANCES OF GOVERNMENTAL FUNDS that exceeds $350 million, then the base wage adjustment of 0.5% due on January 1, 2022, will be moved forward by three (3) months and be effective the pay period including October 1, 2021.

INTERNAL ADJUSTMENTS

Last Offer of Settlement on Electrician Class Series

Classes 7345, 7238 and 7276 will receive equity adjustments to base salary on the dates and in the amounts listed below:

12/28/19	7/1/21	6/30/22
1.0%	1.0%	1.75%

Last Offer of Settlement on Airport Electrician Class Series

Classes 9420, 9241 and 9242 will receive equity adjustments to base salary on the dates and in the amounts listed below:

12/28/19	7/1/21	6/30/22
1.0%	1.0%	1.0%

Last Offer of Settlement on Communication Line Supervisors

Classes 7257 and 7273 will receive equity adjustments to base salary on the dates and in the amounts listed below:

12/28/19	7/1/21
1.7%	1.7%

Last Offer of Settlement on Power Generation Technician Series

Classes 7482 and 7484 will receive equity adjustments to base salary on the dates and in the amounts listed below:

12/28/19	7/1/21	6/30/22
1.0%	1.0%	1.0%

Last Offer of Settlement on Lighting Fixture Maintenance Worker

Class 7510 will receive equity adjustments to base salary on the dates and in the amounts listed below:

12/28/19
1.0%

IV
CITY LBFO

The Last Best and Final offers of the City, on the separate Issues it raised were as follows:

ISSUE #1: ARTICLE III. A – WAGES

ARTICLE III - PAY, HOURS AND BENEFITS

III.A. WAGES

105. All base wage increases shall be rounded to the nearest whole dollar, bi-weekly salary.

106. The biweekly schedules of compensation contained in this agreement for the classifications indicated will be adjusted to an hourly amount by dividing said schedule by 80 and then multiplying by the number of hours of employment of the particular classification in a bi-weekly period to the nearest whole cent to determine the bi-weekly rate of pay.

Unit-Wide Base Wage Increases

107. All members of the bargaining unit shall receive the following base wage increases:

~~Effective October 11, 2014: 3%~~

~~Effective October 10, 2015 3.25%~~

~~Effective July 1, 2016, represented employees will receive a base wage increase between 2.25% and 3.25%, depending on inflation, and calculated as (2.00% ≤ CPI-U ≤ 3.00%) + 0.25%, which is equivalent to the CPI-U, but no less than 2% and no greater than 3%, plus 0.25%.~~

~~In calculating CPI-U, the Controller's Office shall use the Consumer Price Index – All Urban Consumers (CPI-U), as reported by the Bureau of Labor Statistics for the San Francisco Metropolitan Statistical Area. The growth rate shall be calculated using the percentage change in price index from February 2015 to February 2016.~~

~~Effective July 1, 2017, represented employees will receive a base wage increase of 3%.~~

~~Effective July 1, 2018, represented employees will receive a base wage increase of 3%, except that if the March 2018 Joint Report, prepared by the Controller, the Mayor's Budget Director and the Board of Supervisors' Budget Analyst, projects a budget deficit for fiscal year 2018-2019 that exceeds $200 million, then the base wage adjustment of 3% due on July 1, 2018, will be delayed by six (6) months and be effective the pay period including January 1, 2019.~~

~~Internal Adjustments~~

~~108. Effective July 1, 2015, the following classification shall receive the specified internal adjustments:~~

~~7338 Electrical Line Worker: 3.4 % wage increase~~

107a. Effective July 1, 2019: 3.0 %

107b. Effective December 28, 2019: 1.0 %

107c. Effective July 1, 2020, represented employees will receive a base wage increase of 3.0%, except that if the March 2020 Joint Report, prepared by the Controller, the Mayor's Budget Director, and the Board of Supervisors' Budget Analyst, projects a budget deficit for fiscal year 2020-2021 that exceeds $200 million, then the base wage adjustment due on July 1, 2020, will be delayed by approximately six (6) months, to be effective December 26, 2020.

107d. Effective December 26, 2020, represented employees will receive a base wage increase of 0.5%, except that if the March 2020 Joint Report, prepared by the Controller, the Mayor's Budget Director, and the Board of Supervisors' Budget Analyst, projects a budget deficit for fiscal year 2020-2021 that exceeds $200 million, then the base wage adjustment due on December 26, 2020, will be delayed by approximately six (6) months, to be effective close of business June 30, 2021.

107e. Effective July 1, 2021, represented employees will receive a base wage increase of 3.0%, except that if the March 2021 Joint Report, prepared by the Controller, the Mayor's Budget Director, and the Board of Supervisors' Budget Analyst, projects a budget deficit for fiscal year 2021-2022 that exceeds $200 million, then the base wage adjustment due on July 1, 2021, will be delayed by approximately six (6) months, to be effective January 8, 2022.

107f. Effective January 8, 2022, represented employees will receive a base wage increase of 0.5%, except that if the March 2021 Joint Report, prepared by the Controller, the Mayor's Budget Director, and the Board of Supervisors' Budget Analyst, projects a budget deficit for fiscal year 2021-2022 that exceeds $200 million, then the base wage adjustment due on January 8, 2022, will be delayed by approximately six (6) months, to be effective close of business on June 30, 2022.

EQUITY ADJUSTMENTS

The City general position is that no internal equity adjustments are supported or justified by Charter criteria but, in an effort to reach a peaceable resolution, it did make the following LBFO equity proposals in response to three of the Union's proposals:

Issue 3: Article III. A – Internal Adjustments – Airport Electrician Series: 9420, 9241, 9242

Effective July 1, 2019, employees in classes 9240 Airport Electrician, 9241 Airport Electrician Supervisor, and 9242 Head Airport Electrician shall receive a one-time wage adjustment of an additional two percent (2%) to their base wage.

Issue 4: Article III. A – Internal Adjustments – Communication Line Supervisors I and II: 7257 and 7273

Effective July 1, 2019, employees in classes 7257 Communication Line Supervisor I and 7273 Communication Line Worker Supervisor II shall receive a one-time wage adjustment of an additional two percent (2%) to their base wage.

Issue 5: Article III. A – Internal Adjustments – Power Generation Class Series: 7482, 7484

Effective July 1, 2019, employees in classes 7482 Power Generation Technician II and 7484 Senior Power Generation Technician shall receive a one-time wage adjustment of an additional two percent (2%) to their base wage.

V

UNION JUSTIFICATION FOR ITS LBFOs

WAGES

As John Doherty testified, the proposed 'on-ramp' counters the City's 'off-ramp' language, which permits the City to delay the 3.0% wage increases by 6 months because of projected shortfalls in fund balances. The 'on-ramp' proposed by the Union is much more disciplined than the City's 'off-ramp': it applies only to the smaller (0.5%) wage increases, is triggered only by actual (rather than projected) financial results, and moves wage increases by only 3 (rather than 6) months.

In previous negotiations, Local 6 had objected to the City's one-sided 'off-ramp' language, leading to the letter from Micki Callahan to Kevin Hughes, dated January 18, 2017 (Union Exhibit K). Although the City arguably had some justification for an 'off-ramp' at that time, no such justification exists today. Even without the testimony provided by the Union's expert witnesses, the City's own financial evidence plainly shows that it has never been in better financial condition. It cannot be disputed that the level of financial risk the City faces today is far, far lower than during those earlier contract terms, and the fact that the City has proposed 'off-ramp' language in good times as well as bad suggests an intention to make this a permanent feature of the parties' collective bargaining agreements, just as the Union had feared. It is therefore of particular importance to insert a modest counterbalance in the form of the 'on-ramp' proposed by the Union.

The City offered no compelling reason to reject the 'on-ramp'. Steve Ponder testified that the cost to the City would be only $50,000 in either or both of the two years in which a 0.5% wage increase is scheduled, and then only assuming that the City's fund balances were to increase by over $350 million (a remote contingency that would only further strengthen the City's ability to meet the cost of the proposal). In truth, the expected cost of the 'on-ramp' is de minimis. Mr. Ponder also expressed a concern about parity with other labor contracts in the City, but each of those contracts contains features that others do not, and the 'on-ramp' is no different.

EQUITY ADJUSTMENTS

Last Offer of Settlement on Electrician Class Series

Classes 7345, 7238 and 7276 will receive equity adjustments to base salary on the dates and in the amounts listed below:

12/28/19	7/1/21	6/30/22
1.0%	1.0%	1.75%

Charter Factors

(a) Wages, hours, benefits and terms and conditions of public and private employment.

Union Exhibit P (together with Union Exhibit H) demonstrates the wide and fast-growing disparity between public and private employment in the electrical industry. Taking prevailing wage rates as a measure of wage rates in the private sector, Exhibit P shows that in most Bay Area jurisdictions public sector wages (at full-time employment) are considerably lower than wages in the private sector (at less than full-time employment). In particular, the exhibit shows that wages for Class 7345 are 80% of the applicable prevailing wage rate, which is the fourth lowest percentage out of 35 jurisdictions. Taking total compensation into account reduces that percentage to 77%, *the lowest percentage of all.* Exhibit H shows that this disparity will only worsen as recently negotiated wage increases in the private sector take effect.

As Union witnesses Steve Shea, the Head Airport Electrician at S.F. International Airport, and Gene Welch, Supervisor II at Water Treatment, testified, over the past five years the large disparities between public sector and private sector wages have contributed to a paucity of qualified 7345 Electricians to fill the many vacant positions within City departments. They noted that approximately 20% of all funded positions remain unfilled, making it impossible to complete job orders for deferred maintenance, and that in several cases the only way they have been able to obtain qualified journey-level electricians is through internal transfers. Of 19 applicants on a recent 7345 Civil Service list, Shea testified, over half interviewed by the Airport were unqualified. Similarly, Douglas Lindsay testified about the increased need for on the job training among new Class 7345 Electricians due to the lack of qualified applicants.

(b) Changes in the average consumer price index for goods and services.

Union Exhibit F shows that wages for Class 7345 Electricians have trailed the CIP-U in the past five years by 0.2%, *and in the past 10 years by nearly 10%.*

> *(c) Wages, hours, benefits and terms of conditions of employment of employees performing similar services.*

Union Exhibit P demonstrates that wages for Class 7345 Electricians are at the 75th percentile of journey-level employees in the 35 jurisdictions listed there, and below the 50th percentile (i.e., lower than the mean) if benefits are included. Yet, as Doug Lindsay and other witnesses testified, work that San Francisco Electricians perform far outstrips that of their counterparts in the other jurisdictions in both variety and complexity. In particular, Class 7345 Electricians perform work on an extraordinarily wide variety of infrastructure and electrical systems that are found nowhere else, and they commonly perform high voltage work that other journey-level electricians do not perform. The Union's proposed equity adjustments would provide a modest increase in salary to reward and incentivize journey level electricians to take on this difficult work.

> *(d) Wages, hours, benefits and terms and conditions of employment of the employees in the City and County of San Francisco.*

Union Exhibit G demonstrates the fact that Class 7345 Electricians earn approximately 4% less than their journey-level counterparts in the Plumber and Sheet Metal classifications. As John Doherty testified, this disparity exists despite the fact that salaries for the corresponding Inspector classes in the three trades are essentially equal.

> *(e) The financial resources of the city and county of San Francisco; 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 revenues by enhancements or other means; budgetary reserves; and the City's ability to meet the costs of the decision of the arbitration board.*

There can be no serious question concerning the City's ability to meet the cost of the Union's last offer. Again, the City's own evidence makes clear that San Francisco has never been in better financial condition. Moreover, as Dr. Christopher Thornberg's report (Union Exhibit A) shows, San Francisco is highly likely to see between $1.02 and $1.37 billion in total revenue growth over the next five years, compared to the $690 million in revenue growth projected by the City. (*See* "Revenue Forecast for San Francisco City", 3rd slide from the end: "SF Revenue Outlook".) Furthermore, Robert Brownstein testified in detail about the unique financial position the City and County of San Francisco enjoys with respect to property taxes and other local taxes, anticipated ERAF refunds from the state, and unusually high reserve levels. (*See* Union Exhibit B.)

Finally, it is important to note that nearly 30% of the IBEW Local 6 bargaining unit work at S.F. International Airport and over one-third work at S.F. Public Utilities Commission, both enterprise departments with their own revenue sources and both in extremely strong financial positions. (*See* Union Exhibit D.) The City presented no evidence concerning the financial condition of the enterprise departments, and certainly none that would suggest the slightest risk to those departments from the very small increase in costs resulting from the Union's last offer of settlement.[1]

2. <u>Last Offer of Settlement on Airport Electrician Class Series</u>

Classes 9420, 9241 and 9242 will receive equity adjustments to base salary on the dates and in the amounts listed below:

12/28/19	7/1/21	6/30/22
1.0%	**1.0%**	**1.0%**

[1] The Union incorporates this comment on the City's financial resources into each of the following statements in support of its last offers of settlement.

Statement in Support:

Steve Shea testified about the dramatic increase in Airport construction and infrastructure and corresponding increase in volume of work for Airport electricians. In addition, he noted, Airport Electricians are now required to do the energized work that contractors used to, but no longer, do due to concerns over potential liability. At the same time that the volume of work has increased, Shea noted, his crew has decreased in number, as several electricians have left the Airport for private sector work or work at PG&E, and it has become increasingly difficult to find qualified electricians to fill the jobs who are not already employed by the City. Mr. Shea noted that he has had to obtain qualified journey-level electricians to fill seven 9240 positions through internal promotions of incumbents in the 7345 Electrician classification ("robbing Peter to pay Paul", as Shea put it). The City's wages are simply not competitive enough with jurisdictions that employ similar highly skilled, medium and high voltage, electrical workers.

With respect to Charter factor (b) (CPI) listed in the first offer of settlement above, Union Exhibit F shows that Airport Electricians are (like Class 7345 Electricians) nearly 10% behind the CPI-U over the past 10 years. As to factor (c) on comparables, the Union's surveys (City Exhibit 20; Union Exhibit T) show only two comparable jurisdictions for the Airport Electricians: Port of Oakland and City of San Jose. The Class 9240 Airport Electrician is under the average of the two. (The City's survey -- City Exhibit 36 -- omits the Port of Oakland, a clear match, and instead includes Marin County, which clearly is not a match for the work done by Airport Electricians.)

3. Last Offer of Settlement on Power Generation Technician Series

Classes 7482 and 7484 will receive equity adjustments to base salary on the dates and in the amounts listed below:

12/28/19	**7/1/21**	**6/30/22**
1.0%	**1.0%**	**1.0%**

Statement in Support:

As Michael Nederostek testified, Class 7482 and 7484 Power Generation Technicians perform out of class supervisory duties on a regular basis, yet earn no additional compensation for those duties. Indeed, PUC (which operates Hetch Hetchy Regional Water System) has adopted a policy that assigns supervisory duties to Class 7482 and 7484 Techs whenever a Supervisor (of whom there are few) is on vacation or sick. The policy states that it is the preference of the Department "that there is an Operator on shift at all times that has accepted the responsibilities of Shift Supervisor in the absence of the regularly scheduled Supervisor." (Union Exhibit L)

With respect to Charter factor (c) on comparables, Mr. Nederostek testified that the City of Santa Clara is the only Bay Area jurisdiction with a comparable classification, although others exist elsewhere in the state (Sacramento Municipal Utilities District, Northern California Power Agency, and the City of Roseville). (*See* Union's surveys, City Exhibit 20; Union Exhibit T.) San Francisco Power Generation Techs earn substantially less than the average of these other districts: indeed, they earn less than *every single one* of them. (The City attempted with Exhibit 35 to counter this evidence with a survey that included the City of Santa Rosa. As Mr. Doherty testified, however, the cited classification in Santa Rosa is not at all comparable to not to Class 7482; it is, rather, comparable to class 7318 in San Francisco.)

4. <u>Last Offer of Settlement on Communication Line Supervisors</u>

Classes 7257 and 7273 will receive equity adjustments to base salary on the dates and in the amounts listed below:

12/28/19	7/1/21
1.7%	**1.7%**

Statement in Support:

As noted in mediation and at hearing, the Union seeks this 3.4% equity increase for the Communication Line Supervisors in order to re-establish the historic wage differentials in the 7338-7257-7273 class series (11.30% between the 7338 and 7257 classes, and 11.47% between the 7257 and 7273 classes). The 7338 class received an internal adjustment in 2015, which reduced the 7338-7257 differential to 7.68%. (*See* 2014-2019 MOU, Union Exhibit R; email from John Doherty to Chris Burdick, May 10, 2019.) The Union's proposal is intended to correct the wage compaction that resulted.

5. Last Offer of Settlement on Lighting Fixture Maintenance Worker

Class 7510 will receive equity adjustments to base salary on the dates and in the amounts listed below:

12/28/19

1.0%

Statement in Support:

As noted at hearing, the Union seeks this 1% increase to compensate Lighting Fixture Maintenance Workers closer to the level the City pays Window Cleaners (Class 7392 – see Union Exhibit N) who have duties that are similar to Class 7510.

VI

CITY JUSTIFICATION FOR ITS WAGE PROPOSAL

The City's believes its Wage proposal is fair, sustainable, and based on credible evidence. In contrast, Local 6's economic demands rest on an unwillingness to recognize the other significant demands on the City's resources. The core function of the City is to serve and support the people of San Francisco. While the City is committed to continuing to provide competitive wages and benefits for its employees (by ensuring income security and robust benefits both during employment and in retirement), excessive wages and benefit improvements come at the expense of critical City services and programs. The City's wage proposal most nearly conforms to the Charter factors this Board must consider in deciding between the parties' final offers.

While the Union's LBFO essentially mirrors the City's LBFO economic terms set forth above, it adds an "on-ramp" pushing up the 0.5 percent wage increases due on December 26, 2020 and January 8, 2022, respectively, by approximately 3 months in the event that the City's Comprehensive Annual Financial Report ("CAFR") details an excess of revenues over expenditures in the changes in fund balances of governmental funds that exceeds $350 million. The Charter criteria caution against this "on-ramp" for the following reasons:

<u>The wages, hours, benefits and terms and conditions of employment of other City employees</u>

The City's wage proposal best conforms to existing, recently closed City MOUs, while the Union's proposal far outpaces the base wages for those other City employees. As Steve Ponder testified at arbitration, the City's LBFO set forth above has either been agreed to, or awarded through arbitration, at every other City 2019 bargaining table to date. (Arbitration Transcript ("Tr."), p. 18-19; Exhibit 18.) Approving the Union's wage proposal would set the Union ahead of other City employees in terms of base wage increases. (*See* costing of Union wage proposal as compared with City proposal per arbitrator request attached hereto.)

The Union LBFO sets the "on-ramp" trigger based on the City CAFR, not the "Joint Report" the City relies on for its off-ramp trigger, and the Union never identified what CAFR schedule would measure the revenues over expenditures, or whether there was such a schedule in the first place. The City only makes revenue vs. expenditure projections for the General Fund in the Joint Report, whereas the CAFR governmental funds include more than just the general fund, e.g.: General Fund, Special Revenue Funds (like DBI, baseline funds, and all grant funds), Capital Funds and Debt Service funds. The City added off ramp language in the event of an economic down turn. Adding on ramp language does not balance out the off-ramp language and applying on-ramp language would negatively impact the City's budget midyear which gets set for the entire year each fiscal year on July 1.

The City wage proposal is consistent with the 2018 City negotiated successor MOUs with the San Francisco Police Officers Association ("POA"), the San Francisco Fire Fighters Association, Local 798; the Municipal Executives Association – Police; and the Municipal Executives Association – Fire (collectively, the "Safety Unions"). As demonstrated by the chart below, the City's wage proposal in this current proceeding exceeds the final base wage increases in the Safety Unions' MOUs. In addition, the Safety Unions MOUs include the same "off-ramp" provision in the later years of the MOUs, to guard against a significant recession. (*See* Safety Union MOU excerpts included in City's request for arbitral notice filed herewith.) The City has similarly included an "off-ramp" in its current wage proposal, for the same reason.

Fiscal Year	**Police Unions' Wages**	**Fire Unions Wages**	**Current MOU Wages**	**City Wage Proposal**
2018-2019	July 1, 2018 – 3%	July 1, 2018 – 3%	July 1, 2018 – 3%	--
2019-2020	July 1, 2019 – 3%	July 1, 2019 – 3%	--	• July 1, 2019 – 3% • December 28, 2019 – 1%
2020-2021	• July 1, 2020 – 2% with off-ramp to pay period including January 1, 2020 • January 1, 2021 – 1% with off-	July 1, 2020 – 3% with off-ramp to pay period including January 1, 2021	--	• July 1, 2020 – 3.0% with off-ramp to December 26, 2020 • December 26, 2020 – 0.25% with off-ramp to COB June 30, 2021

	ramp to pay period including June 30, 2021			
2021-2022	--		--	• July 1, 2021 – 3% with off-ramp to January 8, 2022 • January 8, 2022 – 0.25% with off-ramp to COB June 30, 2021

The Arbitration Boards for Safety Union bargaining determined the wages for Safety Unions – which are lower than the City's proposal here – appropriately balanced the Charter factors and evidence. For example, the Arbitration Board at the POA/City negotiations noted that the award "reflects the need to have employees maintain pace with cost of living increases particularly when economic conditions are robust." (*See* POA Arbitration Award at p. 2) That Board found the award "maintain[ed] competitive comparability with other Bay Area urban police departments while understanding the need of the City to be fiscally responsible and maintain a high level of services for its citizens." (*Id.* at p. 2.) In addition, at the POA table, the evidence showed recruitment and retention issues and that the POA was behind comparable agencies for certain premium pays. Such special considerations are not present here, where employees are at or above market compared to comparable employees in other jurisdictions, and there are no recruitment and retention considerations.

Changes in the average consumer price index for goods and services

The Board can consider specific equity adjustments separately and individually, by classification or classification series, based on applicable comparability data, but a base wage increase is designed to ensure a sufficient wage to keep up with increases in the cost of living. The CPI evidence strongly supports the City's wage proposal, which actually exceeds anticipated CPI in each year of the successor MOU, and particularly in year one. Michelle Allersma testified that for the next three years beginning July 1, 2019, the City projects CPI of 2.97%, 2.79% and 2.94%, based on average projections of the California Department of Finance SF Area CPI and Moody's SF Metropolitan Statistical Area CPI. (City Exhibit 1 - Allersma Declaration ("Dec.") p. 16; Exhibit 2, slide 31.) Ms. Allersma described why the City uses this average and how accurate it has been historically. In fact, the City's CPI projections over the past 12 financial reports have slightly exceeded actual CPI. (Allersma Dec., p. 16; Exhibit 2, slide 32.) The Union provided no evidence to dispute the City's projected CPI evidence.

To the extent that historical CPI data is relevant at all, Ms. Allersma testified that the wage increases provided to City employees over the five-year term of the current MOU (with a rollover in 2017) have tracked CPI. (Allersma Dec.; Exhibit 2, slide 30.) These employees have not fallen behind CPI, as they appear to believe.

The City's financial resources, including the Joint Report on the City's financial condition; revenue projections; the power to levy taxes and raise revenue; and budgetary reserves

The Joint Report summarizes the City's projected revenues and expenditures for the next five years and highlights a growing "structural deficit" over those years, with revenue growth (14%) significantly outpaced by growing expenditures (27%). (*See* Allersma Dec.; Exhibit 2, slide 6, and Exhibit 6, Joint Report, p. 2.) The cost of employee salaries benefits, and in particular the growing cost to fund pensions, drives this structural deficit. (*See* Allersma Dec.; Exhibit 2, slides 10-13.) If the City provided no cost of living wage increase or other economic improvement in this successor MOU, increased pension and health benefits would still cost the City 1.42%. (Allersma Dec.; Exhibit 2, slide 14.) The Board must consider this built-in cost in assessing the true and complete cost of the parties' wage proposals and other economic improvements to avoid the structural deficit.

The Union's economic experts testified about the City's (admittedly) strong revenues but diminish completely expenditures. Every budget has revenues and expenses, and while revenues are currently strong, projected expenditures exceed them. A recession will dramatically reduce revenues and exacerbate the structural deficit. While the City's fiscal projections do not assume any recession in the next five years, Ms. Allersma testified that nonetheless there is significant recession risk, as the current expansion is the second longest since 1945 and by July 1 of this year, it will be the longest ever. (Allersma Dec.; Exhibit 2, slides 19-24.) Christopher Thornberg, a Union expert, conceded that an economic downturn is a reality and he made the following statement in 2017:

> "Economic downturns are not a what-if phenomenon; they're a reality, and preparing for them can be seen as an implicit responsibility for municipalities in service of their residents. This follows the same reasoning as for earthquake preparation, you never know when it will happen, only that it will happen, and you want to make sure your house doesn't fall down when it does."

(Exhibit 12, p. 13.)

In addition, Dr. Thornburg's reports to Contra Costa County are similarly filled with cautionary language regarding the Bay Area's economic future. (Exhibits 10 and 11.) This serious recession risk is the reason the City proposed an "off-ramp" for the second and third years of its wage proposal, to delay wage increases by six months when the City faces a serious deficit (over $200 in the applicable Joint Report), almost certainly due to recession. This provision does not deprive employees of a cost of living increase, but reasonably delays it to allow the City to adapt to challenging economic circumstances, and make the hard choices a recession will require.

Robert Brownstein, another Union economic expert, testified that the City is awash in revenues, and in the event of a recession or other economic calamity, it could simply cancel contracts and raise taxes as a means of financing wage increases. He was critical of the City's failure to consider revenues that might be generated from pending legislation in Sacramento regarding Proposition 13, assumes that the ERAF funds will always be available, and assumes the IPOs from various technology firms based in San Francisco will yield even more revenues, which the City does not consider in its projections as available for possible use. But Ms. Allersma testified that uncertainty of payroll tax revenues resulting from IPOs make it irresponsible to rely on a speculative revenue source for ongoing expenses, such as wages. In the past Dr. Thornberg agreed regarding IPOs, telling The Chronicle on April 7, 2019, that "Newsom's budget suggests he's channeling his inner Jerry Brown and wants to be a fiscal conservative. Hopefully he'll continue doing something logical using windfalls to fill a hole as opposed to starting new programs that will come back to haunt us when we have the next recession." (Exhibit 9, p. 7.) The City believes it is channeling Governor Brown, not the Union's experts.

Many General Fund contracts are for nonprofit services that assist the most vulnerable residents of San Francisco dealing with homelessness, affordable housing, clean streets, and so on, but cutting those contracts would be irresponsible. Allersma testified that the City has no prior experience with ERAF, which could be revised by the State legislature and is therefore too risky and uncertain to rely on in budgeting for the provision of ongoing City services and payroll. A recession during the term of this successor MOU would stress the City's legally required reserves, including the Rainy Day Reserve and the Economic Stabilization Reserve. (Allersma Dec.; Exhibit 2, slide 23.) These voter mandated serves are legally restricted and hedge against major displacement of City services and employment in a downturn. If the next recession hits, and the City drains its reserves, it will have an anticipated additional shortfall of over $300 million, due to decreased tax revenue (estimated $856 million loss) and increased pension contributions (estimated $243 million increase). (Allersma Dec.; Exhibit 2, slides 22, 24.) Maintaining the reserves and controlling costs ensures the City is as prepared as possible for the inevitable future economic downturn.

Finally, Ms. Allersma described the voter-established multiple "baselines" that limit available discretionary funds. (Allersma Dec.; Exhibit 2, slide 15.) Of course, there have been mixed results of tax measures at the ballot, and we have the new risk that federal State and Local Tax "SALT" tax changes may reduce voters' willingness to support additional taxes. (Allersma Dec.; Exhibit 2, slide 27.) The City must constrain expenditure growth to ensure fiscal stability and the ability to meet existing and future financial obligations.

<u>Other demands on the City and County's resources</u>

The Mayor and Board of Supervisors have made their top City priorities: addressing homelessness and affordable housing shortages; providing safe and clean streets; and addressing behavioral and mental health and substance abuse issues. City residents' priorities align with those of City policymakers. (Kirkpatrick Dec.; Exhibit 4, slides 39-41.) The City wants to cure critical infrastructure improvements, renewals and maintenance, plus significant deferred technology and equipment upgrades and purchases remaining from the Great Recession. (Kirkpatrick Dec.; Exhibit 4, slide 45.) In addition, the City is funding three new voter-approved measures for childcare, teacher wages, and programs and services for the homeless. (Kirkpatrick Dec.; Exhibit 4, slide 48.) Allersma testified that a 1% wage increase Citywide for employees covered by the open City contracts exceeds $39 million (exclusive of open SFMTA service critical MOUs, which will have additional new costs to the City). (Allersma Dec.; Exhibit 2, slide 33.) The Board must weigh every budgetary decision– every quarter percent, half percent, and full one percent – against its effect on other essential City demands and priorities. Spending funds on wages and benefits, in particular above and beyond projected CPI, reduces funding for these other priorities at the heart of the City's obligation to serve and support City residents, including the most vulnerable members of the San Francisco community.

<u>The wages, hours, benefits and terms and conditions of employment of employees performing similar services</u>

The City's wage proposal most nearly conforms to wages of other public employees, again supporting a decision to select the City's wage proposal. A Bay Area Wage Increase Survey presented by Steve Ponder, Director of Classification and Compensation at DHR, shows that during the past five years, City base wage increases have exceeded the average wage increases provided by other public employers. In addition, the City's current wage proposal exceeds known wage increases in future years at those other public employers. (*See* City Exhibit 15.)

Year	**FY 14-15**	**FY 15-16**	**FY 16-17**	**FY 17-18**	**FY 18-9**	**FY 19-20**	**FY 20-21**	**FY 21-22**
Average	1.67%	2.91%	2.56%	2.66%	2.49%	2.31%	2.88%	--
City	3.0%	3.25%	3.25%	3.0%	3.0%	3%/1%	3.0%/0.5%	3%/0.5%

Evidence at arbitration established that the wages for Local 6 members are at or above market for employees performing similar work. (Exhibits 34; 36; and Q.) Mr. Ponder also testified about the impact of Charter Section A8.409-8 on these proceedings. That section provides that "… for the fiscal year commencing July 1, 2010, and ending on June 30, 2011, and every year thereafter, in any mediation/arbitration proceeding under A8.409-4, the mediation/arbitration board <u>*shall*</u> <u>*recognize as wages the ongoing economic expenditures made by the City and County beginning, during and continuing beyond fiscal year 2009-2010*</u>, as a result of this Charter Amendment submitted to the voters at the June 3, 2008 election when evaluating any economic proposals contained in a last offer of settlement by either party." (Exhibit Q.) Ponder testified that the value of the wages the Arbitration Board must consider under A8.409-8 is 2.9%, a number from the Retirement System actuary and the Board must recognize and consider this amount in evaluating the proposals, as required by the Charter. The Board should consider the

1.42% "standing still" cost already built in by existing health and retirement benefits. (Allersma Dec.; Exhibit 2, slide 14.)

VII

CITY JUSTIFICATION FOR ITS EQUITY ADJUSTMENT PROPOSALS

Issue 3: Article III. A – Internal Adjustments – Airport Electrician Series: 9420, 9241, 9242

Effective July 1, 2019, employees in classes 9240 Airport Electrician, 9241 Airport Electrician Supervisor, and 9242 Head Airport Electrician shall receive a one-time wage adjustment of an additional two percent (2%) to their base wage.

The Union proposes a 4.0% equity increase – with 2.0% in the first year and 2.0% in the second year - for each of the three Airport Electrician classification series (9420, 9241 and 9242), whereas the City believes that a one-time 2% equity increase front-loaded in year one better reflects Charter factors. The Union bears the burden of proving its proposal is justified, but its external comparability evidence essentially relies on one other jurisdiction – the Port of Oakland, the highest paid jurisdiction in the Bay Area. Just like Santa Clara County, the Port is an outlier and there is no justification for pegging the City Airport Electrician classification series to this single employer. Steve Ponder, DHR Classification and Compensation Director, confirmed that the City's standard salary survey data showed that the City's compensation for this series was ahead by 6.97% after taking into account the 2.9% Proposition B wage adjustment, and the Union conceded that the comparable average wage for this job class was $122,321 – the average of the Port of Oakland and the City of San Jose – Union Exh. X. Thus, the current 9240 class salary of $120,588 is just a 1.5% less than the $122,321 average in the Union's comparison chart. (City Exhibit 36 and Union Exhibit X.) In addition, the comparable PG&E class is paid at $116,002, well below the City 9240 salary. (City Exhibits 36 and 37.) The City's front-loaded 2% LBFO is supported by the Charter when coupled with the City's base wage increase of 11% (against a projected CPI increase of 9% over the next three years, which generates an additional 2% over and above CPI). Thus, the City's LBFO of 2% in year one for the 9340 Airport Electrician job classification series better reflects the Charter factors and the Board should accept City's LBFO and reject the Union's LBFO.

<u>Issue 4: Article III. A – Internal Adjustments – Communication Line Supervisors I and II: 7257 and 7273</u>

<u>Effective July 1, 2019, employees in classes 7257 Communication Line Supervisor I and 7273 Communication Line Worker Supervisor II shall receive a one-time wage adjustment of an additional two percent (2%) to their base wage.</u>

The Union proposes a one-time 3.4% equity increase for 7257 Communication Line Supervisor I and 7273 Communication Line Worker Supervisor I. The sole Union evidence at arbitration was Paragraph 108 of the MOU, where by the City provided a one-time 3.4% internal adjustment to the Electrical Line Worker classification - 7338. (Union Exhibit J.) The 7338 job description was never introduced at arbitration. The City should not be punished for agreeing to a 3.4% internal adjustment in one job class and then having that internal adjustment used as the sole argument for forcing the City to agree to two more adjustments at a later date without any other supporting evidence.

Moreover, on the first day of arbitration, the Union was ordered to identify all of the data it intended to rely on in support of its equity adjustments. On April 29, 2019, the Union sent an email identifying four job classes with supporting data. The 7257 and 7273 classes were not included. Subsequently, two days before arbitration, the City sent an email to the Union, ccing the arbitrator, stating that the City was assuming that these were all of the job classes the Union was pursuing and asking the Union to confirm. The Union did not respond, and instead chose to move forward with an equity proposal for these job class at arbitration based on: (i) an MOU argument it had never identified to the City prior to May 9; and (ii) no discussion at arbitration of the 7338 Electrical Line Worker position and its relationship to the 7257 Communication Line Supervisor I and 7273 Communication Line Worker Supervisor I job classes. In other words, the City has been prejudiced by the Union's failure to provide timely identify this job class and the basis for this equity adjustment request with the result that the City did not have any time to gather evidence – based on both internal or external wage survey data – to evaluate the proposed equity adjustment. In spite of the lack of underlying factual evidence, and for the sake of improved labor relations, the City is willing to submit a front-loaded LBFO one-time two (2%) percent equity adjustment. The City believes that this equity increase better reflects Charter factors and thus the Board should accept the City's LBFO and reject the Union's LBFO.

Issue 5: Article III. A – Internal Adjustments – Power Generation Class Series: 7482, 7484

Effective July 1, 2019, employees in classes 7482 Power Generation Technician II and 7484 Senior Power Generation Technician shall receive a one-time wage adjustment of an additional two percent (2%) to their base wage.

The Union proposes a 3.0% equity increase – with 1.5% in the first year and 1.5% in the second year - to the base wage of employees in each of the two Power Generation classification series (7482 and 7484). The City believes that a one-time 2% equity increase front-loaded in year one better reflects what is justified under the Charter factors. The Union's evidence in support of its equity increase relies on other jurisdictions outside of the 9 Bay Area jurisdictions the City uses for its wage survey data, with the sole exception of the City of Santa Clara - the highest paid jurisdiction in the Bay Area. Steve Ponder testified that the City's standard salary survey data showed that the City was behind by 3.18% after taking into account the 2.9% Proposition B wage adjustment. But this figure must be considered in the context of the City's proposed, front-loaded 2% LBFO combined with a base wage increase of 11% against a projected CPI increase of 9% over the next three years – i.e., a base wage increase which adds another 2% over and above CPI. The Union conceded that it did not know whether the other jurisdictions guarantee pre-scheduled overtime of 160 hours per year and subsidized housing, a serious (albeit somewhat dated and shabby) benefit which the Union failed to take into account. The City's front-loaded 2% LBFO on top of the 11% three-year base wage increase (2% greater than projected CPI) better reflects the Charter factors and the Board should accept the City's LBFO and reject the Union's LBFO.

VIII

THE HEARING TESTIMONY AND EVIDENCE

A. The IFPTE Local 21/SEIU Local 1021 Wage Agreement

On or about Thursday, April 25, the City and Local 21 of the International Federation of Technical, Professional, and Engineering employees ("Local 21") reached a tentative agreement ("TA") on a three-year wage package, the first such agreement the City had reached in 2019 for a long-term agreement with a large, significant union representing many, many job classes. Shortly thereafter Service Employees International Union Local 1021 ("Local 1021)" reached an identical agreement, and within the next week or so practically every other City labor organization adopted (most of them quite reluctantly) the same "pattern bargaining" agreement, as well. These agreements all provide for unit-wide, general wage increases as follows:

> Effective July 1, 2019: 3.0 % Effective December 28, 2019: 1.0 % Effective July 1, 2020, represented employees will receive a base wage increase of 3.0%, except that if the March 2020 Joint Report, prepared by the Controller, the Mayor's Budget Director, and the Board of Supervisors' Budget Analyst, projects a budget deficit for fiscal year 2020-2021 that exceeds $200 million, then the base wage adjustment due on July 1, 2020, will be delayed by approximately six (6) months, to be effective December 26, 2020. Effective December 26, 2020, represented employees will receive a base wage increase of 0.5%, except that if the March 2020 Joint Report, prepared by the Controller, the Mayor's Budget Director, and the Board of Supervisors' Budget Analyst, projects a budget deficit for fiscal year 2020-2021 that exceeds $200 million, then the base wage adjustment due on December 26, 2020, will be delayed by approximately six (6) months, to be effective close of business June 30, 2021. Effective July 1, 2021, represented employees will receive a base wage increase of 3.0%, except that if the March 2021 Joint Report, prepared by the Controller, the Mayor's Budget Director, and the Board of Supervisors' Budget Analyst, projects a budget deficit for fiscal year 2021-2022 that exceeds $200 million, then the base wage adjustment due on July 1, 2021, will be delayed by approximately six (6) months, to be effective January 8, 2022. Effective January 8, 2022, represented employees will receive a base wage increase of 0.5%, except that if the March 2021 Joint Report, prepared by the Controller, the Mayor's Budget Director, and the

> Board of Supervisors' Budget Analyst, projects a budget deficit for fiscal year 2021-2022 that exceeds $200 million, then the base wage adjustment due on January 8, 2022, will be delayed by approximately six (6) months, to be effective close of business on June 30, 2022.

The City made this very same LBFO proposal to the Local and indicated that it regarded this settlement as the "pattern bargaining" model upon which it was basing all of its wage offers to each table, without any significant deviation therefrom whatsoever, except for some modest, minor "internal equity adjustments" effecting a few job classes in each unit where the data showed that the workers in those classes deserved an "equity adjustment" to catch them up to historical patterns or to the prevailing rates in public and private employment.

This City proposal contains what is generally referred to as an "offramp", a provision under which the City may postpone for up to six months one or more of effective dates of its wage proposals predicated upon the so-called "Joint Report," and its projections of any "budget deficit" in excess of a specified amount. As noted below, Local 6 here proposes, in addition, a "onramp" under which the effective date of certain wage increases will be accelerated if there is an "excess of revenues" over a certain amount.

B. The City's Financial State, Projections, The Mayor's Priorities, and The Budget

The City made extensive, thorough presentations to each union on what it regards as the its' present financial state, future projections, the possibility of a recession, its projected reserves, along with other relevant financial data and analysis.

Michelle Allersma, Director of the Budget and Analysis Division of the Controller's Office, testified that for the next three years beginning July 1, 2019, the City projects CPI of 2.97%, 2.79% and 2.94%, based on average projections of the California Department of Finance SF Area CPI and Moody's SF Metropolitan Statistical Area CPI. Ms. Allersma described why the City uses this average and how accurate it has been historically. In fact, the City's CPI projections over the past 12 financial reports have slightly exceeded actual CPI. The Union provided no evidence to dispute the City's projected CPI evidence. To the extent that historical CPI data is relevant at all, Ms. Allersma testified that the wage increases provided to City employees over the five-year term of the current MOU (with a rollover in 2017) have tracked CPI. These employees have not fallen behind CPI as they appear to believe.

The Joint Report, which summarizes the City's projected revenues and expenditures for the next five years, suggests a possible "structural deficit" over those five years, with revenue growth (14%) significantly outpaced by growing expenditures (27%). The cost of employee salaries and benefits, particularly the growing cost to fund pension benefits, drives this concern. Before the City provides any cost of living wage increase or other economic improvement in this successor MOU, increased pension and health benefits cost the City 1.42%. The Union's economic expert, Robert Brownstein, testified about the City's strong revenues, while downplaying expenditures, but the City's Reports projects unequivocally that while revenues are currently strong, future expenditures will exceed them. Should there be a recession, that would reduce revenues and exacerbate the claimed "structural deficit". While the City's fiscal projections do not assume any recession in the next five years, Ms. Allersma testified that nonetheless there is significant recession risk. The current expansion is the second longest since 1945 and, by July 1 of this year, it will be the longest ever. It is because of municipal fear of a serious recession that the City has proposed an "off-ramp" for the second and third years of its wage proposal, an "offramp" which would delay wage increases by six months when the City faces a deficit over $200 million in the applicable Joint Report. This provision does not deprive employees of a CPI increase, it just delays it while the City hopefully adapts to economic circumstances and "makes hard choices" that a recession will require.

Mr. Brownstein, a Union expert, criticized the City's failure to consider revenues that might be created from pending "split roll" legislation in Sacramento regarding Proposition 13, and he assumed that the ERAF funds will be available over the next 5 years and that IPOs from various technology firms based in San Francisco will yield even more revenues. Ms. Allersma contends that the City cannot prudently consider such projections as available and cannot base its budget and pay ongoing costs based on speculative IPO and ERAF funding. The City has no experience with ERAF, which could be revised by the State legislature and Allersma therefor believes it too risky and uncertain to rely on in budgeting for the provision of ongoing City services and payroll. Ms. Allersma testified that while it is possible to terminate contracts in an economic downturn to help finance wage increases, many General Fund ("GF") contracts are for nonprofit services that assist the most vulnerable residents.

The Union experts referred to the City's expenditures as "political decisions" and that is surely true. The Mayor prioritizes homelessness, affordable housing, clean streets, and so on, all so she can approve a wage increase far in excess of CPI. But that would be irresponsible. Ms. Allersma also testified that the risk of a recession during the term of this successor MOU highlights the critical value of the City's legally required reserves, including the Rainy Day Reserve and the Economic Stabilization Reserve. Some of the largest voter mandated reserves are legally restricted and "hedge" against major displacement of City services and employment in a downturn. Ms. Allersma predicts that when the economy cycles and the next recession hits, even if the City drains its reserves, it will have an anticipated additional shortfall of over $300 million, due to decreased tax revenue (estimated $856 million loss) and increased pension contributions (estimated $243 million increase). Mr. Brownstein thinks that the City's reserves are too high. Ms. Allersma pointed to the multiple voter-mandated "baselines" that limit available discretionary funds and talked about the City's constrained ability to grow revenue through taxes and fees, given the mixed results of tax measures at the ballot and the risk that federal "SALT" tax changes may reduce voters' willingness to support additional taxes.

Ashley Groffenberger, the Senior Fiscal and Policy Analyst, Mayor's Office, testified about other demands on City resources, especially the Mayor and Supervisors' top City priorities: addressing homelessness and affordable housing shortages; providing safe and clean streets; and addressing behavioral and mental health and substance abuse issues. Ms. Groffenberger testified about critical infrastructure improvements, renewals and maintenance, as well as significant deferred technology and equipment upgrades and purchases remaining from the Great Recession, as well as City funding of three new voter-approved measures for childcare, teacher wages, and programs and services for the homeless. Allersma testified that a 1% wage increase Citywide for employees covered by the open City contracts exceeds $39 million, excluding open SFMTA service critical MOUs, which will have additional new costs to the City).

The City acknowledged that currently, its financial condition is strong, in part from sustainable and prudent fiscal practices. While revenues are growing, expenditures are growing faster, and a recession could dramatically reduce revenues.

C. Internal Equity Adjustments

The testimony of the Union and its supporting evidence on each of the internal equity issues is set forth above.

THE BURDENS AND QUANTUM OF PROOF

The Union bears the burden of persuasion on its proposals on wages and the sought equity adjustments for six job classes/class series, The City bears the burden of proof and persuasion on its Wage proposal and the related "offramps", described below

In interest arbitration proceedings of this type, the burden of proof rests upon the party seeking a change in the *status quo*: *see*, e.g., *Parker v City of Fountain Valley*, 127 Cal. App. 3d 99, 113 (1981); *Layton v. City of Pomona*, 60 Cal. App. 3d 58, 64 (1976). So, the Union must, by a preponderance of the evidence, prove that its proposals more closely meet the criteria of the Charter than would upholding the City's desire to adhere to the "pattern bargain". Conversely, the City bears a similar burden of proof in convincing the Panel that it should adopt its "offramp" approach to wages over three years.

The applicable quantum of proof required is proof by a preponderance of the evidence. Cal. Evid. Code section 115 states:

> § 115. Burden of proof. "Burden of proof" means the obligation of a party to establish by evidence a requisite degree of belief concerning a fact in the mind of the trier of fact or the court. The burden of proof may require a party to raise a reasonable doubt concerning the existence or nonexistence of a fact or that he establish the existence or nonexistence of a fact by a preponderance of the

> evidence, by clear and convincing proof, or by proof beyond a reasonable doubt. Except as otherwise provided by law, the burden of proof requires proof by a preponderance of the evidence.

"Preponderance of the evidence" here simply means that the party bearing the burden of proof on each issue must establish the facts of its presentation with evidence found by the trier-of-fact (here, the Panel) as being more likely to conform to the criteria of the Charter than not. The "preponderance" standard simply requires the trier of fact "to believe that the existence of a fact is more probable than its nonexistence." In re Angelia P., (1981) 28 Cal.3d 908, 919.

VII

ANALYSIS AND APPLICATION OF THE CHARTER CRITERIA TO THE EVIDENCE

1. Consumer Price Index.

There is little dispute between the parties about the predicted CPI over the three years of the proposed MOU, but the Union strongly believes that over the last 10 years its members have lost substantial ground against the CPI, an assertion which the City rejects based upon its graph showing the growth in wages and the growth of the CPI, which it contends shows the City has, over a lengthy period of time, been approximately equal. But Union Exhibit F shows that wages for Class 7345 Electricians trailed the CIP-U in the past five years by 0.2%, and in the past 10 years by nearly 10%.

2. Wages, hours, benefits and terms and conditions of employment of employees performing similar services.

This factor looks to the "prevailing rates" paid, and the terms and conditions maintained, by other employers (both public and private) to their employees performing like or similar work. The Union produced reams of surveys and documents which it believes shows that its members, in practically every job class, are underpaid with particular reference to Electricians in the private sector working in the San Francisco Bay Area. There is, of course, an astounding construction boom in office buildings and high-end apartments and condominium buildings in downtown San Francisco. There is an army of cranes sprouting up all over the Downtown and South of Market, and the Union has almost 1400 "travelers" on its books, electricians from other parts of the country and other IBEW locals who have flocked to San Francisco to work in the private sector. The public/private wage disparity for the journey class of Electrician is stark. The City believes that the comparability data purely in the public sector shows that, with the exception of the City of Santa Clara and the County of Santa Clara, that CCSF pays its Electricians well above the prevailing rate for such work in the public sector.

3. The wages, hours, benefits, and terms and conditions of employment of other employees in the City and County of San Francisco.

The City points to its Local 21/Local 1021 "pattern settlement" as the primary evidence under these criteria. Putting to one side the "offramp" versus the "on-ramp" dispute between the parties, the Union does not disagree insofar as broad, basic wages are concerned, but when it comes to certain classes it believes that the "prevailing rate" internally for, e.g., Electrician should be equal to, or higher, than that of Plumber and Sheet Metal Worker.

4. Health and Safety of employees.

Neither party pointed to this factor as relevant.

5. 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 of the board of supervisors.

As discussed at length above, the City takes a very conservative, cautious view of its future resources, conceding that its revenue picture looks bright but arguing that its expenditure picture is bleak and outstrips projected revenues, leading to the claimed "structural deficit". Certainly, if we carved these job classes out and gave them everything the Union wants, on a global basis the cost to the municipal fisc would be slight, but the reality is that every time one union gets something better than the rest of the unions, at the next bargaining session rounds the rest of the unions clamor to get that which the outlier union achieved in the round of bargaining before.

6. Revenue projections.

As noted above, it is undisputed that the City's revenue projections are quite rosy, at least on a short-term basis, but the City points to the inexorable rising costs of future benefits, especially that of the City's SFERS retirement system and the "employer normal contribution", which will go up 1.4% next year. The City experts and the Union experts are in basic agreement (with some mild differences) over the revenue projections; it is on the expenditure side of the coefficient that they disagree.

7. The power to levy taxes and raise revenues by enhancements or other means.

The City certainly has the power to ask the voters to raise taxes, and the City has successfully done so in recent years (albeit those tax increases failed to reach the two-thirds level and are now in court in what will surely be endless litigation) but predicting what the voters will do in the future depends on a number of factors, including the nature of the tax, the cost thereof, upon whom the tax will be levied, and the fact that the recent federal tax amendments limited the SALT deduction to $10,000, and the Panel can certainly not a predicate an award upon such unpredictable factors, especially in today's volatile political climate.

8. Budgetary reserves.

The City's "Rainy Day" Fund, General Fund and other reserves are healthy today compared to what they were 10 years ago, and the City's budget and projected five-year plan is calculated not only to preserve those reserves but to bulk them up somewhat. The Union experts do not claim that the City is "over reserved", per se, but they do believe there is some fungibility between the various reserve funds and the General Fund, and an ability to move money around if needed or desired, a contention which the City in general resists.

9. **The City's ability to meet the costs of the decision of the arbitration board.**

The City does not contend that it could not meet the Union's wage and equity adjustment proposals except with great pain, but it does the make the economic arguments which we have described at some length, *infra*.

10. **Other demands on the City and County's resources (including limitations on the amount of revenue and expenditures); City Revenue Projections; the power to levy taxes and raise revenue by enhancement or other means; budgetary reserves; and the City's ability to meet the costs of the decision of the arbitration board.**

See our analysis of Paragraphs 5-8, immediately above.

11. **Those factors traditionally taken into consideration in the determination of wages, hours, benefits and terms and conditions of public and private employment.**

This catchall phrase requires the Panel to look at those traditional, classical, criteria and elements which drive unions, employees, and employers towards the decisions they ultimately make in the labor-management, collective bargaining universe. We therefore look to the relative nature of the bargaining unit in question (are these professional, highly paid employees or are they traditional blue-collar workers, at the lower end of the salary schedule?), competition for like or similar workers in the relevant labor market, turnover, the cost of fringe benefits in healthcare, the history in the bargaining unit and the Electricians trade (public and private), and the like.

Nothing unique in this record triggers this criterion beyond what has been discussed and described above.

VIII

APPLICATION OF THE CHARTER CRITERIA TO THE ISSUES AT IMPASSE

1) **WAGES** - The Arbitration Panel adopts the City wage proposal for the following reasons.

First, it is consistent (indeed a little above) with the CPI as projected forward. The Union's request that we go back 10 years or more and track the CPI over three or four bargaining rounds to see if the Union has managed to keep up with the CPI and, if not, to correct that going forward is not, we believe, consistent with the Charter mandate of how we look at the CPI. Picking up one, two, three, or more years going backwards, and then remediating those perceived gaps going forwards, skews the result. We believe the voters wanted the Panel to look at the moment and ahead (and not back) to see if the wage proposals of the parties will keep the workers at the very least equal with, and not behind, the **projected** CPI.

Secondly, whatever one may think of "pattern bargaining", it has been the standard by which the City has dealt with 60 + unions for decades, and the "pattern" set here by the Local 21 and Local 1021 agreements is consistent with the other Charter criteria set forth above. The City has insisted quite strongly this bargaining cycle on "consistency" on a number of issues, including "Citywide" language proposals on items in which there was some previously mild differences between the various MOU's, but its loudest, repetitive theme has been its insistence upon the wage "pattern" described above.[2] The Union does not really disagree with the basics thereof and merely seeks a "on-ramp" to accelerate some of the wage increases, however, the "on-ramp" it seeks is not based upon the Joint Report, but upon the CAFR, and the Union has advanced no reason why we should look at one measure going "off" and another measure going "on".

Third, the Union's best argument for a larger wage increase is the glaring disparity between the prevailing hourly rate in the private sector in the Bay Area and the CCSF rate for Electrician and related classes. Even if we add in the "cents per hour" that private-sector employers pay into the various trusts for vacation, holiday, sick leave, and the like, the disparity still exists. But the City points out that the turnover rate (including resignations) in the Electrician class is practically nonexistent and that retention is not an issue, although recruitment may be. The City put into evidence a number of eligibility lists for classes in the bargaining unit and pointed out that (presumptively) qualified people take the exams, place on the lists, and are willing to take offers, whereas the Union testimony is that the quality and level of expertise and experience of today's applicants is not what it once was and that, given the choice between the City and *e.g.*, Rosendin Electric, most quality workers will take the latter because of the much higher hourly rate. But it has been a truism in public employment for the last century that the salaries in most public employment (*e.g.*, for lawyers, engineers, and accountants) is lower than that in the comparable private sector and is made up for by the guaranteed, immutable defined-benefit pension, health benefits, civil service protections, a guaranteed 2080 hour year, and the reasonable predictability of a sane life on a (more or less) 40-hour weekly basis without the whims and caprice of the private sector employer ordering one here and there. While Electricians working today in the private sector in Downtown San Francisco and South of Market may presently be earning $20 more per hour (and working a lot of overtime), they are not guaranteed a full working year (indeed, the average year is 1700 hours or less) and lack civil service protections. [3]

Fourth, it is clear that the Union's "on-ramp" proposal is difficult to cost, but so is the City's "offramp" approach. Standing alone, the Union proposal is well within the City's "ability to pay" and would not result in a body blow to the municipal fisc or reserves, but the other elements outlined above outweigh these factors.

Fifth, there is nothing uniquely present here under the classical "other factors" criteria that arbitrators usually apply which are not subsumed by the other, express criteria, and the Panel is left in the position of weighing those various elements. The Union has on its side of the scale its external comparables in the private sector and in a few public employers (e.g., the Port of Oakland), whereas the City points to the CPI, its'

---

[2] "A foolish consistency is the hobgoblin of little minds": Ralph Waldo Emerson.

[3] The City also argues that the work being performed by unionized Electricians in the private sector in San Francisco's construction boom are really doing different work, namely new construction on very tall high-rise office and condominium buildings and residential renovation, whereas City Electricians practically never do any new construction and work essentially upon maintenance, repair, and smaller projects.

"pattern bargaining" agreements with Locals 21 and 1021, and the City's desire to be conservative, cautious, and err on the side of caution in the expenditure of its funds in admittedly flush times. [4] In weighing all these factors together, we conclude that the City has the better part (but just barely) of this argument, and we adopt its wage proposal and decline to adopt that of the Union.

Christopher Burdick, Chair – I concur

Martin Gran, City Member – I concur/dissent

John Doherty, Union Member – I concur/dissent

Dissenting Opinion by Panelist Doherty:

I respectfully dissent from the majority's opinion on the Union's Wage Proposal. The City argues that "the Union's proposal far outpaces the base wages for those other City employees." The City provides no supporting evidence for this audacious claim, but even at the City's estimated $61,000 price tag, the Union's proposed on-ramp would be less than 2 ten thousandths of one percent of the $350 million surplus revenue.

In interpreting the Union's proposal, one should not focus on the small amount of money involved, but rather on fairness and balance in the bargaining relationship between the parties. The City looks to install an escape clause into a labor contract, an escape clause with a hatch that can be opened with little substantiation as a budget estimate is just an estimate. This is unbefitting of a public sector contract.

It is noteworthy that the off-ramp was included in the City's first wage offer, which was well below their muted projections of CPI (using some blend of averages, not purely CPI-U projections). This flies in complete contrast to their arbitration testimony that Mr. Ponder provided, arguing that the City needs the off-ramp because of the final 'pattern', allegedly over CPI-U, agreement.

---

[4] The State of California and most of its local agencies have a somewhat depressing history of spending one-term influxes of revenues on long-term expenditures and obligations: e.g., the expansion of pension plan benefits, formulas, and post-retirement benefits agreed to when those plans were "super funded", only to see those reserves disappear far quicker than anticipated, leaving CalPERS and '37 Act County plans with long-term, legally immutable obligations without the wherewithal to pay for them.

The panel is incorrect when it adopts the City's position that its "*long-standing, decades-long use of "pattern bargaining" and the willingness of the smaller unions and associations to fall in behind the "pattern" set by the largest unions, usually Local 21 or Local 1021: the City cautions that any deviation from the pattern, however slight (such as, for example, an "on-ramp") will shatter that practice.*" The Charter makes no mention of, and has no requirement to engage in, any form of "Pattern Bargaining". Indeed, to the extent any pattern exists at all, it is through arbitration awards imposed upon the Unions.

The City seemingly argues that an arbitration award for public safety Unions justifies including their off-ramp without the minimal, countervailing, on-ramp as proposed by the Union. However, the awards they refer to did not have the on-ramp as a choice before the arbitrator. Instead there we see parties that are a full percentage point apart in their last, best, and final offers on wages. Here, the parties' last offers contained identical wage increases, with no difference in the timing of said increases and no difference in the delay of said wage increases in response to a budgetary trigger. The Union does not agree with the off-ramp language but recognized that this year the process in San Francisco had become of such a nature that it had to be included.

Finally, it is perplexing that the City complains about the use of the CAFR report. It is their audited financial statement, where they open the books and have an outside auditing firm review the City's financial position. The Union chose this document because it is clearly within Charter Section 8.409-4's guidance where it requires the panel to consider "*the financial resources of the city and county of San Francisco*". What better report to rely on than the audited financials? The Union's on-ramp trigger is a table in the CAFR report titled CHANGES IN FUND BALANCES OF GOVERNMENTAL FUNDS, and it is located in the Appendices. The City had ample time to query the Union on its choice of an on-ramp trigger, having been presented it on April 26th, and barely touched on it cross examination. The trigger is easy to understand, easy to locate and, more importantly, easy to justify under the Charter Provisions.

2) **Internal Adjustments** - We grant some, and deny others, of the Union's requests for several internal, equity adjustments, as described hereinafter. Those that we

grant we do so, primarily, for historical, internal relationship reasons. To grant an equity adjustment based on the exigencies and pressures of the external market (be it public or private) requires, a major disparity of a permanent, ongoing nature. A present wage differential of 3%, 4% or 5% is not enough, standing alone, we believe to justify a permanent escalation in the salary range for a particular job class.

A) Classes 7345, 7238 and 7276 will not receive equity adjustments

During the relevant time period, the City employed approximately 79 Electricians in Class 7345, 14 Electrician Supervisor I's in Class 7238, and 3 Electrician Supervisors II in Class 7276. This Class series is the most numerous in the bargaining unit (approximately 20% of the workers in the Unit) with the exception of the Electronics Maintenance Technicians in Class 7318 (approximately 166 FTE's). See City Ex. 21.

Without dispute there is a wide disparity between public and private employment in the electrical industry. Looking at union-based "prevailing wage rates" in the unionized private sector, Union Exhibit P shows that most Bay Area public sector wages (all at full-time 2080 hour employment) are considerably lower than wages in the private sector (usually less than full-time employment). Ex. P appears to show that wages for Class 7345 are 80% of the "prevailing wage rate", the fourth lowest percentage out of 35 jurisdictions. Taking total compensation into account reduces that percentage to 77%, a disparity that will probably worsen as recently negotiated wage increases in the private sector take effect.

Union witnesses Steve Shea, the Head Airport Electrician at S.F. International Airport, and Gene Welch, Supervisor II at Water Treatment, testified that over the past five years these wage have contributed to a paucity of qualified 7345 Electricians to fill the many vacant City positions. The Union insists that approximately 20% of all funded positions remain unfilled, making it impossible to complete job orders for deferred maintenance. Of 19 applicants on a recent 7345 Civil Service list, Shea testified, over half he interviewed were unqualified, and Doug Lindsay testified about the increased need for on-the-job training for new Class 7345 Electricians due to the lack of qualified applicants.

Mr. Lindsay believes that the work San Francisco Electricians perform far outstrips that of other jurisdictions in both variety and complexity, on an extraordinarily wide variety of infrastructure and electrical systems found nowhere else, including regularly performed high voltage work that other journey-level electricians do not perform.

Internally, Union Exhibit G demonstrates that Class 7345 Electricians earn approximately 4% less than their counterparts in the Plumber and Sheet Metal classifications, despite the fact that salaries for the corresponding Inspector classes in the three trades are essentially equal. But this disparity is only about $2.00 an hour, with City plumbers behind their private peers a little more than are City Electricians, and Sheet Metal Workers only $5.00 per hour behind their private sector counterparts. These people all work in the construction trades but the work is remarkably different.

There can be no serious question concerning the City's ability to meet the cost of the Union's last offer. Again, the City's own evidence makes clear that San Francisco has never been in better financial condition. Nearly 30% of the Local 6 bargaining unit work at SFIA and over one-third work at the PUC, both enterprise departments with their own revenue sources and both in extremely strong financial positions. (Union Exhibit D.)

The Panel is also concerned about the existing internal relationships which may be disrupted by a move upwards for this Class series, the second most numerous in the bargaining unit. There are probably historical relationships between these three classes and others in the bargaining unit, and the Panel is not anxious to see a repetition of the 7257/7273 dislocation described immediately below.

For these reasons the proposed equity increase is rejected and the *status quo* is approved.

Christopher Burdick, Chair – I concur

Martin Gran, City Member – I concur/dissent

John Doherty, Union Member – I concur/dissent

Dissenting Opinion by Panelist Doherty:

The Union put forward several compelling arguments, already outlined in this Award, supporting an equity increase for the journey-level class series. The City will continue to have difficulty filling vacant positions with qualified electricians, and is likely to rely more and more on job orders, sending bargaining unit work out to private contractors at great cost. The Union will continue to vigorously pursue this important matter in future bargaining.

B) Classes 7257 and 7273 shall receive equity adjustments to base salary of 1.7% on December 28, 2019 and again on July 1, 2021

> **Effective December 28, 2019, employees in classes 7257 Communication Line Supervisor I and 7273 Communication Line Worker Supervisor II shall receive a one-time wage adjustment of an additional one and seventy hundredths percent (1.7%) to their base wage.**
>
> **Effective July 1, 2021 employees in classes 7257 Communication Line Supervisor I and 7273 Communication Line Worker Supervisor II shall receive a one-time wage adjustment of an additional one and seventy hundredths percent (1.7%) to their base wage.**

This 3.4% equity increase for the Communication Line Supervisors is justified to restore the historic wage differentials in the 7338-7257-7273 class series (11.30% between the 7338 and 7257 classes, and 11.47% between the 7257 and 7273 classes). The 7338 class received an internal adjustment in 2015, which reduced the 7338-7257 differential to 7.68%, and it appears Romer oversight or an omission everyone failed to realize that by making this adjustment and inadvertent "compaction" would occur with the high-ranking classes (2014-19 MOU, Union Exhibit R; email from John Doherty to Chris Burdick, May 10, 2019) and this modest adjustment will correct the wage compaction that resulted. The City's proposal of an up-front 2%, while somewhat generous, does not directly address the problem, namely a cure in the unintentional gap created, which the union is willing to make up over a period of years.

For these reasons, the Union's proposed 1.7% and 1.7% equity increase is approved, and the City's proposed 2% is rejected.

Christopher Burdick, Chair – I concur

Martin Gran, City Member -- I concur/dissent

John Doherty, Union Member – I concur/dissent

C) <u>Class 7510 will not receive an equity adjustment to base salary of 1%</u>

This proposed equity increase is sought to bring Lighting Fixture Maintenance Workers closer to the pay level of SFIA's Window Cleaners, Class 7392. While there is a plain, superficial allure to this proposal ("Why should window washers get paid more than electricians who work with dangerous electricity? Anyone can wash windows!!") But there is a simple failure of proof here, as all the Union has established is that Window Cleaners get paid more than Class 7510. We have no idea what the prevailing rate is in the public and private sector for Window Cleaners, and the job is certainly far more difficult than the simple job class title infers. Window Washers work inside and outside, sometimes in inclement weather, and they often work on scaffolding or slung off the sides of buildings. There may be a good, market-driven reason why this pay disparity exists, and the Union has failed to produce any evidence here which would justify its request.

For these reasons the proposed equity increase is rejected and the *status quo* is approved.

Christopher Burdick, Chair – I concur

Martin Gran, City Member – I concur/dissent

John Doherty, Union Member – I concur/dissent

D) <u>Classes 9420, 9241 and 9242 will receive 2% equity adjustments</u>

<u>Effective July 1, 2019, employees in classes 9240 Airport Electrician, 9241 Airport Electrician Supervisor, and 9242 Head Airport Electrician shall receive a one-time wage adjustment of an additional two percent (2%) to their base wage.</u>

This Union request is based primarily upon the testimony of Steve Shea, an articulate, well-prepared, and thorough witness who testified without contradiction about the sharp increase in SFIA construction and infrastructure and corresponding increase in volume of work for Airport electricians, who are now often required to do the "energized work" (that is, with hot, live wires) that contractors used to, but no longer, do due to concerns over potential liability. At the same time that the volume of work has increased, Shea said his crew has decreased in number, as several of his Electricians left for private sector work or at PG&E and it has become increasingly difficult to find qualified electricians to fill the jobs who are not already employed by the City. Shea told the Panel he obtained qualified journey-level Electricians to fill seven 9240 positions through internal promotions of incumbents in the 7345 Electrician classification ("robbing Peter to pay Paul", as Shea put it). The City's wages are simply not competitive enough with jurisdictions that employ similar highly skilled, medium and high voltage, electrical workers.

The Union's survey (City Exhibit 20; Union Exhibit T) claim only two comparable jurisdictions: Port of Oakland and City of San Jose. The Class 9240 Airport Electrician is under the average of the two. The City survey -- City Exhibit 36 -- omits the Port of Oakland but includes Marin County, which has no large airport and is surely not a match.

But none of the work that Shea testified to is outside of the job description for the relevant classes and is not work out of class or particularly extraordinary. The high voltage that the contractors and subcontractors refuse to work with for liability purposes is also well within the job description for these classes. The City proposes a 2% equity increase starting on July 1, 2019 and, balancing all of the criteria, the Panel believes that this is a more appropriate increase.

For these reasons, the City proposal of an up-front 2% equity increase starting July 1, 2019 is approved and the Union proposal is rejected.

Christopher Burdick, Chair – I concur

Martin Gran, City Member – I concur/dissent

John Doherty, Union Member – I concur/dissent

E) <u>Classes 7482 and 7484 will receive 1% equity adjustments to base salary on December 28, 2019, July 1, 2021, and close of business June 30, 2022, for a total of 3%</u>

<u>Effective December 28, 2019, employees in classes 7482 Power Generation Technician II and 7484 Senior Power Generation Technician shall receive a one-time wage adjustment of an additional one percent (1%) to their base wage.</u>

<u>Effective July 1, 2021 employees in classes 7482 Power Generation Technician II and 7484 Senior Power Generation Technician shall receive a one-time wage adjustment of an additional one percent (1%) to their base wage.</u>

<u>Effective close of business June 30, 2022, employees in classes 7482 Power Generation Technician II and 7484 Senior Power Generation Technician shall receive a one-time wage adjustment of an additional one percent (1%) to their base wage.</u>

Per the unrebutted testimony of Michael Nederostek, Class 7482 and 7484 Power Generation Technicians perform out of class supervisory duties on a regular basis, yet earn no additional compensation for those duties. Indeed, PUC (which operates Hetch Hetchy Regional Water System) has a policy that assigns supervisory duties to Class 7482 and 7484 Techs whenever a Supervisor (and there are only a few) is off on vacation or sick. The Policy states that it is the desire of the Department "that there is an Operator on shift at all times that has accepted the responsibilities of Shift Supervisor in the absence of the regularly scheduled Supervisor." (Union Exhibit L, Memorandum of January 12, 2015: "When an Operator is needed to meet minimum staffing requirements, all members of the attending shift are encouraged to "bump up" in responsibility by advancing roles to gain experience and then the next qualified Operator with the lowest amount of overtime hours on the list is called to fill the remaining gap…. All qualified PSO's, that have been provided adequate training and demonstrated the necessary competency, are expected to serve in all the roles for which they are qualified to serve.")

With respect to Charter factor (c) on comparables, Mr. Nederostek opined that only Santa Clara (City) is the only Bay Area jurisdiction with a comparable classification, but elsewhere Sacramento Municipal Utilities District (SMUD), Northern California Power Agency, and Roseville compare *per* Union's surveys, City Exhibit 20; and Union Exhibit T. PUC's Power Generation Techs earn substantially less than the average of these other districts and, in fact, earn less than of them. These comps are persuasive but the primary factor which tilts us towards the Union proposal, rather than the City *status quo*, is the routine, repetitive out of class supervisorial work which these employees are required to do, usually without compensation.

For these reasons, the proposed equity increase is approved, and the City proposal of 2% effective July 1, 2019 is rejected.

Christopher Burdick, Chair – I concur

Martin Gran, City Member -- I concur/dissent

John Doherty, Union Member – I concur/dissent

AWARD

In light of the discussion and analysis set forth above, the Union and City proposals are accepted or rejected as described above.

Christopher Burdick, Chair
Martin Gran, City Member
John Doherty, Union Member

May 13, 2019