A8.409 DECLARATION OF POLICY

It is hereby declared to be the policy of the City and County of San Francisco that strikes by City employees are not in the public interest and that, in accordance with Government Code Section 3507(e), a method should be adopted for peacefully and equitably resolving disputes. It is the further purpose and policy of the City and County of San Francisco that the procedures herein adopted, except as otherwise provided herein, shall supersede and displace all other formulae, procedures and provisions relating to wages, hours, benefits and other terms and conditions of employment found in this Charter, in the ordinances and resolutions of the City and County of San Francisco, or in the rules, regulations or actions of boards or commissions of the City and County of San Francisco.

If any officer or employee covered by this part engages in a strike as defined by section A8.346(a) of this Charter against the City and County of San Francisco, said employee shall be dismissed from his or her employment pursuant to Charter section A8.346.

In accordance with applicable state law, nothing herein shall be construed to restrict any legal City rights concerning direction of its work force, or consideration of the merits, necessity, or organization of any service or activity provided by the City. The City shall also have the right to determine the mission of its constituent departments, officers, boards and commissions; set standards of services to be offered to the public; and exercise control and discretion over the City's organization and operations. The City may also relieve City employees from duty due to lack of work or funds, and may determine the methods, means and personnel by which the City's operations are to be conducted.

However, the exercise of such rights does not preclude employees from utilizing the grievance procedure to process grievances regarding the practical consequences of any such actions on wages, hours, benefits or other terms and conditions of employment whenever memoranda of understanding providing a grievance procedure are in full force and effect.

It is the declared intent of the voters that the state statutes referenced in this part be those in effect on the effective date of this part.

(Amended March 2004)

A8.409-1 EMPLOYEES COVERED

These Sections A8.409 through A8.409-6, inclusive, shall apply to all miscellaneous officers and employees except as set forth in Section A8.590-1 et seq. and including employees of San Francisco Unified School District and San Francisco Community College District to the extent authorized by state law. The provisions of Charter sections A8.400(h), A8.401-1, and A8.407 are hereby repealed and shall be of no further force and effect. Employee organizations representing employees in classifications covered by section A8.403 and A8.404 of this Charter may elect to include those classifications within the coverage of this part as a separate bargaining unit, provided however, that the election shall not become effective without the written approval of the Mayor and Board of Supervisors. The election shall be irrevocable and such employees shall not thereafter be subject to the provisions of section A8.403 and A8.404.

Employees in classifications not represented by a recognized employee organization shall be entitled

to represent themselves with the City and County over wages, hours and other terms and conditions of employment to the extent required by state law and shall not be subject to the arbitration provisions of Section A8.409-4 of this Charter. The Mayor annually shall propose all forms of compensation for unrepresented employees including salaries, hours, benefits, and other terms and conditions of employment subject to approval or disapproval of the Board of Supervisors. Consistent with other provisions of this Charter, the civil service commission may adopt rules and procedures relating to said unrepresented employees.

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

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

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

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

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

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

the affected fiscal year or years.

The Commission shall annually set the benefits of elected officials, to take effect July 1 of each year. Benefits of elected officials may equal but may not exceed those benefits provided to any classification of miscellaneous officers and employees as of July 1 of each year, except, after January 7, 2012, the City and County shall not pay the required employee contributions of said officials into the San Francisco Employees' Retirement System trust fund or into the Retiree Health Care Trust Fund..

In addition, subject to the approval or disapproval of the Board of Supervisors, the Mayor may create, for employees designated as management, a management compensation package that recognizes and provides incentives for outstanding managerial performance contributing to increased productivity and efficiency in the work force. In formulating such a package, the Mayor shall take into account data developed in conjunction with the civil service commission regarding the terms of executive compensation in other public and private jurisdictions.

(Amended March 2004; Proposition C, Approved 11/7/2006; Proposition C, Approved 11/8/2011)

A8.409-2 INTERIM PROVISIONS

Notwithstanding the provisions of section 8.407 of this Charter, from January 3, 1992 through March 31, 1992, in return for acceptance of a wage freeze for fiscal year 1991-1992, all recognized employee organizations representing classifications electing to remain within the coverage of Charter sections 8.401 and 8.407 may, on a one time only basis, elect to bargain for no more than two additional paid training or furlough days per year to be effective only in fiscal years 1992-93, 1993-94 and 1994-95, and a dental plan, in recognition of the wage freeze for 1991-92. Such bargaining shall not be subject to the impasse procedures provided herein or any other provision of the Charter, ordinance, or state law.

A8.409-3 OBLIGATION TO BARGAIN IN GOOD FAITH

Notwithstanding any other ordinances, rules or regulations of the City and County of San Francisco and its departments, boards and commissions, the City and County of San Francisco, through its duly authorized representatives, and recognized employee organizations representing classifications of employees covered by this part shall have the mutual obligation to bargain in good faith on all matters within the scope of representation as defined by Government code section 3504, relating to the wages, hours, benefits and other terms and conditions of City and County employment, including the establishment of procedures for the resolution of grievances concerning the interpretation or application of any agreement, and including agreements to provide binding arbitration of discipline and discharge; provided, however that, except insofar as they affect compensation, those matters within the jurisdiction of the civil service commission which establish, implement and regulate the civil service merit system shall not be subject to bargaining under this part: the authority, purpose, definitions, administration and organization of the merit system and the civil service commission; policies, procedures and funding of the operations of the civil service commission and its staff: the establishment and maintenance of a classification plan including the classification and reclassification of positions and the allocation and reallocation of positions to the various classifications; status rights; the establishment of standards, procedures and qualifications for employment, recruitment, application, examination, selection, certification and appointment; the establishment, administration and duration of eligible lists; probationary status and the administration of probationary periods, except duration; pre-employment and fitness for duty medical examinations except for the conditions under which referrals for fitness for duty examinations will be made, and the imposition of new requirements; the designation of positions as exempt, temporary, limited tenure, part-time, seasonal or permanent; resignation with satisfactory service and reappointment; exempt entry level appointment of the handicapped; approval of payrolls;

and conflict of interest. As to these matters, the Civil Service Commission shall continue to be required to meet and confer pursuant to state law.

Unless and until agreement is reached through bargaining between authorized representatives of the City and County of San Francisco and authorized representatives of recognized employee organizations for the employee classifications covered by this part, or a determination is made through the procedure set forth in section A8.409-4 hereinafter provided, no existing wages, written terms or conditions of employment, fringe benefits, or long-standing past practices for said employees shall be altered, eliminated or changed except in cases of emergency. This paragraph shall be effective only until the approval of the first memorandum of understanding with a covered employee organization or six months from the effective date of this part whichever occurs sooner.

During the term of an MOU, disputes regarding changes in wages, hours, benefits and other terms and conditions of employment shall not be subject to the impasse procedures provided in this part, but may be subject to grievance arbitration.

No bargaining unit may be included in more than one memorandum of understanding with the City and County of San Francisco. Consistent with Charter sections 3.100-2 and 3.103 and subject to the prior written approval of the Human Resources Director which shall not be unreasonably withheld, appointing officers shall have the authority to negotiate agreements with recognized employee representatives. Appointing officers shall consult and coordinate such negotiations with the Human Resources Director. Such memoranda of understanding shall be restricted to non-economic items within the jurisdiction of the department appointing officer which do not conflict with a City-wide memorandum of understanding. Such memoranda of understanding shall come into full force and effect only upon approval by the Mayor and thereafter by a majority vote of the Board of Supervisors or other appropriate governing body. Upon such approval, departmental memorandum of understanding shall be attached as appendices to the employee organization's City-wide memorandum of understanding as negotiated under this part. No memorandum of understanding negotiated pursuant to this paragraph during the term of a City-wide memorandum of understanding shall be subject to the arbitration provisions of this part until re-negotiation of the employee organization's City-wide memorandum of understanding.

Agreements reached pursuant to this part by the authorized representatives for the City and County of San Francisco, on behalf of its departments, boards and commissions, and the authorized representatives of recognized employee organizations, once adopted by ordinance of the Board of Supervisors, shall be binding on the City and County of San Francisco, and on its departments, boards, commissions, officers and employees and on the recognized employee organizations and their successors, and all employees in classifications they represent. Except as specifically set forth in this part, said agreements shall supersede any and all other conflicting procedures, provisions and formulae contained in this Charter, in the ordinances of the Board of Supervisors, or in the rules or regulations of the City and County of San Francisco, relating to wages, hours, or other terms and conditions of employment.

(Amended March 2004)

A8.409-4 IMPASSE RESOLUTION PROCEDURES

(a) Subject to Section A8.409-4(g), disputes pertaining to wages, hours, benefits or other terms and conditions of employment which remain unresolved after good faith bargaining between the City and County of San Francisco, on behalf of its departments, boards and commissions, and a recognized employee organization representing classifications of employees covered under this part shall be submitted to a three-member Mediation/Arbitration Board ("the Board") upon the declaration of an

impasse either by the authorized representative of the City and County of San Francisco or by the authorized representative of the recognized employee organization involved in the dispute; provided, however, that the arbitration procedures set forth in this part shall not be available to any employee organization that engages in a strike unless the parties mutually agree to engage in arbitration under this Section. Should any employee organization engage in a strike either during or after the completion of negotiations and impasse procedures, the arbitration procedure shall cease immediately and no further impasse resolution procedures shall be required.

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

In the event that the City and County of San Francisco and the recognized employee organization involved in bargaining cannot agree upon the selection of the chairperson within ten (10) days after the selection of the City and County and employee organization members of the Board, either party may then request the American Arbitration Association or California State Mediation Service to provide a list of the seven (7) persons who are qualified and experienced as labor interest arbitrators. If the City and County and the employee organization cannot agree within three (3) days after receipt of such list on one of the seven (7) persons to act as the chairperson, they shall randomly determine which party strikes first, and shall alternately strike names from the list of nominees until one name remains and that person shall then become the chairperson of the Board.

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

In the event no agreement is reached prior to the conclusion of the arbitration hearings, the (d)Board shall direct each of the parties to submit, within such time limit as the Board may establish, a last offer of settlement on each of the remaining issues in dispute. The Board shall decide each issue by majority vote by selecting whichever last offer of settlement on that issue it finds by a preponderance of the evidence presented during the arbitration most nearly conforms to those factors traditionally taken into consideration in the determination of wages, hours, benefits and terms and conditions of public and private employment, including, but not limited to: changes in the average consumer price index for goods and services: the wages, hours, benefits and terms and conditions of employment of employees performing similar services; the wages, hours, benefits and terms and conditions of employment of other employees in the City and County of San Francisco; health and safety of employees; the financial resources of the City and County of San Francisco, including a joint report to be issued annually on the City's financial condition for the next three fiscal years from the Controller, the Mayor's budget analyst and the budget analyst for the Board of Supervisors; other demands on the City and County's resources including limitations on the amount and use of revenues and expenditures; revenue projections; the power to levy taxes and raise revenue by enhancements or other means; budgetary reserves; and the City's ability to meet the costs of the decision of the Arbitration Board. In addition, the Board shall issue written findings on each and every one of the above factors as they may be applicable to each and every issue determined in the award. Compliance with the above provisions shall be mandatory.

(e) After reaching a decision, the Board shall serve by certified mail or by hand delivery a true copy of its decision to the parties. The decision and findings of the Arbitration Board shall not be publicly disclosed until ten (10) days after it is delivered to the parties. During that ten (10) day period the parties shall meet privately, attempt to resolve their differences, and by mutual agreement amend or modify the decision and findings of the Arbitration Board. At the conclusion of the ten (10) day period, which may be extended by mutual agreement between the parties, the decision and findings of the Arbitration Board, as it may be modified or amended by the parties, shall be publically disclosed for a period of fourteen (14) days after which time the decision shall be final and binding. Except as otherwise provided by this part, the arbitration decision shall supersede any and all other relevant formulae, procedures and provisions of this Charter relating to wages, hours, benefits and terms and conditions of employment, and it shall be final and binding on the parties to the dispute. However, the decision of the Board may be judicially challenged by either party.

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

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

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

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

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

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

(k) An agreement reached between the designated representatives for the City and the representatives of a recognized employee organization that is submitted to the Board of Supervisors on or before May 15, or a decision of the Arbitration/Mediation Board that is submitted to the Board of

Supervisors on or before May 10, or May 15 if the parties waive the 10-day period between the Board's decision and public disclosure of the decision, shall be effective on July 1 of the same calendar year upon adoption by the Board of Supervisors. An agreement submitted to the Board of Supervisors after May 15, or a decision of the Arbitration/Mediation Board that is submitted to the Board of Supervisors after May 10, or May 15 if the parties waive the 10-day period between the Board's decision and public disclosure of the decision, shall become effective no earlier than July 1 of the next calendar year upon approval of the Board of Supervisors. But an agreement reached during the term of an existing memorandum of understanding that results in a net reduction, or results in no net increase, in the cost to the City, during the current fiscal year, of existing economic provisions in the existing memorandum of understanding may become effective at any time upon approval by the Board of Supervisors. Economic provisions include, but are not limited to, wages, premium pay rates, overtime, any employer pickup of the employees' retirement contribution, paid time off, and other compensation.

(Amended March 2004; Amended by Proposition A, Approved 11/5/2009)

A8.409-5 RETIREMENT BENEFITS

Notwithstanding any other provision of this part, retirement and death allowances shall continue to be set and adjusted pursuant to Chapter Five of this Article.

However, death benefits and survivor allowances, retirement allowances, adjustments to retirement allowances and adjustments to continuant allowances payable by the Retirement System and based on fiscal year 1991-1992 wages and salaries covered by Charter section 8.407, shall be calculated for all employees covered by Charter sections 8.401 and 8.407 based on the rates certified by the civil service commission to the Board of Supervisors as though the 1991-1992 salary standardization ordinance vetoed by the Mayor had become law. No such payment shall exceed the maximum amount permitted by Section 415 of the Internal Revenue Code of 1986, as amended from time to time, or the maximum amount which would still permit the Retirement System to preserve its tax-qualified status under Section 401 of the Internal Revenue Code of 1986, as amended from time to time.

A8.409-6 EMPLOYEE RELATIONS RULES

Within sixty (60) days of adoption of this amendment, the Mayor shall appoint a panel which after consultation with all parties of interest, shall review the current employee relations ordinance and make recommendations to the Board of Supervisors for such changes as may be necessary to effectuate the purposes of this part.

Such changes shall include the creation of an employee relations board. The duties of the employee relations board shall include hearing and making determinations concerning unfair labor practice charges, disputes regarding representation matters, and unit determinations.

A8.409-7 RETIREE HEALTH CARE TRUST FUND

Notwithstanding any other provision of Charter Sections A8.409 through A8.409-8, the provisions and operation of the Retiree Health Care Trust Fund, including employee contributions to the fund, shall be determined pursuant to Charter Sections 12.204 and A8.432, and shall not be subject to the dispute resolution procedures contained in Charter Section A8.409-4. Nothing in this section shall prevent the City and County of San Francisco and a recognized employee organization from agreeing to, or an arbitration panel formed pursuant to A8.409-4 from awarding, an adjustment in employee contributions into the Retiree Health Care Trust Fund that results in contributions greater than the contributions required under A8.432 for any and all City employees. In no event shall the City and County of San

Francisco and a recognized employee organization agree to, or an arbitration panel formed pursuant to A8.409-4 award any, reduction in contributions below the minimum level of contributions required under A8.432.

(Added by Proposition B, Approved 6/3/2008; amended by Proposition C, Approved 11/8/2011)

A8.409-8 FY 2009-2010 ECONOMIC PROVISIONS AND FUTURE PROCEEDINGS

Notwithstanding any other provision of Charter Sections A8.409 through A8.409-7, for the fiscal year commencing July 1, 2009, and, ending on June 30, 2010, all economic provisions (including, but not limited to, wages, premium pay rates, overtime, any employer pickup of the employees' retirement contribution, paid time off, and other compensation) shall remain unchanged for miscellaneous City and County officers and employees at the levels set in place as of close of business June 30, 2009, and no new economic provisions may be added. For the fiscal year commencing July 1, 2009, and ending on June 30, 2010, economic provisions shall not be subject to the dispute resolution procedures contained in Charter Section A8.409-4. Notwithstanding any other provision of Charter Section A8.409-4, 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 shall recognize as wages the ongoing economic expenditures made by the City and County beginning, during and continuing beyond fiscal year 2009-2010, 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. However, City and County contributions to the Retiree Health Care Trust Fund under Section A8.432 shall not be considered or relied on by the mediation/arbitration board as a wage or other payment to employees for the purposes of evaluating the proposals contained in the last offers of settlement of either party. Likewise, in evaluating the proposals contained in the last offers of settlement of either party, the mediation/arbitration board shall not take into account or otherwise consider or rely on any mandatory employee contributions to the Retiree Health Care Trust Fund required under Charter Sections 12.204 and A8.432.

(Added by Proposition B, Approved 6/3/2008)

A8.409-9 MISCELLANEOUS EMPLOYEES NOT IN THE RETIREMENT SYSTEM

It is the intent of the voters that Officers and employees of the City and County of San Francisco who are not members of the San Francisco Employees' Retirement System negotiate cost-sharing provisions that produce comparable savings and costs to the City and County as are produced through the Charter's employee contribution rate adjustment formulae. Notwithstanding any other provision of Charter Sections A8.409 through A8.409-8, for any officer or employee who is not a member of the Retirement System, the parties in any proceeding under Section A8.409-4 may make proposals, to the extent allowable by law, to effect this principle of equitable participation. If no agreement on this issue is reached, in deciding whichever last offer of settlement should be selected, in addition to the other factors specified by A8.409-4, the Board shall consider (i) the additional amounts such officers and employees would pay to the Retirement System, or the reduction in the rate of their employee contribution which would apply, if they were members of the Retirement System for the term of the agreement; and (ii) the cost of the City and County's contracts with the Public Employees' Retirement System of the State of California compared to the cost of providing retirement benefits for similarly situated officers and employees through the San Francisco Employees' Retirement System.

Charter Section A8.409-9 shall be interpreted to be consistent with all federal and state laws, rules, and regulations. If any words, phrases, clauses sentences, or provisions of Charter Section A8.409-9 are held to be invalid or unconstitutional by a final judgment of a court, such decision shall not affect the

validity of the remaining words, phrases, clauses, sentences, or provisions of Charter Sections A8.409-9. If any words, phrases, clauses, sentences, or provisions of Charter Section A8.409-9 are held invalid as applied to any person, circumstance, employee or category of employee, such invalidity shall not affect any application of Charter Section A8.409-9 which can be given effect. Charter Section A8.409-9 shall be broadly construed to achieve its stated purpose.

(Added by Proposition C, Approved 11/8/2011)

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