

MEMORANDUM OF UNDERSTANDING
BETWEEN
THE MUNICIPAL TRANSPORTATION AGENCY
AND
THE MUNICIPAL EXECUTIVES ASSOCIATION

JULY 1, 2006– JUNE 30, 2009

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AGREEMENT

1. This Agreement is entered into by the Municipal Transportation Agency hereinafter "MTA" and the Municipal Executives Association (hereinafter "Association"). It is agreed that the delivery of municipal services in the most efficient, effective, and courteous manner is of paramount importance to the City, the Association, and represented employees. Such achievement is recognized to be a mutual obligation of the parties to this Agreement within their respective roles and responsibilities.

ARTICLE I: REPRESENTATION

I.A. Recognition

2. The MTA acknowledges that the Association has been certified by the Civil Service Commission as the recognized employee representative, pursuant to the provisions set forth in the MTA's Employee Relations Operating Resolution for units TM and TEM as listed in Appendix A.
3. Recognition shall only be extended to individual classes accreted to existing bargaining units covered by this Agreement. Application of this provision shall not extend to bargaining units acquired through affiliations or service agreements. Upon request of the Association the MTA will meet and confer concerning proposed changes to bargaining units.
4. Successor job codes resulting from the consolidations or divisions of classes currently represented by MEA shall continue to be subject to this MOU.
5. The MTA agrees to recognize the Association as the collective bargaining representative of any job code which constitutes a successor job code to a job code which the Association currently represents. Where there is question as to whether or not a new job code is a successor class, the MTA Human Resources shall make the final determination, which shall be appealable pursuant to the Employee Relations Operating Resolution.
6. Issues related to job code descriptions shall be subject to meet and confer process with final review and approval by the Civil Service Commission, not subject to grievance or arbitration.

I.B. Intent

7. It is the intent of the parties that the provisions of this Agreement shall become binding upon adoption or acceptance by the MTA and ratification by the general membership of the Association, or upon a final decision rendered by an arbitration panel pursuant to the interest arbitration procedure under Charter Section A8.409.

Municipal Transportation Agency and
Municipal Executives Association
July 1, 2006 - June 30, 2009

8. Pursuant to the provisions of the Meyers-Milias-Brown Act, as amended, the MTA agrees to meet and confer with the Association in advance regarding any proposed changes in working conditions within the scope of representation except as provided elsewhere in this Agreement.

I.C. No Strike Provision

9. During the term of this Agreement the MTA will not lock out the employees who are covered by this Agreement. This Association and the employees shall not strike, cause, encourage, or condone a work stoppage, slowdown, or sympathy strike during the term of this Agreement.

I.D. Meet and Confer Responsibility During the Term of The Agreement

10. Except in cases of emergency involving an imminent or substantial threat to the public health or safety or as otherwise provided in this Agreement, the MTA shall give reasonable written notice to the Association of proposed changes directly relating to matters within the scope of representation as specified in Government Code Section 3504.5. The Association shall be provided with the opportunity to meet and confer with regard to any such proposed change should it desire to do so.
11. In cases of emergency when the MTA determines that a proposed change as described herein must be adopted immediately without prior notice or meeting with the Association, the MTA shall provide such notice and opportunity to meet at the earliest practical time following the adoption of such change.
12. If the Association does not respond within ten (10) working days from the date of mailing of written notification of a proposed change as described in Paragraphs 10 and 11 hereof, the Association shall be deemed to have waived its opportunity to meet and confer on the proposed change.
13. If the Association timely requests the opportunity to meet and confer as provided herein, the MTA agrees to meet and confer with the Association over such proposed change or changes within ten (10) days of receipt of such timely request, unless a longer period of time is mutually agreed upon, in order freely to exchange information, opinions and proposals and to endeavor to reach agreement on the proposed change or changes.
14. 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 Charter section A8.409 et seq., but may be subject to grievance arbitration.

I.E. Management Rights

15. In accordance with applicable state law, nothing herein shall be construed to restrict any legal MTA rights concerning direction of its work force, or consideration of the merits, necessity, or organization of any service or activity provided by the MTA.
16. The MTA 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 MTA's organization and operations. The MTA may also relieve MTA employees from duty due to lack of work or funds, and may determine the methods, means and personnel by which the MTA's operations are to be conducted.
17. 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.

I.F. Official Representatives

18. The Association may select as many as five (5) members of the Association to attend during regular duty or work hours without loss of compensation, meetings scheduled with the Civil Service Commission, the MTA Human Resources, the MTA Director of Human Resources, or designee, when such meetings have been scheduled for the purpose of meeting and conferring on matters within the scope of representation affecting such appropriate unit, and to participate in the discussions, deliberations, and decisions at such meetings.
19. Release time shall be provided for MEA representatives to participate in disciplinary meetings, grievance meetings, meet and confer sessions and other labor relations matters with the MTA. Release time shall not be withheld unreasonably.
20. In scheduling meetings, reasonable consideration shall be given to the operating needs and work schedules of the particular employee's and representatives' department(s).
21. No representative may leave the duty or work station without specific approval of his supervisor.
22. Representatives shall be responsible for the performance of their work load consistent with release time approved pursuant to rules established herein.

I.G. Grievance Procedures

23. The following procedures are adopted by the Parties to provide for the orderly and efficient

disposition of grievances and are the sole and exclusive procedures for resolving grievances as defined herein.

1. Definition

24. A grievance shall be defined as any dispute which involves the interpretation or application of, or compliance with this Agreement. Grievances may be filed only by the Association. Discipline may not be grieved under this section. In the event that an individual or a group of individuals elect(s) to file a complaint with any governmental agency or court alleging a factual basis which is also the basis of a grievance, the Association agrees that any grievance filed on behalf of the individual(s) will be held in abeyance pending the individual's election of remedies. If an individual or group of individuals elect(s) another remedy the grievance shall be deemed withdrawn.

2. Time Limits

25. The time limits set forth herein may be extended or waived by mutual agreement of the parties. Any such agreement must be confirmed in writing. For purposes of calculation of time a "day" is defined as a "calendar day," including weekends and holidays.
26. Any deadline date under this procedure that falls on a Saturday, Sunday or holiday shall be continued to the next business day.

3. Steps of the Procedure

27. Except for grievances involving multiple employees, all grievances must be initiated at Step 1 of the grievance procedure. Except as otherwise provided in subsection 10, a grievance affecting more than one employee shall be filed with the appointing officer. Grievances affecting more than one MTA department shall be filed with the MTA Human Resources Director. In the event the MTA disagrees with the level at which the grievance is filed, the MTA may submit the matter to the Step it believes is appropriate for consideration of the dispute. The step procedures set forth herein may be modified or waived by mutual agreement of the parties. Any such agreement must be confirmed in writing.
28. An employee shall first attempt to resolve the alleged violation informally with his/her immediate supervisor.
29. Step 1: If the alleged violation is not resolved informally with the immediate supervisor, the Association will submit the grievance on behalf of the represented employee in writing to the immediate supervisor within fifteen (15) days of the date of the occurrence of the act or the date the represented employee might reasonably have been expected to have learned of the alleged violation. The

grievance will set forth the facts of the grievance, the terms and conditions of this Agreement claimed to have been violated, misapplied or misinterpreted, and the remedy or solution being sought by the Association.

30. The immediate supervisor shall respond in writing within ten (10) days following receipt of the written grievance.
31. Step 2: If dissatisfied with the supervisor's response at Step1, the Association, on behalf of the individual grievant, may appeal to the Appointing Officer, in writing, within ten (10) days of receipt of the Step1 response. The Appointing Officer may convene a meeting within fifteen (15) days with the grievant and the grievant's Association representative. The Appointing Officer shall respond in writing within twenty (20) days of the meeting or receipt of the appeal, whichever is later.
32. Step 3: If dissatisfied with the Appointing Officer's response at Step 2, the Association, on behalf of the individual grievant, may appeal to the MTA Human Resources Director, in writing, within fifteen (15) days of receipt of the Step 2 response. The MTA Human Resources Director may convene a grievance meeting within fifteen (15) days with the Association and the represented employee. The MTA Human Resources Director shall respond to the grievance in writing within twenty (20) days of the meeting or, if none is held, within twenty (20) days of receipt of the appeal.
33. Step 4: If the Association is dissatisfied with the Step 3 response it may appeal by notifying the MTA Human Resources Director, in writing, within twenty (20) days of the Step 3 decision that arbitration is being invoked. The parties shall select an arbitrator pursuant to section 4 within fifteen (15) days of receipt of the Association's written notice of the Association's intent to arbitrate.

4. Selection of the Arbitrator

34. The parties shall select an arbitrator from the list of panelists attached hereto as Appendix B. When a matter is appealed to arbitration the parties shall first attempt to mutually agree on an arbitrator. In the event no agreement is reached within seven (7) days the arbitrator shall be selected from the permanent panel by utilizing a strike-off procedure.

5. Authority of the Arbitrator

35. The arbitrator shall have no authority to add to, ignore, modify or amend the terms of this Agreement.

6. Fees and Expenses of Arbitrator
36. The fees and expenses of the Arbitrator and court reporter shall be shared equally by the Association and the MTA.
7. Hearing Dates and Date of Award
37. Hearings shall be scheduled within forty-five (45) days of selection of an arbitrator. Awards shall be due within forty-five (45) days following the receipt of closing arguments. As a condition of appointment to the permanent panel arbitrators shall be advised of this requirement and shall certify their willingness to abide by these time limits.
8. Monetary Relief
38. Any claim for monetary relief shall not extend more than twenty (20) days prior to the filing of a grievance, unless considerations of equity or bad faith justify a greater entitlement.
9. Failure to Respond
39. Except as otherwise provided herein, a grievance shall be void in the event a grievance is not initiated or appealed through the steps in accordance with the time periods set forth above. Failure of the MTA to timely reply to a grievance shall authorize appeal to the next grievance step.
10. Immediate Dispute Resolution
40. In the event there is a dispute regarding the interpretation or application of this Agreement that imminently affects the Association or a substantial number of members represented by the Association, and that will result in harm for which monetary relief would be an insufficient remedy, either the MTA or the Association may request suspension of the grievance process as described in section 3 of this Section and proceed to immediate dispute resolution discussions with the Director of Employee Relations. The Director shall schedule and conclude discussions within twenty (20) days of receipt of a written request by either party and the action triggering the request for immediate dispute resolution may be stayed upon mutual agreement.
41. Should the dispute still not be resolved it may be submitted directly to an arbitrator selected in accordance with the procedure detailed below.
42. If the parties cannot otherwise agree, an arbitrator shall be selected by the parties from an arbitrator provided in Appendix B. The first arbitrator, selected at random by the

parties, available within a two week period shall be selected.

43. There will be no post-hearing briefs in an immediate arbitration unless such briefs are requested by the arbitrator.

44. This section may not be invoked for disciplinary grievances.

11. Petitions to Compel Arbitration

45. The prevailing party in any petition to compel arbitration shall be awarded reasonable attorneys' fees and costs.

I.H. Dues Deduction

1. Authorization for Deductions

46. The MTA shall deduct Association dues, initiation fees, premiums for insurance programs and political action fund contributions from an employee's pay upon receipt by the Controller of a form authorizing such deductions by the employee. The MTA shall pay over to the designated payee all sums so deducted. Upon request of the Association, the Controller agrees to meet with the Association to discuss and attempt to resolve issues pertaining to delivery of services relating to such deductions.

2. Dues Deductions

47. Dues deductions, once initiated, shall continue until the authorization is revoked in writing by the employee. For the administrative convenience of the MTA and the Association, an employee may only revoke a dues authorization by delivering the notice of revocation to the Controller during the two week period prior to the expiration of this Agreement. The revocation notice shall be delivered to the Controller either in person at the Controller's office or by depositing it in the U.S. Mail addressed to the Payroll/Personnel Services Division, Office of the Controller, 875 Stevenson Street, San Francisco, CA 94103; Attention: Dues Deduction. The MTA shall deliver a copy of the notices of revocation of dues deductions authorizations to the Association within two (2) weeks of receipt.

48. No later than nine working days following payday, the Controller will promptly pay over to the Association all sums withheld for membership dues. The Controller shall also provide with each payment a list of employees paying dues. Such lists shall contain the employee's name, employee number, job code, department number, and the amount deducted.

49. On a quarterly basis, the MTA shall provide Association a list of covered employees containing employee name, employee number, job code, department, Civil Service status, annual salary, salary range and whether the employee pays dues to the Association. Such list shall be provided in hard copy and on computer disk in a mutually agreeable format.
50. The above information shall be provided by the MTA at no cost to the Association.
51. The Association agrees to indemnify and hold the MTA harmless for any loss or damage arising from the operation of this section, provided the MTA has complied with its obligations in this section.
52. If agency shop becomes legal under Meyers-Milias-Brown, Cal. Govt. Code section 3500 et seq., for units represented by the Association, the Association shall have that benefit. The Association shall meet all legal and reporting requirements in that case.

ARTICLE II: EMPLOYMENT CONDITIONS

II.A. Non-Discrimination

53. The MTA and the Association agree that this Agreement shall be administered in a nondiscriminatory manner and that no person covered by this Agreement shall in any way be discriminated against because of race, color, creed, religion, sex, sexual orientation, national origin, physical or mental disability, age, political affiliation or opinion or Association membership or activity, or nonmembership, nor shall a person be subject to sexual harassment. The MTA shall process complaints of sexual harassment pursuant to Civil Service Rules, the Administrative Code and Federal and State laws.
54. The Association may not arbitrate any claim under this section unless and until the employee executes a complete, knowing and intelligent waiver, reasonably acceptable to the MTA, of any and all claims arising from the same facts. The waiver shall release all claims under any and all federal, state and local laws and regulations relating to employment, including but not limited to Title VII of the 1964 Civil Rights Act, as amended, the Civil Rights Act of 1991, the California Fair Employment and Housing Act, the Americans with Disabilities Act, the California and United States Constitutions, the Equal Pay Act of 1963, the Age Discrimination in Employment Act of 1967, and the Civil Rights Acts of 1866.
1. Americans with Disabilities Act
55. The parties agree that they are required to provide reasonable accommodations for persons with disabilities in order to comply with the provisions of Federal, State and local disability anti-discrimination statutes and the Fair Employment and Housing Act. The parties further agree that this Agreement shall be interpreted, administered and applied so as to respect the legal rights of the parties. The MTA reserves the right to take any action necessary to comply therewith.
2. Family Medical Leave Act
56. The MTA acknowledges its obligation to comply with the provisions of the Family Medical Leave Act and the California Family Rights Act.

II.B. Probationary Period

57. The probationary period for all newly hired or promoted employees shall be 2,080 hours as defined by the Civil Service Commission except that the probationary period for an employee returned to duty in a different department following lay off shall be 1040 hours as defined by the Civil Service Commission.

58. The probationary period shall be thirty (30) days as defined by the Civil Service Commission for any employee appointed permanently to a class in which the employee has served the equivalent of the probationary period as a provisional, temporary or temporary exempt employee. To qualify, the prior service must be continuous and in the same department as the permanent appointment.
59. The Association agrees that the probationary period may be extended by a written mutual agreement between the MTA and a represented employee.

II.C. Discipline

60. Discipline shall continue to be implemented pursuant to San Francisco Charter Section A8.341 and A8.342. However, pursuant to Charter Section A8.341 (b), the Association and the MTA agree to modify the disciplinary rights provided in those sections as follows:
 61. Eligible, represented employees may appeal disciplinary suspensions of five days or greater, demotions and terminations to a hearing officer selected from Appendix B. The hearing officer shall be mutually selected pursuant to the striking procedure set forth in Article I.G.4.
 62. The fees and expenses of the hearing officer shall be shared equally by the Association and the MTA. Transcripts shall not be required, except that either party may request a transcript, provided, however, that the party making such a request shall be solely responsible for the cost. Direct expenses of the hearing officer shall be borne equally by the parties.
 63. Upon the completion of 2080 hours of continuous service in a current represented job code, employees in non-exempt job codes covered by this agreement with temporary status shall be subject to discipline for just cause only, and shall be entitled to the post-disciplinary appeal rights set forth in Charter Sections A8.341 and A8.342 as modified in the sub-sections herein.
 64. Materials relating to disciplinary actions for conduct which is three (3) or more years old shall not be used for the basis of future discipline, provided there has been no reoccurrence of the same or similar conduct upon which the discipline was based.

ARTICLE III: PAY, HOURS AND BENEFITS

III.A. Wages

65. Base wages shall be increased as follows:

Effective 7/1/06 7%*

* Effective July 1, 2006, represented employees who are SFERS members shall receive a base wage increase of seven percent (7%) in exchange for their agreement to pay the seven and a half percent (7.5%) employee retirement contribution amount to SFERS.

Effective 12/30/06 2%

Effective 6/28/08 2%

Effective 12/27/08 3%

66. All base wages shall be rounded to the nearest salary grade.

III.B. MTAM Salary Plan

67. Effective October 5, 2004, there was established a new series of classifications created under the Municipal Transportation Agency Management Classification/Compensation Plan (“MTAM”).

Initial implementation of MTAM for existing employees:

Allocation/Notification Process:

68. MTA has notified all represented employees of the MTAM class to which his or her position has been allocated.

Voluntary Participation of Permanent Civil Service Employees:

69. Permanent civil service employees who have not already done so, may choose to participate in the MTAM at any time by signing and returning the Opt-in form sent to them on July 13, 2005.

70. Effective July 1, 2006, the Salary Plan for MTAM is set forth in Appendix C which is attached hereto and is incorporated herein for reference. The plan consists of three (3) pay ranges; A, B,

and C. Range A is a twenty-five percent (25%) open range. Range B is a fifteen percent (15%) open range. Range C is a five percent (5%) open range. Adjustment of compensation for individual employees is addressed below.

71. Scheduled Salary Progress in Range A. Subject to the other provisions of this Section, employees placed in MTAM in Range A who have been fixed at their compensation level for at least twelve (12) months as of October 7, 2006 ("Fixed Employees") will receive a five percent (5%) increase in pay effective October 7, 2006. Thereafter, such fixed employees shall be eligible for a five percent (5%) increase in pay on October 6, 2007 and October 4, 2008. All other employees placed in MTAM in Range A will receive a five percent (5%) increase in pay on their anniversary date (anniversary date for their pre-MTAM class, if applicable, or else their employment anniversary date). Salary progression under this paragraph is not available for employees placed in Ranges B or C.
72. No Progression Above Top of Range A. No employee can receive a salary increase to a level above the top salary available in Range A for the applicable classification.
73. Denial of Salary Progression. An employee's scheduled salary progression may be denied if the employee's performance has been unsatisfactory to the MTA. The denial of the increase is subject to the grievance procedure, provided, however, that nothing in this section is intended to or shall make performance evaluations subject to the grievance procedure.
74. Range B and C Adjustments. On a quarterly basis, the Executive Director/CEO may seek approval to place incumbent employees (post-appointment) at a rate of pay in Ranges B and C based on consideration of whether the adjustment would serve one or more of the following purposes: to retain an employee, to move towards internal or external equity (which may include issues of compaction), to compensate an employee exercising special skill, to compensate an employee assigned to a special assignment of limited duration or to recognize exemplary performance. The aggregate value of all such new placements shall not exceed one-half percent (0.5%) of MTA/MEA payroll (as defined by the Controller) per fiscal year. Any unused funds shall roll over and be available for these purposes the following fiscal year.
75. Adjustment Committee. A Committee consisting of the Controller (or designee), a member of the MTA Board of Directors, an MTA representative and a designated representative of MEA (the Adjustment Committee) will consider the application made by the Executive Director/CEO for placement of incumbent employees at a rate of pay in Ranges B and C. Subject to the applicable financial limitations and criteria, the Adjustment Committee will decide in its sole discretion whether to approve such applications in whole or in part. Decisions of the committee are final and not subject to the grievance procedure. Any confidential personnel information made available to committee members for purposes of determining decisions of the committee will be maintained in confidence.

Placement in New and Vacant Positions

76. Appointments to new and vacant MTAM positions shall be to Range A, except as described below.
77. Range A. The Executive Director/CEO may make an appointment at any rate in Range A based on consideration of whether the placement would serve one or more of the following purposes: to move towards internal or external equity (which may include issues of compaction), to compensate an employee possessing special skill or to compensate an employee assigned to a special assignment of limited duration.
78. Ranges B and C. Subject to approval from the Controller, the Executive Director/CEO may request that new employees (to the position) be placed at a rate of pay in Range B or C. Placement in Range B or C shall be based on objectively verifiable criteria in one or more of the following areas:
- Demonstrated recruitment or retention issues,
 - Unusual or extraordinary time-limited assignment,
 - Exceptional or special skills or qualifications which are essential for job performance, or
 - Internal and external equity considerations (which may include issues of compaction).
79. Where appropriate, approval shall be time-limited. Once approved, the employee's rate of pay shall not be increased, except according to the scheduled salary increases specified in Article III. A. Wages.
80. Placement into Ranges B and C is not grievable or appealable.

Rules Applicable to all Employees in the MTAM.

81. Supervisory differential, night duty, and acting assignment pay shall be administered according to traditional practices, except that TEM employees and employees who are placed in range B or C for reasons of an unusual or extraordinary time-limited assignment shall not receive acting assignment pay.
82. For employees who supervise an employee in a lower classification, supervisory differential shall be measured from the supervisee's actual rate of pay or the top of Range A, whichever is higher.
83. Where an employee in an MTAM class supervises at least one other employee in the same

MTAM class, and satisfies the other contractual requirements for supervisory differential, and the supervisor's base rate of pay is less than 5% above the base rate of pay of the highest paid supervisee, the supervisor shall receive an additional 5%. However, if the supervisor supervises only one employee in the same MTAM class, the supervisor's rate of pay, including the differential, shall not exceed the top of range C.

84. The existing Pay for Performance plan shall continue unless and until the MEA and the MTA agree upon a new performance incentive and reward plan.

Non-MTAM Eligible Employees – Extended Range Premium

85. Represented employees in classifications not eligible for MTAM who have been at Step 5 in that classification for at least 12 months, may be eligible for a five percent (5%) step increase, to Step 6. Represented employees in classification not eligible for MTA who have been at Step 6 in that classification for at least 12 months, may be eligible for a five percent (5%) step increase, to Step 7. Employees shall be eligible to receive this step advancement pursuant to the same criteria by which MTAM eligible employees are appointed to Range B & C as stated in paragraph 74 (Range B and C Adjustments).

Rights Neutrality

86. It is the goal and intention of the MTA and the MEA that the MTAM be administered so that the existing civil service rights of permanent civil service employees (e.g. reinstatement, reappointment, "bumping," and the like) will be maintained. That is, rights that existed prior to implementation of the MTAM will neither be expanded nor diminished by such implementation. Appeal rights are through the civil service process.

III.C. Pay for Performance

Fiscal Year 2006-2007

87. In recognition of the impact of the employee retirement contribution payment on MEA represented employees, the overall City fiscal condition and the extraordinary demands placed on the City's managers during the unprecedented fiscal crisis, during fiscal years 2003-2004 through 2005-2006, and that no MEA represented employee was paid at the 3% pay for performance level provided by the MOU for each applicable year, employees appointed to an MEA represented classification on or before December 31, 2005 who continued to be employed in an MEA classification through June 30, 2006, shall receive a 2% payment on a biweekly basis beginning with the first full pay period in the fiscal year 2006-2007.

Fiscal Years 2007-2008 and 2008-2009

88. In fiscal year 2007-2008, by the first pay period on or after October 1, 2007, MEA represented employees shall be eligible to receive a one and one-half percent (1.5%) lump sum payment, based on base wages earned in a represented classification in fiscal year 2006-2007, subject to the eligibility requirements described in section III. C.
89. In fiscal year 2008-2009, by the first pay period on or after October 1, 2008, MEA represented employees shall be eligible to receive a one and one-half percent (1.5%) lump sum payment, based on base wages earned in a represented classification in fiscal year 2006-2007, subject to the eligibility requirements described in section III. C.
90. Employees who commence employment in an MEA represented classification within the prior twelve (12) months (New MEA Employees), and who have been employed in such classifications for at least six (6) months prior to the commencement of the fiscal year during which payment is made, shall be eligible to receive one-half (1/2) of the pay for performance payment available for existing employees, subject to the eligibility requirements described in the paragraph below.
91. Eligibility for payments under section III. C. during fiscal years 2007-2008 and 2008-2009 shall be based upon Appointing Officer certification of the following terms:
- The employee has received a performance appraisal (evaluating performance) and a performance plan (containing objectives for future performance) during the fiscal year immediately preceding the fiscal year during which payments will be made.
 - The employee has completed a performance appraisal and performance plan for all immediate reports during the fiscal year immediately preceding the fiscal year during which payments will be made, except for new immediate reports (i.e. reporting relationship has existed for less than twelve (12) months) as to whom the Appointing Officer certifies the time for completion of a performance appraisal and performance plan has not yet occurred.
 - The employee's payment under this section may be denied if the employee's performance during the twelve (12) months prior to the fiscal year during which payments will be made has been unsatisfactory to MTA.
92. The denial of a payment under this subsection is not subject to the grievance procedure.
93. Nothing in this section shall make performance appraisals or plans subject to the grievance procedure.
94. Payments made pursuant to this section shall not change or affect an employee's placement in A, B, or C range. Placement and movement in Range A, B, or C shall continue to be governed by

Section III.B.

95. Re-opener on Pay for Performance only. By mutual agreement, the MTA and the Association may reopen in 2006-2007 to establish a new pay for performance plan for 2007-2008 and/or 2008-2009. Any reopener on Pay for Performance shall be subject to the provisions of Charter section A8.409.

III.D. Acting Assignment Pay

96. 1. The Appointing Officer assigns duties to employees covered by this Agreement. Except for the exclusions set forth in Section 2 below, employees assigned by the Appointing Officer or designated to perform the full range of essential functions of a position in a higher job code shall receive compensation at a higher salary if all of the following conditions are met:
97. a. The assignment shall be in writing.
98. b. The position to which the employee is assigned must be a budgeted position.
99. c. The employee is assigned to perform the duties of a higher job code for longer than ten (10) consecutive working days.
100. d. Upon written approval by the Appointing Officer, an employee shall be paid a 5% adjustment as long as it does not exceed the maximum range of the class to which temporarily assigned. If the assignment continues for ninety (90) days or more, the assigned employee shall be compensated at the same rate of pay of the most recent incumbent in the position. The adjustment shall be retroactive to first day of the assignment. Premiums based on percent of salary shall be paid at a rate which includes out of class pay.
101. e. Requests for job code review shall not be governed by this provision.
102. f. Where the above requirements are satisfied, including written notice of the assignment, but an employee does not receive a premium, the employee must file a grievance within thirty (30) calendar days after the first payday when the employee could have been paid the premium.

III.E. Supervisory Differential Adjustment

103. The Appointing Officer may adjust the compensation of a supervisory employee whose schedule of compensation is set herein subject to the following conditions:
104. 1. The supervisor, as part of the regular responsibilities of his/her class, supervises, directs, is accountable for and is in responsible charge of the work of a subordinate or subordinates.
105. 2. The supervisor must actually supervise the technical content of subordinate work and possess education and/or experience appropriate to the technical assignment.
106. 3. The organization is a permanent one approved by the Appointing Officer, Board or Commission, where applicable, and is a matter of record based upon review and investigation by the MTA Department of Human Resources.
107. 4. The job codes of both the supervisor and the subordinate are appropriate to the organization and have a normal, logical relationship to each other in terms of their respective duties and levels of responsibility and accountability in the organization.
108. 5. The compensation range of the supervisor is less than 5% over the compensation range, exclusive of extra pay, of the employee supervised. In determining the compensation schedule of a job code being paid a flat rate, the flat rate will be converted to a bi-weekly rate and the compensation schedule the top step of which is closest to the flat rate so converted shall be deemed to be the compensation schedule of the flat rate job code.
109. 6. The adjustment of the compensation of the supervisor shall be 5% over the compensation exclusive of extra pay, of the employee supervised.
110. 7. If the application of this section adjusts the compensation of an employee in excess of his/her immediate supervisor, whose class is covered by this agreement the pay of such immediate supervisor shall be adjusted to an amount \$1.00 bi-weekly in excess of the base rate of his/her highest paid subordinate, provided that the other applicable conditions of this section are also met.
111. 8. In no event will the Appointing Officer approve a supervisory salary adjustment in excess of 10% over the supervisor's current basic compensation. If in the following fiscal year a salary inequity continues to exist, the Appointing Officer may again review the circumstances and may grant an additional salary adjustment not to exceed 10%.

112. 9. The MTA Human Resources Department may review any changes in the conditions or circumstances that were and are relevant to the request for salary adjustment under this section.

III.F. IT Supervisory Adjustment

113. Where an employee in class 1071 supervises one or more other employee in class 1071, the supervisor shall receive an additional 5% above the supervisor's base rate of pay.

III.G. Adjustments

114. An employee who has acquired permanent status in a position and who is laid off because of lack of work or funds and is re-employed in the same class after such layoff shall be paid the salary attained prior to layoff.
115. An employee who has completed the probationary period in a promotive appointment that is two or more steps higher in an occupational series than the permanent position from which promoted and who is subsequently laid off and returned to a position in an intermediate ranking job code shall receive a salary based upon actual permanent service in the higher job code, unless such salary is less than the employee would have been entitled to if promoted directly to the intermediate job code.
116. Further increments shall be based upon the increment anniversary date that would have applied in the higher job code.
117. An employee who has completed the probationary period in an entrance appointment who is laid off and is returned to a job code formerly held in a permanent basis shall receive a salary based on the highest salary for that range, provided that salary does not exceed his salary before layoff.
118. An employee who has completed the probationary period in an entrance appointment who is laid off and is returned to a job code formerly held on a permanent basis shall receive a salary based upon the original appointment date in the job code to which the employee is returned. An employee who is returned to a job code not formerly held on a permanent basis shall receive a salary step in the salary grade for the job code closest to, but not below, the prior salary amounts, provided that salary shall not exceed the maximum of the salary grade.

III.H. Salary Step Plan and Salary Adjustments (this section applies to Non-MTAM classifications)

1. Appointments
119. Appointments to positions in the MTA shall be at the entrance rate established for the position

except as otherwise provided herein.

a. Promotive Appointment in a Higher Class

120. An employee or officer who is a permanent appointee following completion of the appropriate probationary period or equivalent hours and who is appointed to a position in a higher job code, either permanent or temporary, deemed to be promotive shall have his/her salary adjusted to that step in the promotive class as follows:

121. 1. The employee shall receive a salary step in the promotive class which is closest to an adjustment of seven and one-half percent (7.5%) above the salary received in the class from which promoted. The proper step shall be determined in the bi-weekly compensation grade and shall not be above the maximum of the salary range of the promotive class.

122. 2. For purposes of this Section, appointment of an employee to a position in any class with a higher salary grade shall be deemed promotive.

b. Non-promotive Appointment

123. When an employee accepts a non-promotive appointment in a job code having the same salary grade or a lower salary grade, the appointee shall enter the new position at that salary step which is the same as that received in the prior appointment. If the salary steps do not match, then the employee shall receive the salary step which is immediately in excess of that received in the prior appointment, provided that such salary shall not exceed the maximum of the salary grade.

c. Appointment Above Entrance Rate

124. Appointments may be made by an appointing officer at any step in the compensation schedule.

d. Flat Rate Converted to Salary Range

125. An employee serving in a class in the prior fiscal year at a flat rate which flat rate is changed to a compensation schedule number during the current fiscal year shall be paid on the effective date of such change the step in the current salary schedule closest to, but not below, the prior flat rate and shall retain the original anniversary date for future increments, when applicable.

e. Continuation of Salary Step Earned Under Temporary Appointment

126. When an employee is promoted under temporary appointment to a higher job code during a prior fiscal year and is continued in the same job code without a break in service in the current fiscal year, or is appointed to a permanent position in the same job code, such appointment shall be in accordance with the provisions of this MOU, provided that the salary shall not be less than the same step in the salary grade the employee received in the immediately prior temporary employment.

2. Step Increases

Advancement Through Salary Steps

127. Full-time employees shall advance to the second step upon completion of six (6) months continuous service and to each successive step upon completion of the one (1) year required continuous service. Part-time regularly scheduled employees shall advance to the second step upon completion of 1040 continuous hours of paid service, and to each successive step upon completion of 2080 continuous hours of paid service.

Salary Anniversary Date Adjustment

128. Permanent employees working under provisional, exempt or temporary appointments in other job codes shall have their salary adjusted in such other job codes when such employees reach their salary anniversary date in their permanent class.

3. Compensation Upon Transfer or Reemployment

a. Transfer

129. An employee transferred from one department to another, but in the same job code, shall transfer at his/her current salary, and if s/he is not at the maximum salary for the class, further increments shall be allowed following the completion of the required service based upon the seniority increment anniversary date in the former department.

b. Reemployment in Same Job Code Following Layoff

130. An employee who has acquired permanent status in a position and who is laid off because of lack of work or funds and is re-employed in the same class after such layoff shall be paid the salary step attained prior to layoff.

III.I. Methods of Calculation

131. Monthly. An employee whose compensation is fixed on a monthly basis shall be paid monthly or bi-weekly in accordance with State Law or other applicable provision. There shall be no compensation for time not worked unless such time off is authorized time off with pay.
132. Bi-Weekly. An employee whose compensation is fixed on a bi-weekly basis shall be paid the bi-weekly salary for his/her position for work performed during the bi-weekly payroll period. There shall be no compensation for time not worked unless such time off is authorized time off with pay.
133. Per Diem or Hourly. An employee whose compensation is fixed on a per diem or hourly basis shall be paid the daily or hourly rate for work performed during the bi-weekly payroll period on a bi-weekly pay schedule. There shall be no compensation for time not worked unless such time off is authorized time off with pay.
134. Weekly. An employee whose compensation is fixed on a weekly basis shall be paid bi-weekly for work performed during the bi-weekly payroll period. There shall be no compensation for time not worked unless such time off is authorized time off with pay.
135. Conversion of Annual or Monthly Rates to Bi-Weekly Rates. When rates of compensation provided on an annual or monthly basis are converted to bi-weekly rates for payroll purposes and the resulting amount involves a fraction of a cent, the converted bi-weekly rate shall be adjusted to eliminate such fraction of a cent on the following basis:
 136. a. A fraction of less than one-half ($1/2$) shall be dropped and the amount reduced to the next full cent.
 137. b. A fraction of one-half ($1/2$) or more shall be increased to the next full cent.
138. Daily Rates for Monthly and Bi-Weekly Employees. A day's pay shall be determined by dividing the number of work days in a normal work schedule in a monthly payroll period (including specified holidays) into the monthly salary established for the position, or the amount of a day's pay shall be 1/10th of the compensation of a normal work schedule in a bi-weekly period (including specified holidays).
139. Conversion to Bi-Weekly Rates. Rates of compensation established on other than bi-weekly basis may be converted to bi-weekly rates by the Controller for payroll purposes.

III.J. Work Schedules

1. Regular Work Schedules

140. Regular Work Day. Unless otherwise provided in this Agreement, a regular workday is a tour of duty of eight (8) hours of work completed within not more than twenty-four (24) hours.
141. Regular Work Week. The Appointing Officer shall determine the work schedule for employees in his/her department. A regular work week is a tour of duty of five (5) worked days within a seven day period. However, employees who are moving from one shift or one work schedule to another may be required to work in excess of five working days in conjunction with changes in their work shifts or schedules.

2. Night Duty

142. Employees who, as part of their regularly scheduled work shift, are required to work any hours between (five) 5:00 p.m. and (seven) 7:00 a.m. shall receive a night duty premium. Employees shall be paid eight-and-one-half percent (8.5%) more than the base rate for each hour regularly assigned between 5:00 p.m. and midnight (12:00 a.m.) if the employee works at least one (1) hour of his or her shift between 5:00 p.m. and midnight (12:00 a.m.). Employees shall be paid ten percent (10%) more than the base rate for each hour regularly assigned between the hours of midnight (12:00 a.m.) and 7:00 a.m. if the employee works at least one (1) hour of his or her shift between midnight (12:00 a.m.) and 7:00 a.m. Excluded from this provision are those employees who participate in an authorized flex-time program where the work shift includes hours to be worked between the hours of (five) 5:00 p.m. and (seven) 7:00 a.m.. Day shift employees assigned to work during the night duty premium hours are not eligible for night duty premium. Payment of this premium shall be made for actual hours worked.

3. Alternate Work Schedule

143. By mutual agreement the MTA and the Association may enter into cost equivalent alternate work schedules for some or all represented employees. Such alternate work schedules may include, but are not limited to, core hours flex-time; full-time work weeks of less than five (5) days; or a combination of features mutually agreeable to the parties. Such changes in the work schedule shall not alter the basis for, nor entitlement to, receiving the same rights and privileges as those provided to employees on five (5) day, forty (40) hour a week schedules.

4. Voluntary Reduced Work Week

144. Employees subject to the approval by the Appointing Officer may voluntarily elect to work a reduced work week for a specified period of time. Such reduced work week shall not be less than twenty (20) hours per week. Pay, vacation, holidays and sick pay shall be reduced in accordance with such reduced work week.

III.K. Administrative Leave

1. Compensatory Time-Off

145. No employee covered by this Agreement shall have any right to accrue compensatory time off.

2. Executive Leave

146. Employees in the Executive Management bargaining unit (TEM) are required to work the days and hours necessary to perform the job duties of their position and shall schedule their time accordingly. TEM employees shall receive five days of paid executive leave per year. Up to five (5) days of unused executive leave may be carried over into subsequent years. Executive leave may only be taken in paid time off in hourly increments and cannot be "cashed out". Employees who are appointed to a position in the TM units from a position in the TEM unit may not transfer unused executive leave to the new position.

3. Administrative Leave

147. Employees in the Management bargaining unit (TM) may earn up to one hundred (100) hours of paid administrative leave (AL) per year under the following conditions:

148. a. The employee must work time in excess of normally scheduled hours in order to earn AL. Such excess hours worked shall be credited toward AL at straight time.

149. b. Accrual or use of AL must be approved in advance by the appointing officer. Approval to accrue or use AL shall not be unreasonably withheld.

150. c. An employee may carry forward up to one hundred (100) hours of earned but unused AL into the next fiscal year.

151. d. Employees shall not maintain balances of more than one hundred twenty (120) hours of AL.

152. e. Administrative leave may only be taken in paid time off in hourly increments and cannot be "cashed out."

153. f. Employees who are appointed to a position in the TEM unit from a position in the TM unit may transfer up to 100 hours of accrued but unused administrative leave to the new position.

154. Where the MTA requires a non-TEM unit employee to respond to a page or call during off-duty

hours, the time required to do so will be creditable as Administrative Leave.

III.L. Overtime

155. Employees covered by the FLSA or designated by the MTA as "non-Z" who are required to work in excess of forty hours per week shall be paid at a rate of one and one-half times the regular base rate, except by mutual agreement such employee may accrue compensatory time at a rate of one and one-half times the overtime hours worked.
156. For purposes of this provision, holidays listed in section III.R. Holidays, of this agreement shall be considered time worked.

III.M. Exceptions to Normal Work Schedules for Which No Extra Compensation Is Authorized

157.
 1. Employee job codes designated by the Z symbol are not permitted to earn overtime pay. The Z symbol may be suspended to allow overtime payment, subject to the availability of funds, pursuant to approval of the MTA Director of Human Resources. Overtime payments shall be limited to extraordinary circumstances which cannot be anticipated or addressed through normal scheduling and assignment of available personnel.
158.
 2. Upon suspension of the Z symbol, employees may not earn or accrue administrative leave.

III.N. Fair Labor Standards Act

159. To the extent that the Agreement fails to afford employees the overtime or compensatory time off benefits to which they are entitled under the Fair Labor Standards Act, the Agreement is amended to authorize and direct all City Departments to ensure that their employees receive, at a minimum, such Fair Labor Standards Act Benefits.

III.O. Call Back

160. Employees (except those at remote locations where MTA supplied housing has been offered, or who are otherwise being compensated) who are called back to their work locations following the completion of his/her work day and departure from his/her place of employment, shall be granted a minimum of four (4) hours pay at the applicable rate, whichever is greater. This section shall not apply to employees who are called back to duty when on standby status. The employee's work day shall not be adjusted to avoid the payment of this minimum.

III.P. Pyramiding of Premiums

161. Each premium shall be separately calculated against an employee's base rate of pay. Premiums shall not be pyramided.

III.Q. Severance Pay

162. 1. The MTA agrees that when involuntarily removing or releasing from employment a represented employee, the appointing officer will endeavor to inform the employee at least thirty (30) calendar days before his/her final day of work. Where the appointing officer fails or declines to inform the employee a full thirty (30) days in advance, the member shall receive pay in lieu of the number of days less than thirty (30) upon which s/he was informed.
163. 2. In addition to paragraph (1.), except as provided otherwise in this section, the MTA agrees that when involuntarily removing or releasing from employment a represented employee, the employee shall also receive one (1) week's severance pay for each full year worked, up to a maximum of twenty-six (26) weeks, in exchange for a release signed by the employee and MEA of any and all claims arising out of employee's employment or termination of that employment (including claims arising under this Agreement) that the employee or MEA may have against the MTA including any officer or employee thereof. This release shall be in a form acceptable to the MTA and shall include a waiver of any rights the employee may have to return to City employment (e.g., holdover roster), a waiver of Section 1542 of the California Civil Code and a waiver of claims under the Age Discrimination in Employment Act.. The release shall exclude the right to grieve the proper amount of severance pay due under this section.
164. 3. Except as provided otherwise in this section, in the event a represented employee is involuntarily returned to a permanent job code, that employee may elect to separate from City Service and shall receive one week's severance pay for each full year worked, up to a maximum of 26 weeks, in exchange for a release signed by the employee and MEA of any and all claims arising out of employee's employment or termination of that employment (including claims arising under this Agreement) that the employee or MEA may have against the MTA including any officer or employee thereof. This release shall be in a form acceptable to the MTA and shall include a waiver of any rights the employee may have to return to City employment (e.g., holdover roster), a waiver of Section 1542 of the California Civil Code, and a waiver of claims under the Age Discrimination in Employment Act. The release shall exclude the right to grieve the proper amount of severance pay due under this section.
165. 4. Payment of severance is dependent upon approval by the Appointing Officer, Controller and the MTA Human Resources Director. Approval will be based on a good faith consideration of whether the employee's removal or release was involuntary, was

initiated by the Appointing Authority, and was in the best interests of the MTA, and whether the termination of employment was based on conduct involving misappropriation of public funds or property, misuse or destruction of public property, mistreatment of persons, or acts which would constitute a felony or misdemeanor.

166. 5. For purposes of this section, an employee who receives notification from the City that he or she is eligible for early retirement benefits under Charter Section A8.401 and who thereafter elects to retire and accept benefits under Charter Section A8.401 shall not be eligible for severance pay under this section.

III.R. Holidays

1. Recognized Holidays

167. Except when normal operations require, or in an emergency, employees shall not be required to work on the following days hereby declared to be holidays for such employees:

January 1 (New Year's Day)
The third Monday in January (Martin Luther King, Jr.'s Birthday)
The third Monday in February (President's Day)
The last Monday in May (Memorial Day)
July 4 (Independence Day)
The first Monday in September (Labor Day)
The second Monday in October (Columbus Day)
November 11 (Veteran's Day)
Thanksgiving Day
The day after Thanksgiving
December 25 (Christmas Day)

168. Provided further, if January 1, July 4, November 11 or December 25 falls on a Sunday, the Monday following is a holiday.

169. The MTA shall accommodate religious belief or observance of employees as required by law.

170. Five additional floating days off to be taken on days selected by the employee subject to prior scheduling approval of the appointing officer. Floating Holidays may be taken in hourly increments up to and including the number of hours contained in the employee's regular shift. Employees (both full-time and part-time) must complete six (6) months continuous service to establish initial eligibility for the floating days off. Employees hired on an as-needed, part-time, intermittent or seasonal basis shall not receive the additional

floating days off. Floating holidays received in one fiscal year but not used may be carried forward to the next succeeding fiscal year. The number of floating holidays carried forward to a succeeding fiscal year may not exceed the total number of floating holidays received in the previous fiscal year.. No compensation of any kind shall be earned or granted for floating days off not taken.

171. Employees who have established initial eligibility for floating days off and subsequently separate from MTA employment, may at the sole discretion of the appointing authority, be granted those floating day(s) off to which the separating employee was eligible and had not yet taken off.

172. In addition, any day declared to be a holiday by proclamation of the Mayor after such day has heretofore been declared a holiday by the Governor of the State of California or the President of the United States shall be a holiday.

173. For those employees assigned to a work week of Monday through Friday, and in the event a legal holiday falls on Saturday, the preceding Friday shall be observed as a holiday; provided, however, that except where the Governor declares that such preceding Friday shall be a legal holiday, each department head shall make provision for the staffing of public offices under his/her jurisdiction on such preceding Friday so that said public offices may serve the public as provided in Section 16.4 of the Administrative Code. Those employees who work on a Friday which is observed as a holiday in lieu of a holiday falling on Saturday shall be allowed a day off in lieu thereof as scheduled by the appointing officer in the current fiscal year. The MTA shall provide one week's advance notice to employees scheduled to work on the observed holiday, except in cases of unforeseen operational needs.

2. In-Lieu Holidays

174. Requests for in-lieu holidays shall be made to the appropriate management representative within thirty (30) days after the holiday is earned and must be taken within the fiscal year.

175. In-lieu days will be assigned by the appointing officer or designee if not scheduled in accordance with the procedures described herein.

176. An in-lieu holiday can be carried over into the next fiscal year only with the written approval of the appointing officer.

3. Holiday Compensation for Time Worked

177. Employees required by their respective Appointing Officers to work on any of the above-specified or to substitute holidays excepting Fridays observed as holidays in lieu of

holidays falling on Saturday, shall be paid extra compensation of one (1) additional day's pay at time and one-half (1-1/2) the usual rate in the amount of twelve (12) hours' pay for eight (8) hours worked or a proportionate amount if less than eight (8) hours worked; provided, however, that at an employee's request and with the approval of the appointing officer, an employee may be granted compensatory time off in lieu of paid overtime.

178. Employees occupying positions which are exempt from the FLSA (Executive, administrative and professional) shall not receive extra compensation for holiday work but may be granted time off at the straight time rate.

4. Holidays for Employees on Work Schedules Other Than Monday Through Friday

179. Employees assigned to seven (7) day-operation departments or employees working a five (5) day work week other than Monday through Friday shall be allowed another day off if a holiday falls on one of their regularly scheduled days off.

180. Employees whose holidays are changed because of shift rotations shall be allowed another day off if a legal holiday falls on one of their days off.

181. Non-FLSA exempt employees required to work on a holiday which falls on a Saturday or Sunday shall receive holiday compensation for work on that day. Holiday compensation shall not then be additionally paid for work on the Friday proceeding a Saturday holiday, nor on the Monday following a Sunday holiday.

182. The provisions of this section shall apply to part-time employees on a pro-rata basis.

183. If the provisions of this section deprive an employee of the same number of holidays that an employee receives who works Monday through Friday, s/he shall be granted additional days off to equal such number of holidays. The designation of such days off shall be by mutual agreement of the employee and the appropriate employer representative. Such days off must be taken within the fiscal year. In no event shall the provisions of this section result in such employee receiving more or less holidays than an employee on a Monday through Friday work schedule.

5. Holiday Pay for Employees Laid Off

184. An employee who is laid off at the close of business the day before a holiday who has worked not less than five (5) previous consecutive workdays shall be paid for the holiday at their normal rate of compensation.

6. Employees Not Eligible for Holiday Compensation

185. Persons employed for holiday work only, or persons employed on a part-time work schedule which is less than twenty (20) hours in a bi-weekly pay period, or persons employed on an intermittent part-time work schedule (not regularly scheduled), or persons employed on as-needed, seasonal or project basis for less than six (6) months continuous service, or persons on leave without pay status both immediately preceding and immediately following the legal holiday shall not receive holiday pay.
7. Part-time Employees Eligible for Holidays
186. Part-time employees who regularly work a minimum of twenty (20) hours in a bi-weekly pay period shall be entitled to holiday pay on a proportionate basis.
187. Regular full-time employees are entitled to 8/80 or 1/10 time off when a holiday falls in a bi-weekly pay period, therefore, part-time employees, as defined in the immediately preceding paragraph, shall receive a holiday based upon the ratio of 1/10 of the total hours regularly worked in a bi-weekly pay period. Holiday time off shall be determined by calculating 1/10 of the hours worked by the part-time employee in the bi-weekly pay period immediately preceding the pay period in which the holiday falls. The computation of holiday time off shall be rounded to the nearest hour.
188. The proportionate amount of holiday time off shall be taken in the same fiscal year in which the holiday falls. Holiday time off shall be taken at a time mutually agreeable to the employee and the appropriate employer representative.

III.S. Vacation

189. Award and accrual of vacation benefits shall be as specified in the Administrative Code, and may not be changed during the duration of this Agreement without the concurrence of the Association.

III.T. Sick Leave

1. Accrual
190. Award and accrual of sick leave benefits shall remain unchanged during the period of this Agreement. In addition, during the term of this agreement, no changes in sections of Civil Service Commission Rule 120 and 420 bargainable and arbitrable pursuant to Charter Section A8.409-3, may be implemented without the concurrence of the Association.
2. Sick Leave with Pay Limitation

191. An employee who is absent because of disability leave and who is receiving disability indemnity payments may request that the amount of disability indemnity payment be supplemented with salary to be charged against the employee's sick leave with pay credits so as to equal the net amount the employee would have earned for a regular work schedule minus premium pay adjustments. If the employee wishes to exercise this option, the employee must submit a signed statement to the employee's department no later than thirty (30) days following the employee's release from disability leave.

III.U. Wellness Program

192. For the term of this agreement, the MTA shall implement a “wellness program.”
193. Effective July 1, 2002, any fulltime employee leaving the employment of the City upon service or disability retirement may receive payment for a portion of sick leave earned but unused at the time of separation.
194. The amount of this payment shall be equal to two percent (2 ½ %) of sick leave balances earned but unused at the time of separation times the number of whole years of continuous employment times an employee’s salary rate, exclusive of premiums or supplements, at the time of separation. Vested sick leave hours, as described by CSC rules, shall not be included in this computation.
195. Example of calculation:
Employee A retires with 20 years of service.
Employee A has a sick leave balance of 500 hours.
Employee A has a base salary rate of \$25.00 per hour at the time of separation.
- Wellness incentive = 2 ½ % for each year of service x 20 years of service =50%
50% x 500 hours = 250 hours
250 hours x \$25.00 (base salary rate at time of separation) = \$6,250.00
196. The number of hours for which an employee may receive cash payment shall not exceed one thousand forty (1040), including any vested sick leave hours.
197. This wellness incentive bonus shall not be considered as part of an employee’s compensation for the purpose of computing retirement benefits.
198. Effective July 1, 2008, employees must have at least three hundred (300) hours of accrued sick leave as of the last day of employment in order to be eligible to receive the benefits of the wellness program.

III.V. State Disability Insurance (SDI)

199. Upon a statement of a majority of members of a job code covered by this Agreement requesting that they be enrolled in the State Disability Insurance Program, the Department of Human Resources shall immediately take any and all necessary action to enroll such job code and all employees therein, in accordance with Administrative Code Section 16.9-31.
200. Employees enrolled in SDI prior to July 1, 2001, shall continue to be enrolled whether or not their job code is enrolled, provided however that if such an employee changes his or her job code on or after January 1, 2002, his or her enrollment status will be determined by job code.
201. Upon request by the Association, the MTA shall meet to discuss the implementation of SDI for MEA represented classes and units during the term of this agreement.

III.W. Unpaid Furloughs

202. There shall be no mandatory unpaid administrative leave (furlough) for represented employees.

III.X. Management Compensation Package

203. The MTA shall contribute the greater amount of \$225 per month or 75% of the dependent rate charged to employees for Kaiser coverage at the dependent plus two or more level, including any additional charges assessed to Health Service System members by vote of the Health Services Board.
204. The Management Cafeteria Plan benefit year will correspond with the benefit plan year for all other Health Service System members.
205. A plan year may be modified by mutual agreement. Such agreement must be confirmed in writing.
206. The elements of this package shall include but are not limited to: dependent health care, DCAP, disability insurance, term life insurance and other life insurance, accident insurance, and other authorized mutually agreed benefits. Specific plan design shall be subject to administrative feasibility and shall be determined in consultation with the Association. The benefits plan shall conform to provisions of IRS Code Section 125.
207. The MTA agrees to maintain health and dental benefits at present levels for the life of the Agreement.
208. The MTA acknowledges its obligation to provide the cafeteria plan and its benefits. If the MTA is responsible for a violation of this section (III.Y), the MTA acknowledges that it is responsible

to make the affected member whole, which may include providing the covered benefits described in the plan at issue or reimbursing the member for the cost of providing those benefits, as appropriate. The MTA agrees to make best efforts to expedite resolution of problems and disputes arising under this section.

III.Y. Provisional, Temporary and Temporary Exempt Eligibility for Health Service System

209. Provisional, temporary and temporary exempt employees who have served more than 1,040 hours of continuous service, whose regular work week at the time of inclusion in the system is not less than twenty (20) hours, shall be eligible for membership in the Health Service System (health plan coverage).

III.Z. Retirement Pickup

210. The parties acknowledge that the San Francisco Charter establishes the levels, terms and conditions of retirement benefits for members of the San Francisco Employees Retirement System (SFERS). The fact that an MOU does not specify that a certain item of compensation is excluded from retirement benefits should not be construed to mean that the item is included by the Retirement Board when calculating retirement benefits.
211. Effective July 1, 2006, represented employees who are members of SFERS agree to pay their own employee retirement contribution in an amount equal to seven and one-half percent (7.5%) of covered gross salary. For employees who became members of SFERS prior to November 2, 1976 (Charter Section A8.509 Miscellaneous Plan), the MTA shall pick up the remaining one-half percent (0.5%) of the total eight percent (8%) employee retirement contribution to SFERS.
212. Any MTA pickup of an employee's contributions shall not be considered as a part of an employee's compensation for the purpose of computing straight time earnings or retirement benefits; nor shall such contributions be taken into account in determining the level of any other benefit which is a function of, or percentage of salary.

III.AA. Retirement Planning Seminar

213. Subject to development, availability and scheduling by SFERS and PERS, employees shall be allowed not more than one day during the life of this MOU to attend a pre-retirement planning seminar sponsored by SFERS or PERS.
214. Employees must provide at least two-weeks advance notice of their desire to attend a retirement planning seminar to the appropriate supervisor. An employee shall be release from work to attend the seminar unless staffing requirements or other Department exigencies require the

employee's attendance at work on the day or days such seminar is scheduled. Release time shall not be unreasonably withheld.

- 215. All such seminars must be located within the Bay Area.
- 216. This section shall not be subject to the grievance procedure.

III.BB. Life Insurance

- 217. The City shall purchase a \$50,000 life insurance policy for each represented employee. This section shall not diminish any existing rights of MEA represented employees to purchase supplemental coverage through the Management Compensation Package.

III.CC. Capital Improvement Program (CIP)

- 218. Employees in classes which directly supervise employees represented by IFPTE Local 21 in classes eligible to participate in the Pilot Capital Project Incentive Program described in the MOU between the City and IFPTE Local 21 ("qualifying employees"), shall receive a correlate performance-based monetary incentive.

III.DD. Parental Release Time

- 219. Upon proper advance notification, employees may be granted up to forty (40) hours Parental Leave – two (2) hours of which will be paid leave each semester – each year, to participate in the activities of a school or licensed child day care facility of any of the employee's children. Parental Leave shall not exceed eight (8) hours in any calendar month of the year.
- 220. In order to qualify for Parental Leave, the employee must give reasonable notice to his/her supervisor prior to taking time off. If requested by management, the employee must provide written verification from the school or licensed child day care facility that he/she participated in the school/child care related activities on a specific date and at a particular time,
- 221. The employee may utilize either existing vacation, executive leave, administrative leave, compensatory time, or personal (unpaid) leave to account for absences after the two (2) paid hours per semester have been used. If both of the child's parents are employed by MTA at the same worksite, the entitlement to a planned absence applies only to the parent who first gives notice.
- 222. Denial of Parental Leave under this section is not subject to the grievance process.

III.EE. Parking Facilities

223. Parking fees for represented employees will be set in accordance with Administrative Code Section 4.24, which states:

Where the City provides parking to City employees or to City tenants at facilities under the City's management or control, the City may charge the following monthly fee for parking to those employees or tenants:

The price of a Municipal Railway monthly pass plus \$10.00, or the existing amount being charged as of May 31, 2004, whichever is higher.

This section shall not apply to parking facilities under management or control of the San Francisco Parking Authority, the Airport, or the Port. (Added by Ord. 182-04, File No. 040743, 7/22/2004)

ARTICLE IV: TRAINING, CAREER DEVELOPMENT AND INCENTIVES

IV.A. Management Training

224. The MTA shall budget \$20,000 each year for two years for the purpose of management training of MEA-represented employees. Until such funds are exhausted, an employee may utilize up to a maximum of \$2,000 per fiscal year. A joint MTA-MEA management development committee will be established to develop the program and to decide how to spend the allotted sums. The MTA shall not utilize these funds to supplant existing budgeted training programs. Funds which are not expended at the end of each fiscal year shall be rolled over into the next fiscal year.

IV.B. Paid Status During Training

225. Represented employees shall be on paid status when assigned to attend required educational programs scheduled during normal working hours.

226. IV.C. Reimbursement for Licenses, Certificates, and Professional Memberships

227. The MTA shall reimburse members for the cost of required professional licenses, certificates, and memberships.

ARTICLE V: WORKING CONDITIONS

V.A. Health and Safety

228. The MTA acknowledges its responsibility to provide a safe and healthful work environment for MTA employees. The Association agrees that it shares the responsibility for these efforts, as do MTA employees.
229. When an employee, in good faith, believes that a hazardous or unsafe condition exists, and that continuing to work under such conditions poses risks beyond those normally associated with the nature of the job, the employee shall so notify the Department's Safety Committee and/or Safety Officer. If the Department agrees the assignment is hazardous or unsafe, the employee shall be reassigned, if possible, until the hazard is eliminated. If there is no concurrence, the matter may be submitted to the Grievance Procedure at Step 3 for final resolution. The employee's assignment shall be continued until the dispute is resolved. Employees may be relieved of tasks which pose a threat to their health or safety provided the tasks are not essential functions of the jobs.

Right to Know

230. Material Safety Data sheets shall be available for inspection by employees or their Association representative.

V.B. Mileage Reimbursement

231. Employees shall be reimbursed at the Controller's certified rate per mile when required to use their personal vehicle for MTA business.

ARTICLE VI: IMPLEMENTATION AND TERM OF AGREEMENT

VI.A. Scope Of Agreement

232. This Agreement sets forth the full and entire understanding of the parties. This Agreement may be modified, but only in writing, upon the mutual consent of the parties.

VI.B. Savings Clause

233. Should any part hereof or any provisions herein be declared invalid by a court of competent jurisdiction, such invalidation of such part or portion of this Agreement shall not invalidate the remaining portions hereof and the remaining portions hereof shall remain in full force and effect for the duration of this Agreement.

VI.C. Omissions and Assumptions

234. Conditions of employment, bargainable and arbitrable pursuant to Charter Section 8.409-3, in effect on the date of this Agreement, which are set forth in the rules and regulations of the Civil Service Commission and Charter, which are not inconsistent with the terms of this Agreement, shall be maintained in full force and effect during the term hereof except as otherwise specifically provided in this agreement except as mutually agreed.

VI.D. Duration of Agreement

235. This Agreement shall be effective July 1, 2006, and shall remain in full force and effect through June 30, 2009

In Witness Hereof, the parties have executed this AGREEMENT this _____ day of _____, 2006.

For the MTA

For the Association

Nathaniel P. Ford, Sr.
Executive Director/CEO

Ed Lieberman
Executive Director, MEA

Julia Friedlander
Deputy City Attorney

APPROVED AS TO FORM
DENNIS J. HERRERA, CITY ATTORNEY

Elizabeth Salveson,
Chief Labor Attorney

Appendix A

Municipal Executives Association Represented Job Codes at MTA

Job Code	Title	Unit
1071	IS Manager	TM
1237	Training Coordinator	TM
7123	Parking Meter & Machine Shop Manager	TM
7212	Automotive Transit Equipment Supervisor	TM
7283	Track Maintenance Superintendent	TM
8220	Director, Parking Enforcement	TM
9172	Manager II, MTA	TM
9174	Manager IV, MTA	TM
9175	Manager I, MTA	TM
9177	Manager III, MTA	TM
9179	Manager V, MTA	TM
9180	Manager VI, MTA	TM
9181	Manager VII, MTA	TM
9182	Manager VIII, MTA	TM
9183	Deputy Director I, MTA	TEM
9185	Chief Operating Officer, Municipal Railway	TEM
9187	Deputy Director II, MTA	TEM
9189	Director of Planning, Municipal Railway	TM
9190	Board Secretary, MTA	TM

Appendix B

Charles Askin
Norman Brand
Barry Winograd
Wendy Rouder
Alexander “Buddy” Cohn
Ken Silbert
Frank Silver
Matthew Goldberg

*This list may be amended by mutual agreement. Such agreement must be confirmed in writing.

Appendix C

MTAM Pay Rates for Fiscal Year 2006-2007

Rates Effective 7/1/ 06

Job Code	Title	Range A		Range B		Range C	
		Low Biweekly	High Biweekly	Low Biweekly	High Biweekly	Low Biweekly	High Biweekly
9172	Manager II, MTA	3,064	3,910	3,911	4,527	4,528	4,753
9174	Manager IV, MTA	3,547	4,527	4,528	5,241	5,242	5,503
9175	Manager I, MTA	2,841	3,626	3,627	4,197	4,198	4,407
9177	Manager III, MTA	3,289	4,199	4,200	4,859	4,860	5,101
9179	Manager V, MTA	3,807	4,860	4,861	5,624	5,625	5,906
9180	Manager VI, MTA	4,106	5,241	5,242	6,067	6,068	6,370
9181	Manager VII, MTA	4,407	5,625	5,626	6,510	6,511	6,836
9182	Manager VIII, MTA	4,717	6,019	6,020	6,968	6,969	7,317
9183	Deputy Director I, MTA	5,018	6,404	6,405	7,414	7,415	7,785
9187	Deputy Director II, MTA	5,345	6,824	6,825	7,896	7,897	8,291
Other MTA:							
9190	Board Secretary, MTA	3,807	4,860	4,861	5,624	5,625	5,906

Appendix D

The MTA agrees to review and evaluate the FLSA status of employees in class 7283 Track Maintenance Superintendent, MTA.

Appendix E

This Agreement uses the terms “salary grade” and “job code” where the predecessor Agreement used “salary schedule” and “classification.” This change is intended to ensure consistency with the MTA’s personnel administration software; it shall not change the substantive meaning of any provision of this Agreement or alter in any way the rights and responsibilities of the parties from the prior Agreement usage.

Appendix F

MTA Performance/Attendance Incentive Pay

Consistent with Charter Section 8A.100, the Municipal Transportation Agency (MTA) and the Association agree that employees will be rewarded for the attaining of various service, performance and/or attendance goals.

The MTA Performance and Attendance Incentive Programs apply only to employees in “service-critical” classes at MTA.

The benefits of these programs are only available to “service-critical” employees while employed at MTA. Employees who leave or transfer out of “service-critical” employment at MTA lose the benefits of these programs.

Goal percentage requirements and effective dates for Performance Incentives are updated in June of each year. Information regarding the goals and effective dates will be published and posted on the MTA website. Information on qualifying periods, rewards and/or compensation for Attendance Incentives will also be posted on the MTA website and/or are available in hard copy upon request of the Association.

SIDELETTER

RETIREE MEDICAL BENEFITS

The City and the Association agree that it is in the interests of the public and all City employees that sufficient funds be made available for the payment of the retiree medical benefits provided by the City Charter. As of January 2007, the City has an obligation to report its unfunded liability for retiree medical benefits, as required by the Governmental Accounting Standards Board. In recognition of these facts, the Association and City agree to participate in a City-wide Retiree Health Benefits Committee to study and make recommendations regarding funding of retiree health benefits.

SIDELETTER

SUPERVISORY DIFFERENTIAL

The MTA will mirror the City's sideletter on supervisory differential determination.