

**EMPLOYEE RELATIONS OPERATING RESOLUTION
SAN FRANCISCO MUNICIPAL TRANSPORTATION AGENCY**

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EMPLOYEE RELATIONS OPERATING RESOLUTION SAN FRANCISCO MUNICIPAL TRANSPORTATION AGENCY

SEC. 16.200. TITLE OF OPERATING RESOLUTION.

This operating resolution shall be known as the Employee Relations Operating Resolution of the Municipal Transportation Agency (hereinafter "MTA") of San Francisco.

SEC. 16.201. STATEMENT OF PURPOSE.

The purpose of this operating resolution is to promote full communication between the MTA of San Francisco and MTA employees by providing a reasonable method of resolving disputes between the MTA, and MTA employees in classifications which MTA has designated as service critical and assigned to service critical bargaining units, and employee organizations in accordance with Charter §8A.104 et seq. It is also the purpose of this operating resolution to promote the improvement of personnel management and employer-employee relations within MTA by providing a uniform basis for recognizing the right of MTA employees in service critical classifications to join employee organizations of their own choice, and to be represented by such organizations in their employment relationship with the MTA, subject to the requirements and conditions of Charter §8A.104 et seq. and the other provisions of this operating resolution.

Nothing contained herein shall be deemed to supersede the provisions of the City and County Charter, nor the provisions of ordinances and civil service rules establishing and regulating the civil service system for non-service critical classifications and functions; provided, however, that amendments to existing ordinances and civil service rules within the authority of MTA may be proposed through utilization of the meeting and conferring process. It is recognized that recodifications may change the references to specific Civil Service Rules and Charter Sections contained herein. Therefore, in that event, such terms will be read as if they accurately reference the same sections in their newly codified form.

Nothing contained herein shall be deemed to alter or change the provisions of the City's Employee Relations Ordinance, Administrative Code 16.200 et seq., covering non-service critical employees in non-service critical bargaining units.

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SEC. 16.202. DEFINITIONS.

Unless the context requires otherwise, the words and phrases set forth in Sections 16.202.1 through 16.202.17, inclusive, shall have the meanings respectively ascribed to them in said sections.

SEC. 16.202.1.

“Confidential employee” means an employee who has access to or participates in recommendations or decisions of MTA management affecting employee relations.

SEC. 16.202.2.

“Consult” means to communicate verbally or in writing between management and registered employee organizations or individual employees, for the purpose of presenting and obtaining views or advising of intended actions.

SEC. 16.202.3.

“Days” means calendar days.

SEC. 16.202.4.

“Determining official or body” means the official or body which has final authority to make a decision on the issue under discussion.

SEC. 16.202.5.

“Employee organization” means any organization or joint council of organizations which includes employees of the MTA and which has as one of its purposes representing such employees in their relations with the MTA.

SEC. 16.202.6.

“Employee representation unit” means a unit established pursuant to Section 16.210 of this ordinance.

SEC. 16.202.7.

“Impasse” means failure after a reasonable effort and reasonable period of time to reach agreement in the discussions between the designated representatives of the MTA and representatives of recognized employee organizations over matters on which they meet and confer.

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SEC. 16.202.8.

“Management employee” means any service critical employee, as designated by the Deputy General Manager, Human Resources/Labor Relations or designee, who is in a high administrative and policy-influencing position with responsibility for managing a major function or rendering management advice to top-level administrative authority.

SEC. 16.202.9.

“Mediation” means effort by an impartial third party to assist in reconciling a dispute between an appointing power and a recognized employee organization over a matter subject to meeting and conferring through interpretation, suggestion and advice.

SEC. 16.202.10.

“Meet and confer in good faith” means that representatives designated by the MTA and representatives of recognized employee organizations, shall have the mutual obligation personally to meet and confer in order to exchange freely information, opinions and proposals, and to endeavor to reach agreement on matters within the scope of representation.

SEC. 16.202.11.

“Memorandum of Understanding” means a written statement incorporating all matters within the scope of representation agreed on through meeting and conferring between designated representatives of the City and County and representatives of one or more recognized employee organizations, or as a result of binding interest arbitration. The agreement stated in the memorandum becomes effective only if ratified by the determining body or official of the MTA.

SEC. 16.202.12.

“Commission” means the Civil Service Commission of the City and County of San Francisco as established pursuant to Section 3.660 of the San Francisco Charter.

SEC. 16.202.13.

“Professional employees,” for the purpose of this operating resolution, means employees engaged in work requiring specialized knowledge and skills attained through completion of a recognized course of instruction, including, but not limited to, attorneys, physicians, registered nurses, engineers, architects, teachers, and various types of physical, chemical, and biological scientists.

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SEC. 16.202.14.

“Recognized employee organization” means an employee organization which, by election or card check, has been chosen by the majority of employees in a particular representation unit to represent them, and certified by the Civil Service Commission in the manner provided in Section 16.212 of this operating resolution.

SEC. 16.202.15.

“Registered employee organization” means an employee organization which has been registered with the Deputy General Manager, Human Resources/Labor Relations or designee, as provided in Section 16.208 of this operating resolution.

SEC. 16.202.16.

“Scope of representation” means matters relating to employment conditions and employee relations, including wages, hours and other terms and conditions of employment. The scope of representation shall not include consideration of the merits, necessity or organization of any service or activity provided by law or executive order. See Government Code Section 3504

SEC. 16.202.17.

“Service-Critical Bargaining Unit” means a bargaining unit consisting of employees in service critical classifications, which perform service-critical functions.

SEC. 16.202.18.

“Service-Critical Classification” means a job classification performing service-critical functions.

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SEC. 16.202.19.

“Service-Critical Function” means:

1. Operating a transit vehicle, whether or not in revenue service;
2. Controlling dispatch of, or movement of, or access to, a transit vehicle;
3. Maintaining a transit vehicle or equipment used in transit service, including both preventive maintenance and overhaul of equipment and systems, including system-related infrastructure;
4. Regularly providing information services to the public or handling complaints;
or
5. Supervising or managing employees performing functions enumerated above.

SEC. 16.202.20.

“Supervisory employee” means any service critical employee, as designated by the Deputy General Manager, Human Resources/Labor Relations or designee, who has authority to hire, assign, evaluate or discipline other employees, or to adjust their grievances, or effectively to recommend any such action.

SEC. 16.203. LABOR RELATIONS DIVISION.

There is hereby created a Labor Relations Division within MUNI which shall be placed under the control and jurisdiction of the MTA Deputy General Manager, Human Resources/Labor Relations. The Deputy General Manager, Human Resources/Labor Relations shall serve as the representative of the MTA in the implementation of those provisions of Chapter 10 of Government Code applicable to the MTA and which are not specifically delegated by Charter provision and/or ordinance to a particular officer, board or commission of the City and County. MTA shall exercise the powers and duties provided in Charter §8A.104. The Deputy General Manager, Human Resources/Labor Relations or designee shall coordinate the meeting and conferring process, including representing MTA in collective bargaining with employee organizations representing “service critical” bargaining units.

SEC. 16.204. MATTERS UNDER JURISDICTION OF THE CIVIL SERVICE COMMISSION.

- (a) Employee recognition elections, unfair labor practice charges, and procedures for the utilization of administrative law judges shall be processed in accordance with Civil Service Rule 407.

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- (b) Nothing herein shall be construed to alter the authority of the Civil Service Commission as conferred and defined by the Charter of the City & County of San Francisco, including Charter §8A.104.

SEC. 16.205. MANAGEMENT RIGHTS

MTA retains all rights as set forth in Charter §8A.104 et seq. and as otherwise provided by law. Amendments to existing rules and ordinances within the jurisdiction of MTA that are within the scope of negotiations (Government Code §3504) may be proposed through the meeting and conferring process. The exercise of MTA rights does not preclude employees or registered employee organizations from consulting or raising grievances on decisions which affect wages, hours and other terms and conditions of employment. MTA reserves the right to take whatever action may be necessary in an emergency situation; however, a recognized employee organization affected by the action shall be promptly notified.

SEC. 16.206. SERVICE CRITICAL EMPLOYEE RIGHTS

Service critical employees of the MTA shall have the right to form, join and participate in the activities of employee organizations of their own choosing for the purpose of representation on all matters of employee relations. Employees of the MTA shall also have the right to refuse to join or participate in the activities of employee organizations. Employees shall also have the right to represent themselves individually in their employment relations with the MTA. No employee shall be interfered with, intimidated, restrained, coerced or discriminated against because of his or her exercise of those rights.

SEC. 16.207. DESIGNATION OF MANAGEMENT, SUPERVISORY, AND CONFIDENTIAL EMPLOYEES

(a) The Deputy General Manager, Human Resources/Labor Relations or designee, in consultation with department heads, shall specify the employees who are to be designated as management, supervisory or confidential for the purpose of this operating resolution. Each such person shall be notified by his or her department head of his or her management, supervisory or confidential status. A list of the employees so designated shall be maintained in the office of the Deputy General Manager, Human Resources/Labor Relations.

(b) If an employee designated as management, supervisory or confidential, or an employee organization, or a department head, disagrees with such designation, the question shall be referred to an administrative law judge for hearing and final determination.

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(c) Management, supervisory and confidential employees may not represent an employee organization which represents other than management, supervisory or confidential employees on matters within the scope of representation.

SEC. 16. 208. PROCEDURE FOR REGISTRATION OF EMPLOYEE ORGANIZATIONS

(a) An organization or joint council of organizations which wishes to be registered as an employee organization shall submit to the Deputy General Manager, Human Resources/Labor Relations or designee a request signed by a duly authorized officer of the organization containing the following information:

(1) Name and address of the employee organization.

(2) Names and titles of its officers, as well as designation of the officials authorized to act as representatives of the organization in employer-employee relations with the MTA.

(3) A statement of whether or not the organization is a chapter or local of, or affiliated with, a regional or state, or national or international organization, and, if so, the name and address of each such regional, state, national or international organization.

(4) A copy of its constitution or by-laws, and a statement signed by an officer of the employee organization to the effect that the organization has as one of its purposes representing employees of MTA in employment relations.

(5) Verification of employee membership in the employee organization which may be shown by employee organization payroll dues deductions or authorization cards.

(6) A designation of those persons residing in California, not exceeding three in number, to whom notice sent by United States mail would be deemed sufficient by the organization for any purpose.

(7) A statement that the organization recognizes and is aware of Government Code Section 3509. (Section 923 of Labor Code is not applicable to public employees.)

(8) A statement that the organization agrees to abide by all of the provisions of this operating resolution, except that this shall not preclude the right of the organization to challenge by court action any provision it deems to be invalid.

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(b) Upon receipt of the petition, the MTA Deputy General Manager, Human Resources/Labor Relations or designee shall verify that the petition complies with the requirements of this Section and, within 14 days, notify the employee organization that it is registered.

(c) The MTA is under no obligation to consult with employee organizations which do not satisfactorily comply with the requirements of Paragraph (a) of this Section.

SEC. 16. 209. ESTABLISHED SERVICE-CRITICAL REPRESENTATION UNITS.

(a) A list of service critical classifications is on file with the MTA Human Resources division.

(b) In accordance with Charter §8A.104(g), as of the implementation date of this operating resolution all service critical classifications throughout the MTA shall be assigned to the service critical representation units set forth below. Employees assigned to such representation units shall continue to be represented by their current employee organizations, previously recognized by the City and County of San Francisco. Subject to Section 16.214, such employee organizations shall continue to be recognized by the Municipal Transportation Agency.

The following bargaining units are deemed appropriate representation units. Their titles/descriptions are for purposes of general description only and not determinative of the content of the unit nor of community of interest.

Units 1A – 1Y. Skilled crafts groups are represented, by trade, in separate units, consistent with the following criteria: In determining any appropriate representation unit, separate representation shall be granted to any building trade or other craft or group which has historically established separate bargaining units in private industry or the journeymen of which normally attain status through the completion of a substantial period of apprenticeship. In establishing any such craft or group unit, there shall be included all apprentices, journeymen, foremen and general foremen that are customarily included in such craft or group units in negotiated contracts in private industry and shall also include within the separate craft or group unit those positions that have historically been represented by the craft or group organization in the handling of grievances and determination of wages and working conditions with the City and County of San Francisco.

Employees whose rates of pay are established by the City and County by reference to a craft or group rate in private industry on a percentage of the craft rate or other basis shall also be included within such craft group or unit. Classifications or positions which

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combine the work of more than one craft shall be placed in the craft unit representing the highest skill required to be performed by the position. In the event this is not possible to ascertain, any individual or individuals occupying any such position or classification shall have the right to a self-determination election to determine appropriate placement of the position or classification. Employee organizations whose members are in the Code 7300 Journeyman Trade Group (including apprentices, foremen and general foremen) shall be designated the recognized employee organization for such representation unit by the Commission upon complying with the provisions of Section 16.208; provided, however, that after the initial recognition granted herein such recognition shall be subject to the terms and conditions of Section 16.214 of this operating resolution.

The established skilled crafts units are:

UNIT	UNIT DESCRIPTION
MTA-01A	Car Cleaner/Car Cleaner Supervisor
MTA-01AA	Automotive Service Workers & Transit Fare Inspectors
MTA-01D	Automotive Mechanic, Automotive Machinist & Related Classes
MTA-01F	Truck Driver, Track Maintenance Worker
MTA-01FF	Carpenters And Carpenter Supervisors
MTA-01H	Glaziers And Glazier Supervisors
MTA-01K	Maintenance Machinists, Maintenance Machinists Supervisors and Related classes
MTA-01L	Electrician/Electrician Supervisor and Electrical Power-Related Classes
MTA-01N	Laborers And Laborer Supervisors and related classifications
MTA-01R	Operating Engineer/Operating Engineer Supervisor
MTA-01S	Painters And Painter Supervisors
MTA-01V	Sheetmetal Workers And Sheetmetal Worker Supervisors
MTA-01X	Stationary Engineer, Stationary Engineer Supervisors & Related Classes
MTA-01Y	Apprentice Stationary Engineers

Unit MTA-02B. Nonsupervisory employees in craft and/or trade positions not included in Unit 1A – 1Y. above.

Unit MTA-03A. Supervisory employees in craft and/or trade positions related to Units 1 and 2, not included in Unit 1A – 1Y.

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Unit MTA-03B. Supervisory employees in craft and/or trade positions related to Units 1 and 2, not included in Unit 1A – 1Y.

Unit MTA -04-B. Nonsupervisory employees in white collar positions

Unit MTA -05-B. Supervisory employees in white collar positions

Unit MTA -06. [Reserved]

MTA -07. Municipal Railway employees excepting clerical classifications, transit car cleaners, engineers, technical engineering employees and related supervisory employees to excepted classes

Unit MTA - 08I. Professional employees in related classifications

Unit MTA –08J. Professional employees in related classifications

Unit MTA –08JJ. Professional employees in related classifications

Unit MTA –08M. Professional employees in related classifications

Unit MTA –08R. Professional employees in related classifications

Unit MTA –08Y. Professional employees in related classifications

Unit MTA –08Z. Professional employees in related classifications

Unit MTA -09. [Reserved] N/A

Unit MTA -010. Technical engineering employees to include employees working in technical supportive capacities to engineers and architectural staff

Unit MTA –011A. Supervisory employees in positions related to Units 7, 8, 10

Unit MTA –011F. Supervisory employees in positions related to Units 7, 8, 10

Unit MTA –011G. Supervisory employees in positions related to Units 7, 8, 10

Unit MTA –011J. Supervisory employees in positions related to Units 7, 8, 10

Unit MTA –011N. Supervisory employees in positions related to Units 7, 8, 10

Unit MTA –011P. Supervisory employees in positions related to Units 7, 8, 10

Unit MTA –011R. Supervisory employees in positions related to Units 7, 8, 10

Unit MTA –011Y. Supervisory employees in positions related to Units 7, 8, 10

Unit MTA -M	Management
Unit MTA -EM	Executive Management
Unit MTA -M-SA	Management Special Assistant
Unit MTA -AP	Administrative Personnel
Unit MTA -AP-C	Administrative Personnel – Confidential

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SEC. 16.210. PROCESS FOR UNIT PLACEMENT OF NEW CLASSIFICATIONS

In the event an employee or employee organization disagrees with his or her or its inclusion in a particular unit, the aggrieved party may submit a protest to an administrative law judge for a hearing and final administrative determination, subject to judicial review under CCP §1094.5. In arriving at said determination, said judge shall consider, in addition to any other factors, the similarity of skills, wages, hours and other working conditions among the employees involved, the history of collective bargaining with regard to the employees involved and the desires of said employees.

SEC. 16.211. CRITERIA FOR CREATION AND MODIFICATION OF BARGAINING UNITS

In determining the scope of bargaining units pursuant to this operating resolution, MTA shall consider, in addition to any other factors, the similarity of skills, wages, hours and other working conditions among the employees involved, efficiency of MTA operations and the goal of meeting the service standards embodied in charter §A8.103. Professional employees shall not be denied the right to be represented separately from nonprofessional employees by a professional employee organization consisting of such professional employees.

SEC. 16.212. PROCEDURE FOR RECOGNITION OF EMPLOYEE ORGANIZATION

(a) A petition for recognition may be filed by an employee organization with the Deputy General Manager, Human Resources/Labor Relations or designee. The petition for recognition shall be in accordance with Civil Service Rule 407.3, and shall also set forth a statement of all relevant facts in support of the proposed unit. The petition for recognition shall be accompanied by written proof that at least thirty percent (30%) of the employees within the proposed unit have designated the employee organization to represent them in their employment relations with the MTA; provided, however, the employee organization may request that such written proof be submitted to a mutually agreed upon neutral third party.

(b) In the event that an affected employee organization or the employer, takes issue with a petition filed under subsection (a), the Deputy General Manager, Human Resources/Labor Relations or designee shall direct that a Hearing Officer appointed by the Civil Service Commission hold a hearing on the petition for recognition, at which time all affected employee organizations and the employer shall be given an opportunity to be heard. The Hearing Officer decision shall be final administratively, subject to judicial review under CCP §1094.5.

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Employee recognition elections shall be processed in accordance with Civil Service Rule 407.3 and Government Code § 3507.1 as amended by AB 1281.

SEC. 16.213. UNIT MODIFICATION

Pursuant to Charter § 8A.104(g), the agency shall address unit modification issues as follows:

(a) A petition for modification of an established unit may be filed by an employee organization with the Deputy General Manager, Human Resources/Labor Relations or designee during the period for filing a petition for decertification as defined in Civil Service Rule 407.4. The petition for modification shall be in accordance with Civil Service Rule 407.3 and shall also set forth a statement of all relevant facts in support of the proposed modified unit. The petition for modification shall be accompanied by written proof that at least thirty percent (30%) of the employees within the proposed modified unit have designated the employee organization to represent them in their employment relations with the MTA; provided, however, the employee organization may request that such written proof be submitted to a mutually agreed upon neutral third party.

(b) The Deputy General Manager, Human Resources/Labor Relations or designee may also initiate a unit modification within the time period set forth above. The Deputy General Manager, Human Resources/Labor Relations or designee shall give written notice of the proposed modification(s) to any affected employee organization *and* shall also set forth a statement of all relevant facts in support of the proposed modified unit.

(c) In the event that an affected employee organization or the employer, takes issue with a petition filed under subsection (a), or in the event that an affected employee organization takes issues with a petition filed under subsection (b), the Deputy General Manager, Human Resources/Labor Relations or designee shall direct that a Hearing Officer appointed by the Civil Service Commission hold a hearing on the petition for modification, at which time all affected employee organizations and the employer shall be given an opportunity to be heard. The Hearing Officer decision shall be final administratively, subject to judicial review under CCP §1094.5. After the scope of the unit is determined, the procedures set forth in Section 16.209, inclusive, shall apply for determining the recognition rights in such unit.

SEC. 16.214. DECERTIFICATION

In accordance with section 16.204, above, employee recognition elections, including decertification elections, shall be processed in accordance with Civil Service Rule 407.4

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A decertification petition may be filed with the Commission by employees or by an employee organization to determine whether or not a recognized employee organization continues to represent a majority of the employees in the representation unit. Such petition must be accompanied by proof of employee approval in the form of dues deductions or authorization cards equal to at least 30 percent of the employees within the representation unit, and must be filed within the period between the 90th and 60th day immediately preceding the expiration date of the recognized employee organization's existing memorandum agreement; provided, however, that the existing memorandum agreement does not exceed a two year period. In the event the existing memorandum agreement does exceed a two year period, the decertification petition must be filed within the period between the 90th and 60th day immediately preceding the expiration of the second year of the memorandum agreement. When such a petition has been filed, the Commission shall cause to be conducted a secret ballot election to determine whether the incumbent recognized employee organization shall be decertified and whether another organization shall be recognized. If the challenging employee organization receives a majority of the valid votes cast, the presently recognized employee organization will be decertified and the employee organization receiving a majority of the valid votes cast will become the recognized employee organization. There shall be no more than one valid decertification election in a 12 month period within the same representation unit.

SEC. 16.215. UNFAIR LABOR PRACTICES.

In accordance with section 16.204, above, charges of unfair labor practices shall be processed pursuant to the Meyers-Milias Brown Act, Government Code Sec. 3500 *et seq.* or with Civil Service Rule 407.

SEC. 16.216. MEETING AND CONFERRING IN GOOD FAITH.

(a) In accordance with Charter Section A 8.104(k), commencing upon the expiration of labor contracts in effect at the time of implementation of this Operating Resolution, and except for retirement benefits, the wages, hours, working conditions, and benefits of the employees in classifications within the Municipal Railway designated by the Agency as "service-critical" shall be fixed by the Agency after meeting and conferring as required by the laws of the State of California and this Charter, including Sections A8.346, A8.404 and A8.409. These agreements shall utilize, and shall not alter or interfere with, the health plans established by the City's Health Service Board; provided, however, that the Agency may contribute toward defraying the cost of employees' health premiums. For any job classification that exists both as a "service-critical" classification in the Municipal Railway and elsewhere in City service, the base wage rate negotiated

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by the Agency for that classification shall not be less than the wage rate set in the Citywide memorandum of understanding for the classification.

(b) If agreement is reached by management and a recognized employee organization, or recognized employee organizations, on matters subject to approval by a determining body or official, they shall jointly prepare a written memorandum of such understanding and present it to the determining body or official for determination. Before adopting any tentative agreement reached as a result of negotiations, mediation or arbitration, the Agency shall, at a duly noticed public meeting disclose in writing the contents of such tentative agreement, a detailed analysis of the proposed agreement, a comparison of the differences between the agreement reached and the prior agreement, and an analysis of the term of such agreement. Such tentative agreement between the Agency and employee organization shall not be approved by the Agency until 30 days after the above disclosures have been made.

(c) Notwithstanding subsection (a), above the Agency may, in its sole discretion, utilize the City's collective bargaining agreements with any employee organization representing less than 10 percent (10%) of the Municipal Railway's workforce.

(d) MTA Management representatives and representatives of recognized employee organizations may by mutual agreement meet and confer on matters of employment for which meeting and conferring is neither required nor prohibited by this operating resolution.

(e) The parties to the meeting and conferring process shall provide timely notice of their intention to meet and confer, and shall mutually arrange a satisfactory scheduling for said meeting and conferring.

(f) Any such memorandum of understanding shall contain the following provisions:

(1) Delivery of municipal services in the most efficient, effective, and courteous manner is of paramount importance to the MTA and its employees. Such achievement is recognized to be a mutual obligation of both parties within their respective roles and responsibilities.

(2) The recognized employee organization recognizes the MTA's right to establish and/or revise performance standards or norms notwithstanding the existence of prior performance levels, norms or standards. Such standards, developed by usual work measurement procedure may be used to determine acceptable performance levels, prepare work schedules, and to measure the performance of each employee or group of employees.

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(3) Employees who work at less than acceptable levels of performance may be subject to disciplinary measures in accordance with the applicable Charter provisions and rules and regulations of the Civil Service Commission.

(4) Any Memorandum of Understanding negotiated in conformity with this operating resolution shall contain a clause prohibiting strikes, slowdowns, or work stoppages as long as said Memorandum of Understanding is in full force and effect, and provided further that in the absence of any Memorandum of Understanding, employees' rights concerning concerted labor activity shall be governed by the pertinent laws of this state.

(5) In accordance with Charter §A8.104(m), notwithstanding any limitation on compensation contained in [Charter] Section A8.404, and in addition to the base pay established in collective bargaining agreements, all agreements negotiated by the Agency relating to compensation for Municipal Railway managers and employees in classifications designated by the Agency as "service-critical" shall provide incentive bonuses based upon the achievement of the service standards in Section 8A.103 (c) and other standards and milestones adopted pursuant to Section 8A.103. Such agreements may provide for additional incentives based on other standards established by the Agency, including incentives to improve attendance. The Agency shall also establish a program that provides incentive bonuses for all managers, including all managers exempt from the civil service system, based on the achievement of these standards and milestones.

(g) As required by Charter §8A.104(n), MTA shall perform the functions of the Civil Service Commission with respect to certification of the average of the two highest wage schedules for transit operators in comparable jurisdictions pursuant to 8A.404(a), and conduct any actuarial study necessary to implement section 8A.404(f).

SEC. 16.217. IMPASSE PROCEDURES.

(a) If, after a reasonable period of time, the management representative and the representative of a recognized employee organization reach an impasse in the meeting and conferring process, either party may request an impasse meeting with the Director of the Municipal Transportation Agency to identify the outstanding issues and attempt full or partial resolution thereof.

(a)(1) Miscellaneous Employees: After such meeting, in the event of a bona fide impasse with bargaining units covered by Charter section A8.409-4 (miscellaneous employees), the provisions of such Charter section shall apply; provided, that, as required by Charter §A8.104(n), the mediation/arbitration board shall consider the following additional factors when making a determination in

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any impasse proceeding involving the agency: the interests and welfare of transit riders, residents, and other members of the public; and the agency's ability to meet the costs of the decision of the arbitration board without materially reducing service;

(a)(2) Carmen: Until such time as carmen may lawfully opt in to interest arbitration pursuant to Charter §8.409.1 the following procedure shall apply:

After the occurrence of the meeting referenced in §16.217(a), in the event of a bona fide impasse with bargaining units covered by Charter section A8.404 (carmen), the parties involved shall arrange for the assistance of a mediator from any source agreeable to the parties involved. If the parties cannot agree on a mediator within three days after the impasse meeting, they shall request the State Mediation & Conciliation Service to appoint a mediator who shall have broad experience in the field of employee relations and shall have been selected as a neutral arbitrator in at least 50 cases in Northern California in the preceding four years but shall not include any person who is an employee of the City and County of San Francisco, or who is or has been an official of a labor organization or an organization representing City and County employees. All mediation shall be private, and the mediator shall make no public recommendations nor take any public position concerning the issues. The mediator shall make his or her recommendation within 10 days after his or her designation.

If the mediator's recommendation is not acceptable to the parties, they shall within three days of the issuance of the mediator's recommendation make arrangements for the assistance of a fact finder, or a fact-finding board consisting of three members. Each party shall appoint a "partisan" panel member. If the parties cannot agree upon a neutral fact finder as the third member, within five days of the issuance of the mediator's recommendation, they shall request from the State Mediation & Conciliation Service a list of seven arbitrators with extensive experience in fact finding, mediation or interest arbitration involving public sector collective bargaining disputes. The parties shall engage in the process of striking names until only one remains, and the remaining person, if readily available, shall be appointed as the fact finder. The fact finders will have 10 days from the date of appointment to make their recommendations.

If fact finding is not successful, resolution of the impasse shall be in accordance with the Charter and existing law.

(b) The cost of mediation, fact finding proceedings and arbitration where applicable shall be divided equally between the City and County and the registered employee organization. No cost shall be imposed upon any employee organization that would exceed the lesser of the following:

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(1) The daily stipend of the arbitrator or fact finder or mediator shall not exceed the suggested amount for services of arbitrators designated by the Federal Mediation and Conciliation Service.

(2) Costs to be paid by the employee organizations shall be limited to 1/2 of the daily stipend of any arbitrator, fact finder or mediator as above provided, and shall not include attorney fees, witness fees, transcripts and any other expenses. Each party shall bear its own costs for such services.

(c) During the period of meeting and conferring between the MTA and the recognized employee organization and the period during which the impasse procedure shall be utilized, the recognized employee organization and the employees it represents shall not initiate, engage in, cause, instigate, encourage or condone work stoppages, slowdowns, mass absenteeism or any other disruptive activities which are detrimental to the conduct of MTA business and services.

SEC. 16.218. DISPUTES CONCERNING MEMORANDUMS OF UNDERSTANDING.

Disputes concerning Memorandums of Understanding shall be addressed through the applicable grievance procedure in the MOU.

SEC. 16.219. EMPLOYEES MEETING ON MTA TIME.

(a) Except as otherwise provided for in a Memorandum of Understanding, official representatives of a recognized employee organization shall be allowed time off from their duties without loss of pay for the purpose of meeting and conferring in good faith or consulting with representatives of the MTA and/or City and County on matters within the scope of representation, provided that the number of representatives shall not exceed two without the approval of the Deputy General Manager, Human Resources/Labor Relations or designee. The use of official time for this purpose shall be reasonable and shall not interfere with the performance of MTA services. Official representatives shall receive approval from their department head in advance of the proposed time away from their work station or assignment.

(b) Official representatives of registered employee organizations shall be entitled to the same privileges and charged with the same duties as set forth in paragraph (a) of this Section for purposes of consulting with representatives of the MTA and/or City and County on matters within the scope of representation.

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SEC. 16.220. DUES DEDUCTION.

Upon completion of the registration procedures provided in Section 16.209, registered employee organizations may exercise the privilege of dues deduction, and shall pay the reasonable costs of this service. The Controller of the City and County of San Francisco shall establish the costs and the procedures for initiating and maintaining this service.

SEC. 16.21. SEPARABILITY.

If any provision of this operating resolution, or the application of such provision to any person or circumstance, shall be held invalid, the remainder of this operating resolution, or the application of such provision to persons or circumstances other than those as to which it is held invalid, shall not be affected thereby.