



Employment and Merit System Provisions
of the
1996 Charter of the
City and County of San Francisco,
the
San Francisco Administrative Code,
and the
San Francisco Campaign and Governmental Conduct Code

Civil Service Commission

City and County of San Francisco
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ARTICLE II

LEGISLATIVE BRANCH

SEC. 2.100. Composition and Salary.

SEC. 2.100. COMPOSITION AND SALARY.

The Board of Supervisors shall consist of eleven members elected by district.

The office of Board of Supervisors member is a full time position. The Civil Service Commission shall set the Supervisors' salary once every five years. Before the Commission determines the Supervisors' salary, it shall conduct and consider a salary survey of other full time California City Councils and County Boards of Supervisors and it may consider the Consumer Price Index (CPI).

The Civil Service Commission shall timely transmit its determination of the Supervisors' salary to the Controller, so that funds can be set aside for that purpose. The Controller shall include the Civil Service Commission's determination in appropriate budget documents to insure implementation. This determination may not be changed except by the Civil Service Commission.

The Civil Service Commission shall establish dates for an appropriate five-year cycle for making the determinations required by this Section, in order to efficiently coordinate with City budget processes and related procedures. In order to institute this five-year cycle the initial determination may be for less than a five-year period, as determined by the Civil Service Commission.

If the City and employee organizations agree to amend the compensation provisions of existing memoranda of understanding to reduce costs, the Civil Service Commission shall review and amend the Supervisors' salary as necessary to achieve comparable cost savings in the affected fiscal year or years.

The provisions of this Section shall apply, notwithstanding any other provision of this Charter. (Amended November 1996; June 1998; November 2002)

ARTICLE IV

EXECUTIVE BRANCH - BOARDS, COMMISSIONS AND DEPARTMENTS

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SEC. 4.101.	Boards and Commissions - Composition.
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SEC. 4.127.	Police Department
SEC. 4.132.	Executive Branch Reorganization.

SEC. 4.100. GENERAL.

In addition to the office of the Mayor, the executive branch of the City and County shall be composed of departments, appointive boards, commissions and other units of government. To the extent law permits, each appointive board, commission, or other unit of government of the City and County established by state or federal law shall be subject to the provisions of this Article and this Charter.

SEC. 4.101. BOARDS AND COMMISSIONS--COMPOSITION.

(a) Unless otherwise provided in this Charter, the composition of each appointive board, commission or advisory body of any kind established by this Charter or legislative act of the United States of America, the State of California or the Board of Supervisors shall:

1. Be broadly representative of the communities of interest, neighborhoods, and the diversity in ethnicity, race, age, and sexual orientation, and types of disabilities of the City and County and have representation of both sexes; and
2. Consist of electors of the City and County at all times during the term of their respective offices, unless otherwise specifically provided in this Charter; or in the case of boards, commissions or advisory bodies established by legislative act the position is (a) designated by ordinance for a person under legal voting age, or (b) unless specifically exempt from the provisions, or waived by the appointing officer or entity upon a finding that an elector with specific experience, skills or qualifications willing to serve could not be located within the City and County.

It shall be official City policy that the composition of each appointive board, commission, or advisory body of any kind established by this Charter or legislative act of the United States of America, the State of California, or the Board of Supervisors shall reflect the interests and contributions of both men and women of all races, ethnicities, sexual orientations, and types of disabilities. The voters therefore urge in the strongest terms all City officers and agencies involved in nominating, appointing or confirming members of those appointive boards, commissions, or advisory bodies to consider and as appropriate support the nomination, appointment or confirmation of female, minority, and disabled candidates to fill seats on those bodies.

The Commission on the Status of Women shall conduct an analysis of appointments to appointive boards, commissions, and advisory bodies in the second and fourth year of each mayoral administration to track the diversity of appointments to such bodies. This analysis, to be based only on voluntary disclosures, shall include gender, ethnicity, sexual orientation, disability status, and any other relevant demographic qualities.

(b) Vacancies on appointive boards, commissions or other units of government shall be filled for the balance of the unexpired term in the manner prescribed by this Charter or ordinance for initial appointments.

(c) Terms of office shall continue as they existed on the effective date of this Charter.

(Amended by Proposition D, 6/3/2008)

SEC. 4.101.5. HOLD-OVER SERVICE BY BOARD AND COMMISSION MEMBERS.

(a) **Application of this Section.** Unless otherwise provided in this Charter or required by law, the requirements of this Section shall apply to the members of each appointive board, commission, or other unit of government of the executive branch of the City and County or otherwise created in the Charter ("Charter Commission"). Citizen advisory committees created in the Charter shall not be considered Charter Commissions for purposes of this Section. The provisions of this Section shall not apply to boards or commissions created in Article V (Executive Branch--Arts and Culture) or Article XII (Employee Retirement and Health Service Systems) of this Charter.

(b) **Limitations on Hold-Over-Service.** Except as otherwise provided in this Charter, the tenure of a member of any Charter Commission shall terminate no later than 60 days after the expiration of the member's term, unless the member is re-appointed. A member may not serve as a hold-over member of a Charter Commission for more than 60 days after the expiration of his or her term. The tenure of any person sitting as a hold-over member on the effective date of this amendment shall terminate no later than 60 days after the effective date of this amendment. (Added by Proposition B, Approved 11/6/2007)

SEC. 4.102. BOARDS AND COMMISSIONS-POWERS AND DUTIES.

Unless otherwise provided in this Charter, each appointive board, commission or other unit of government of the executive branch of the City and County shall:

1. Formulate, evaluate and approve goals, objectives, plans and programs and set policies consistent with the overall objectives of the City and County, as established by the Mayor and the Board of Supervisors through the adoption of City legislation;
2. Develop and keep current an Annual Statement of Purpose outlining its areas of jurisdiction, authorities, purpose and goals, subject to review and approval by the Mayor and the Board of Supervisors;
3. After public hearing, approve applicable departmental budgets or any budget modifications or fund transfers requiring the approval of the Board of Supervisors, subject to the Mayor's final authority to initiate, prepare and submit the annual proposed budget on behalf of the executive branch and the Board of Supervisors' authority under Section 9.103;
4. Recommend to the Mayor for submission to the Board of Supervisors rates, fees and similar charges with respect to appropriate items coming within their respective jurisdictions;
5. Unless otherwise specifically provided, submit to the Mayor at least three qualified applicants, and if rejected, to make additional nominations in the same manner, for the position of department head, subject to appointment by the Mayor;

6. Remove a department head; the Mayor may recommend removal of a department head to the commission, and it shall be the commission's duty to act on the Mayor's recommendation by removing or retaining the department head within 30 days; failure to act on the Mayor's recommendation shall constitute official misconduct;

7. Conduct investigations into any aspect of governmental operations within its jurisdiction through the power of inquiry, and make recommendations to the Mayor or the Board of Supervisors;

8. Exercise such other powers and duties as shall be prescribed by the Board of Supervisors; and

9. Appoint an executive secretary to manage the affairs and operations of the board or commission.

In furtherance of the discharge of its responsibilities, an appointive board, commission or other unit of government may:

10. Hold hearings and take testimony; and

11. Retain temporary counsel for specific purposes, subject to the consent of the Mayor and the City Attorney.

Each board or commission, relative to the affairs of its own department, shall deal with administrative matters solely through the department head or his or her designees, and any dictation, suggestion or interference herein prohibited on the part of any member of a board or commission shall constitute official misconduct; provided, however, that nothing herein contained shall restrict the board or commission's powers of hearing and inquiry as provided in this Charter.

SEC. 4.103. BOARDS AND COMMISSIONS-ANNUAL REPORT.

As of the operative date of this Charter and until this requirement is changed by the Board of Supervisors, each board and commission of the City and County shall be required by ordinance to prepare an annual report describing its activities, and shall file such report with the Mayor and the Clerk of the Board of Supervisors. The Annual Report can be included in the Annual Statement of Purpose as provided for in Section 4.102(2).

SEC. 4.104. BOARDS AND COMMISSIONS--RULES AND REGULATIONS.

(a) Unless otherwise provided in this Charter, each appointive board, commission or other unit of government of the executive branch of the City and County shall:

1. Adopt rules and regulations consistent with this Charter and ordinances of the City and County. No rule or regulation shall be adopted, amended or repealed, without a public hearing. At least ten days' public notice shall be given for such public hearing. All such rules and regulations shall be filed with the Clerk of the Board of Supervisors.

2. Hold meetings open to the public and encourage the participation of interested persons. Except for the actions taken at closed sessions, any action taken at other than a public meeting shall be void. Closed sessions may be held in accordance with applicable state statutes and ordinances of the Board of Supervisors.

3. Keep a record of the proceedings of each regular or special meeting. Such record shall indicate how each member voted on each question. These records, except as may be limited by state law or ordinance, shall be available for public inspection.

(b) The presence of a majority of the members of an appointive board, commission or other unit of government shall constitute a quorum for the transaction of business by such body. The term "presence" shall include participation by teleconferencing or other electronic means as authorized by Government Code Section 54953(b) or any successor legislation after the Board of Supervisors has adopted an ordinance pursuant to subsection (c) allowing such participation when the member is physically unable to attend in person, as certified by a health care provider, due to the member's pregnancy, childbirth, or related condition. The Board of Supervisors may also, as part of a parental leave policy adopted pursuant to subsection (c), authorize a member of a board or commission to participate in meetings by teleconferencing or other electronic means when the member is absent to care for his or her child after birth of the child, or after placement of the child with the member or the member's immediate family for adoption or foster care. Unless otherwise required by this Charter, the affirmative vote of a majority of the members shall be required for the approval of any matter, except that the rules and regulations of the body may provide that, with respect to matters of procedure the body may act by the affirmative vote of a majority of the members present, so long as the members present constitute a quorum. All appointive boards, commissions or other units of government shall act by a majority, two-thirds, three-fourths or other vote of all members. Each member present at a regular or special meeting shall vote "yes" or "no" when a question is put, unless excused from voting by a motion adopted by a majority of the members present.

(c) Notwithstanding the provisions of Charter Section 10.101, the Board of Supervisors shall provide by ordinance for parental leave policies for members of appointive boards, commissions or other units of government, including, but not limited to, authorization to participate in meetings by teleconferencing or other electronic means pursuant to subsection (b) and subject to the restrictions listed in that subsection. (Amended by Proposition B, Approved 11/7/2006)

SEC. 4.108. FIRE COMMISSION.

The Fire Commission shall consist of five members appointed by the Mayor, pursuant to Section 3.100, for four-year terms. Members may be removed by the Mayor. In addition to any other powers set forth in this Charter, the Fire Commission is empowered to prescribe and enforce any reasonable rules and regulations that it deems necessary to provide for the efficiency of the Department, provided that the civil service and ethics provisions of this Charter shall control in the event of any conflict with rules adopted under this section. (Amended November 2003)

SEC. 4.109. POLICE COMMISSION.

The Police Commission shall consist of seven members appointed pursuant to this section. The Mayor shall nominate four members to the commission, at least one of whom shall be a retired judge or an attorney with trial experience. The Rules Committee of the Board of Supervisors, or any successor committee thereto, shall nominate three other members to the commission. Each nomination shall be subject to confirmation by the Board of Supervisors, and the Mayor's nominations shall be the subject of a public hearing and vote within 60 days. If the Board of Supervisors rejects the Mayor's nomination to fill the seat designated for a retired judge or attorney with trial experience, the Mayor shall nominate a different person with such qualifications. If the Board of Supervisors fails to act on a mayoral nomination within 60 days of the date the nomination is transmitted to the Clerk of

the Board of Supervisors, the nominee shall be deemed confirmed. Appointments to fill a vacancy on the commission shall become operative on the date the Board of Supervisors adopts a motion confirming the nomination, or on the 61st day following the date a mayoral nomination is transmitted to the Clerk of the Board of Supervisors if the Board of Supervisors fails to vote on the nomination prior to such date. Confirmations of nominations to fill a vacancy that will be created upon the expiration of a sitting member's term shall become operative upon the expiration of the sitting member's term, or, if the Board of Supervisors fails to act on a mayoral nomination to fill such anticipated vacancy, on the 61st day following the date the nomination was transmitted to the Clerk of the Board of Supervisors or on the expiration of the sitting member's term, whichever occurs later. The terms and tenures of all members sitting on the commission as of the effective date of the amendments to this section approved at the November 2003 election shall terminate at 12 noon on April 30, 2004. To stagger the terms of the seven members thereafter, of the first four members nominated by the Mayor, two members shall serve terms of two years and two members shall serve terms of four years, and of the three members nominated by the Rules Committee, one member shall serve a term of one year, one member shall serve a term of two years, and one member shall serve a term of three years. The Clerk of the Board of Supervisors shall designate such initial terms by lot. All subsequent appointments to the commission shall be for four-year terms

The tenure of each member shall terminate upon the expiration of the member's term. The Mayor shall transmit a nomination or renomination to the Clerk of the Board of Supervisors no later than 60 days prior to the expiration of the term of a member nominated by the Mayor. For vacancies occurring for reasons other than the expiration of a member's term, within 60 days following the creation of such vacancy, the Mayor shall nominate a member to fill such vacancy if the vacancy is for a seat filled by nomination of the Mayor.

The District Attorney, Sheriff and Public Defender may recommend persons to the Mayor and Board of Supervisors for nomination or appointment to the Police Commission.

The Mayor, with the consent of the Board of Supervisors, may remove a member the Mayor has nominated. The Board of Supervisors may remove a member the Rules Committee has nominated.

Notwithstanding any other provision of the Charter, the Chief of Police may be removed by the Commission or the Mayor, acting jointly or separately of each other. In addition to any other powers set forth in this Charter, the Police Commission is empowered to prescribe and enforce any reasonable rules and regulations that it deems necessary to provide for the efficiency of the Department, provided that the civil service and ethics provisions of this Charter shall control in the event of any conflict with rules adopted under this section. (Amended November 2003)

SEC. 4.126. DEPARTMENTS - GENERAL PROVISIONS.

Except as otherwise provided by this Charter, the responsibilities of each department within the executive branch shall be prescribed by ordinance.

The administration and management of each department within the executive branch shall be the responsibility of the department head. Such officials may:

1. Appoint qualified individuals to fill all positions within their departments which are exempt from the Civil Service provisions of this Charter;
2. Adopt rules and regulations governing matters within the jurisdiction of their respective departments, subject, if applicable, to Section 4.102; and
3. With the approval of the City Administrator, reorganize their respective departments.

No person serving on a board or commission created by state law to discharge a state function specifically within the City and County may be employed as a paid staff member to a board or commission created by this Charter.

SEC. 4.127. POLICE DEPARTMENT.

The Police Department shall preserve the public peace, prevent and detect crime, and protect the rights of persons and property by enforcing the laws of the United States, the State of California and the City and County.

The Chief of Police may appoint and remove at pleasure special police officers.

The Chief of Police shall have all powers which are now or that may be conferred upon a sheriff by state law with respect to the suppression of any riot, public tumult, disturbance of the public peace or organized resistance against the laws or public authority.

DISTRICT POLICE STATIONS. The Police Department shall maintain and operate district police stations. The Police Commission, subject to the approval by the Board of Supervisors, may establish additional district stations, abandon or relocate any district station, or consolidate any two or more district stations.

OFFICE OF CITIZEN COMPLAINTS. The Mayor shall appoint a nominee of the Police Commission as the director of the Office of Citizen Complaints, subject to confirmation by the Board of Supervisors. The director shall serve at the pleasure of the Police Commission. If the Board fails to act on the appointment within 30 days, the appointment shall be deemed approved. In the event the office is vacant, until the mayor makes an appointment and that appointment is confirmed by the Board, the Police Commission shall appoint an interim director who shall serve at the pleasure of the Police Commission. The appointment shall be exempt from the civil service requirements of this Charter. The director shall never have been a uniformed member or employee of the department. The director of the Office of Citizen Complaints shall be the appointing officer under the civil service provisions of this Charter for the appointment, removal or discipline of employees of the Office of Citizen Complaints.

The Police Commission shall have the power and duty to organize, reorganize and manage the Office of Citizen Complaints. Subject to the civil service provisions of this Charter, the Office of Citizen Complaints shall include investigators and hearing officers. As of July 1, 1996, the staff of the Office of Citizen Complaints shall consist of no fewer than one line investigator for every 150 sworn members. Whenever the ratio of investigators to police officers specified by this section is not met for more than 30 consecutive days, the director shall have the power to hire, and the city Controller must pay, temporary investigators to meet such staffing requirements. No full-time or part-time employee of the Office of Citizen Complaints shall have previously served as a uniformed member of the department. Subject to rule of the Police Commission, the director of the Office of Citizen Complaints may appoint part-time hearing officers who shall be exempt from the civil service requirements of this Charter. Compensation of the hearing officers shall be at rates recommended by the Commission and established by the Board of Supervisors or by contract approved by the Board of Supervisors.

Complaints of police misconduct or allegations that a member of the Police Department has not properly performed a duty shall be promptly, fairly and impartially investigated by staff of the Office of Citizen Complaints. The Office of Citizen Complaints shall investigate all complaints of police misconduct, or that a member of the Police Department has not properly performed a duty, except those complaints which on their face clearly indicate that the acts complained of were proper and those complaints lodged by other

members of the Police Department. The Office of Citizen Complaints shall use its best efforts to conclude investigations of such complaints and, if sustained, transmit the sustained complaint to the Police Department within nine (9) months of receipt thereof by the Office of Citizen Complaints. If the Office of Citizen Complaints is unable to conclude its investigation within such nine-month period, the director of the Office of Citizen Complaints, within such nine-month period, shall inform the Chief of Police of the reasons therefor and transmit information and evidence from the investigation as shall facilitate the Chief's timely consideration of the matter. The Office of Citizen Complaints shall recommend disciplinary action to the Chief of Police on those complaints that are sustained. The director of the Office of Citizen Complaints, after meeting and conferring with the Chief of Police or his or her designee, may verify and file charges with the Police Commission against members of the Police Department arising out of sustained complaints; provided, that the director may not verify and file such charges for a period of 60 days following the transmittal of the sustained complaint to the Police Department unless the director issues a written determination that the limitations period within which the member or members may be disciplined under Government Code Section 3304, as amended from time to time or any successor provisions thereto, may expire within such 60-day period and either (i) the Chief of Police fails or refuses to file charges with the Police Commission arising out of the sustained complaint, (ii) the Chief of Police or his or her designee fails or refuses to meet and confer with the director on the matter, or (iii) other exigent circumstances necessitate that the director verify and file charges to preserve the ability of the Police Commission to impose punishment pursuant to Section A8.343. The director of the Office of Citizen Complaints shall schedule hearings before hearing officers when such is requested by the complainant or a member of the department and, in accordance with rules of the Commission, such a hearing will facilitate the fact-finding process. The Board of Supervisors may provide by ordinance that the Office of Citizen Complaints shall in the same manner investigate and make recommendations to the Chief of Police regarding complaints of misconduct by patrol special police officers and their uniformed employees.

Nothing herein shall prohibit the Chief of Police or a commanding officer from investigating the conduct of a member of the department under his or her command, or taking disciplinary or corrective action, otherwise permitted by this Charter, when such is warranted; and nothing herein shall limit or otherwise restrict the disciplinary powers vested in the Chief of Police and the Police Commission by other provisions of this Charter.

The Office of Citizen Complaints shall prepare in accordance with rules of the Commission monthly summaries of the complaints received and shall prepare recommendations quarterly concerning policies or practices of the department which could be changed or amended to avoid unnecessary tension with the public or a definable segment of the public while insuring effective police services. The Office of Citizen Complaints shall prepare a report for the President of the Board of Supervisors each quarter. This report shall include, but not be limited to, the number and type of complaints filed, the outcome of the complaints, and a review of the disciplinary action taken. The President of the Board of Supervisors shall refer this report to the appropriate committee of the Board of Supervisors charged with public safety responsibilities. Said committee may issue recommendations as needed.

In carrying out its objectives the Office of Citizen Complaints shall receive prompt and full cooperation and assistance from all departments, officers and employees of the City and County which shall promptly produce all records requested by the Office of Citizen Complaints except for records the disclosure of which to the Office of Citizen Complaints is

prohibited by law. The director may also request and the Chief of Police shall require the testimony or attendance of any member of the Police Department to carry out the responsibilities of the Office of Citizen Complaints.

BUDGET. Monetary awards and settlements disbursed by the City and County as a result of police action or inaction shall be taken exclusively from a specific appropriation listed as a separate line item in the Police Department budget for that purpose.

POLICE STAFFING. The police force of the City and County shall at all times consist of not fewer than 1,971 full duty sworn officers. The staffing level of the Police Department shall be maintained with a minimum of 1,971 full duty sworn officers thereafter. That figure may be adjusted pursuant to Section 16.123.

All officers and employees of the City and County are directed to take all acts necessary to implement the provisions of this section. The Board of Supervisors is empowered to adopt ordinances necessary to effectuate the purpose of this section including but not limited to ordinances regulating the scheduling of police training cases.

Further, the Commission shall initiate an annual review to civilianize as many positions as possible to maximize police presence in the communities and submit that report to the Board of Supervisors annually for review and approval.

The number of full duty sworn officers in the Police Department dedicated to neighborhood policing and patrol for fiscal year 1993-1994 shall not be reduced in future years, and all new full duty sworn officers authorized for the Police Department shall also be dedicated to neighborhood community policing, patrol and investigations.

PATROL SPECIAL POLICE OFFICERS. The Commission may appoint patrol special police officers and for cause may suspend or dismiss patrol special police officers after a hearing on charges duly filed with the Commission and after a fair and impartial trial. Patrol special police officers shall be regulated by the Police Commission, which may establish requirements for and procedures to govern the position, including the power of the Chief of Police to suspend a patrol special police officer pending a hearing on charges. Each patrol special police officer shall be at the time of appointment not less than 21 years of age and must possess such physical qualifications as may be required by the Commission.

Patrol special police officers may be designated by the Commission as the owners of a certain beat or territory which may be established or rescinded by the Commission. Patrol special police officers designated as the owners of a certain beat or territory or the legal heirs or representatives of the owners may dispose of their interest in the beat or territory to a person of good moral character, approved by the Police Commission and eligible for appointment as a patrol special police officer.

Commission designation of beats or territories shall not affect the ability of private security companies to provide on-site security services on the inside or at the entrance of any property located in the City and County. (Amended November 2003; March 2004)

SEC. 4.132. EXECUTIVE BRANCH REORGANIZATION.

The Mayor, by issuing a notice to the Board of Supervisors, may reorganize duties and functions between departments and other units of government within the executive branch. Such reorganization shall become effective 30 days after its issuance unless disapproved by the Board of Supervisors during that time.

A proposed reorganization shall provide for the transfer of:

1. Civil service employees who are engaged in the performance of a function or duty transferred to another office, agency or department; such transfer shall not adversely affect status, position, compensation or pension or retirement rights and privileges;

2. Any unexpended balances of appropriations and other funds available for use in connection with any office, agency, department or function affected by the reorganization; any unexpended balance so transferred shall be used only for the purpose for which the appropriation was originally made, except as this Charter otherwise permits.

ARTICLE VIIIA

THE MUNICIPAL TRANSPORTATION AGENCY

- Sec. 8A.100. Preamble.
Sec. 8A. 101. Municipal Transportation Agency.
Sec. 8A.102. Governance and Duties.
Sec. 8A.104. Personnel and Merit System.

SEC. 8A.100. PREAMBLE.

(a) An effective, efficient, and safe transportation system is vital for San Francisco to achieve its goals for quality of life, environmental sustainability, public health, social justice, and economic growth. The Municipal Transportation Agency must manage San Francisco's transportation system -- which includes automobile, freight, transit, bicycle, and pedestrian networks -- to help the City meet those goals. Through this measure, the voters seek to provide the Municipal Transportation Agency with improved resources and expanded independence and authority in order to create a transportation system that is among the best in the world.

(b) This article requires the Municipal Transportation Agency to develop clear, meaningful and quantifiable measures of its performance and goals and to regularly publicize those standards. This article also recognizes that the workers of the Municipal Transportation Agency are vital to the success of the Agency and to achieving the improvements voters seek. Therefore, it authorizes incentives for excellence and requires accountability for both managers and employees.

(c) Specifically, San Francisco residents require:

1. Reliable, safe, timely, frequent, and convenient transit service to all neighborhoods;
2. A reduction in breakdowns, delays, over-crowding, preventable accidents;
3. Clean and comfortable transit vehicles and stations, operated by competent, courteous, and well trained employees;
4. Support and accommodation of the special transportation needs of the elderly and the disabled;
5. Protection from crime and inappropriate passenger behavior on the Municipal Railway;
6. Responsive, efficient, and accountable management;
7. Roads that are not gridlocked with congestion;
8. A safe and comprehensive network of bicycle lanes;
9. A safe and inviting environment for pedestrians;
10. Efficient movement of goods and deliveries;
11. A transportation sector that promotes environmental sustainability and does not contribute to global warming; and
12. A well-managed and well-coordinated transportation system that contributes to a livable urban environment.

Through this measure, the voters seek to provide the transportation system with the resources, independence and focus necessary to achieve these goals.

(d) The voters find that one of the impediments to achieving these goals in the past has been that responsibility for transportation has been diffused throughout City government. Accordingly, this Article places within the Municipal Transportation Agency the powers and duties relating to transit now vested in other departments, boards, and commissions of the City and County. This Article further requires that, to the extent other City and County

agencies provide services to the Municipal Transportation Agency, those departments must give the highest priority to the delivery of such services.

(e) At the same time, this Article is intended to ensure sufficient oversight of the Municipal Transportation Agency by, among other things, preserving the role of the City's Controller as to financial matters, the City Attorney as to legal matters, and the Civil Service Commission, as to merit system issues. In addition, this Article requires that outside audits be performed to ensure that required service levels are obtained with a minimum of waste.

(f) Finally, this Article is intended to strengthen the Municipal Transportation Agency's authority to: 1) manage its employees; 2) establish efficient and economical work rules and work practices that maximize the Agency's responsiveness to public needs; and 3) protect the Agency's right to select, train, promote, demote, discipline, layoff and terminate employees, managers, and supervisors based upon the highest standards of customer service, efficiency and competency.

(g) The effective management of traffic flow and parking are vital to the operation of the Municipal Railway. Congestion on city streets causes delays in transit operations. Therefore, the Municipal Transportation Agency must manage parking and traffic flow to ensure that transit vehicles move through City streets safely and efficiently.

(h) In addition, the residents of San Francisco require that the Agency: 1) value and protect the safety of pedestrians and bicyclists; 2) reduce congestion and air pollution through efficient use of the streets; and 3) protect the City's economic health by giving priority to commercial deliveries and access to local businesses.

(i) The voters find that reducing the carbon emissions from San Francisco's transit sector is fundamental to the City's health and wellbeing and shall be among the Agency's policy priorities. Because the Agency has significant influence on San Francisco's transportation sector, which is responsible for fully half of the carbon emissions produced within the City, the voters direct the Agency to develop and implement strategies for substantially reducing those emissions. The voters further affirm the goals of the City's Climate Action Plan.

(j) This Article shall be interpreted and applied in conformance with the above goals.

(Added November 1999; Amended by Proposition A, Approved 11/6/2007)

SEC. 8A.101. MUNICIPAL TRANSPORTATION AGENCY.

(a) There shall be a Municipal Transportation Agency. The Agency shall include a Board of Directors and a Director of Transportation. The Agency shall include the Municipal Railway and the former Department of Parking and Traffic, as well as any other departments, bureaus or operating divisions hereafter created or placed under the Agency. There shall also be a Citizens Advisory Committee to assist the Agency.

(b) The Board of Supervisors shall have the power, by ordinance, to abolish the Taxi Commission created in Section 4.133, and to transfer the powers and duties of that commission to the Agency under the direction of the Director of Transportation or his or her designee. In order to fully integrate taxi-related functions into the Agency should such a transfer occur, the Agency shall have the same exclusive authority over taxi-related functions and taxi-related fares, fees, charges, budgets, and personnel that it has over the Municipal Railway and parking and traffic fares, fees, charges, budgets, and personnel. Once adopted, Agency regulations shall thereafter supercede all previously-adopted ordinances governing motor vehicles for hire that conflict with or duplicate such regulations.

(c) Any transfer of functions occurring as a result of the above provisions shall not adversely affect the status, position, compensation, or pension or retirement rights and

privileges of any civil service employees who engaged in the performance of a function or duty transferred to another office, agency, or department pursuant to this measure.

(d) Except as expressly provided in this Article, the Agency shall comply with all of the restrictions and requirements imposed by the ordinances of general application of the City and County, including ordinances prohibiting discrimination of any kind in employment and contracting, such as Administrative Code Chapters 12B et seq., as amended from time to time. The Agency shall be solely responsible for the administration and enforcement of such requirements.

(e) The Agency may contract with existing City and County departments to carry out any of its powers and duties. Any such contract shall establish performance standards for the department providing the services to the Agency, including measurable standards for the quality, timeliness, and cost of the services provided. All City and County departments must give the highest priority to the delivery of such services to the Agency.

(f) The Agency may not exercise any powers and duties of the Controller or the City Attorney and shall contract with the Controller and the City Attorney for the exercise of such powers and duties.

(Added November 1999; Amended by Proposition A, Approved 11/6/2007)

SEC. 8A.102. GOVERNANCE AND DUTIES.

(a) The Agency shall be governed by a board of seven directors appointed by the Mayor and conformed after public hearing by the Board of Supervisors. All initial appointments must be made by the Mayor and submitted to the Board of Supervisors for confirmation no later than February 1, 2000. The Board of Supervisors shall act on those initial appointments no later than March, 1, 2000 or those appointments shall be deemed confirmed.

At least four of the directors must be regular riders of the Municipal Railway, and must continue to be regular riders during their terms. The directors must possess significant knowledge of, or professional experience in, one or more of the fields of government, finance, or labor relations. At least two of the directors must possess significant knowledge of, or professional experience in, the field of public transportation. During their terms, all directors shall be required to ride the Municipal Railway on the average once a week.

Directors shall serve four-year terms, provided, however, that two of the initial appointees shall serve for terms ending March 1, 2004, two for terms ending March 1, 2003, two for terms ending March 1, 2002, and one for a term ending March 1, 2001. Initial terms shall be designated by the Mayor. No person may serve more than three terms as a director. A director may be removed only for cause pursuant to Article XV. The directors shall annually elect a chair. The chair shall serve as chair at the pleasure of the directors. Directors shall receive reasonable compensation for attending meetings of the Agency which shall not exceed the average of the two highest compensations paid to the members of any board or commission with authority over a transit system in the nine Bay Area counties.

(b) The Agency shall:

1. Have exclusive authority over the acquisition, construction, management, supervision, maintenance, extension, operation, use, and control of all property, as well as the real, personal, and financial assets of the Agency ; and have exclusive authority over contracting, leasing, and purchasing by the Agency, provided that any Agency contract for outside services shall be subject to Charter Sections 10.104(12) and 10.104(15) and that the Agency may not transfer ownership of any of the real property of the City and County without approval from the Board of Directors and the Board of Supervisors ;

2. Have exclusive authority to enter into such arrangements and agreements for the joint, coordinated, or common use with any other public entity owning or having jurisdiction over rights-of-way, tracks, structures, subways, tunnels, stations, terminals, depots, maintenance facilities, and transit electrical power facilities;
3. Have exclusive authority to make such arrangements as it deems proper to provide for the exchange of transfer privileges, and through-ticketing arrangements, and such arrangements shall not constitute a fare change subject to the requirements of Sections 8A.106 and 8A.108;
4. Notwithstanding any restrictions on contracting authority set forth in the Administrative Code, have exclusive authority to enter into agreements for the distribution of transit fare media and media for the use of parking meters or other individual parking services;
5. Have exclusive authority to arrange with other transit agencies for bulk fare purchases, provided that if passenger fares increase as a result of such purchases, the increase shall be subject to review by the Board of Supervisors pursuant to Sections 8A.106 and 8A.108;
6. Notwithstanding Section 2.109, and except as provided in Sections 8A.106 and 8A.108, have exclusive authority to fix the fares charged by the Municipal Railway, rates for off-street and on-street parking, and all other, rates, fees, fines, penalties and charges for services provided or functions performed by the Agency;
7. Notwithstanding any provision of the San Francisco Municipal Code (except requirements administered by the Department of Public Works governing excavation, street design and official grade) have exclusive authority to adopt regulations that control the flow and direction of motor vehicle, bicycle and pedestrian traffic, including regulations that limit the use of certain streets or traffic lanes to categories of vehicles and that limit the speed of traffic; and to design, select, locate, install, operate, maintain and remove all official traffic control devices, signs, roadway features and pavement markings that control the flow of traffic with respect to streets and highways within City jurisdiction, provided that:
 - (i) Notwithstanding the authority established in subsection 7, the Board of Supervisors may by ordinance establish procedures by which the public may seek Board of Supervisors review of any Agency decision with regard to the installation or removal of a stop sign or the creation or elimination of a bicycle lane. In any such review, the Agency's decision shall stand unless the Board of Supervisors reverses the decision of the Agency not later than 60 days after submission of a request to the Board of Supervisors.
 - (ii) Nothing in this subsection 7 shall modify the authority of ISCOTT, or any successor body, over the temporary use or occupancy of public streets, or the authority of the Board of Supervisors to hear appeals regarding the temporary use or occupancy of public streets.
 - (iii) Nothing in subsection 7 shall modify the power of the Board of Supervisors to establish civil offenses, infractions and misdemeanors.
 - (iv) Notwithstanding the authority established in subsection 7, to the extent state law contemplates that Agency action authorized by subsection 7 be effectuated by ordinance, such action shall be effectuated by resolution of the Board of Directors and shall be subject to referendum in accordance with Article 14, and, if a referendum petition contains the requisite number of signatures, the Board of Supervisors shall have the power to reconsider or repeal the action as provided in Article 14.
8. Have exclusive authority to adopt regulations limiting parking, stopping, standing or loading as provided by state law and to establish parking privileges and locations subject to such privileges for categories of people or vehicles as provided by state law; to establish parking meter zones, to set parking rates, and to select, install, locate and maintain systems and equipment for payment of parking fees, provided that:

(i) Notwithstanding the authority established in subsection 8, the Board of Supervisors may by ordinance establish procedures by which the public may seek Board of Supervisors review of any Agency decision with regard to the creation or elimination of any preferential parking zone, the creation or elimination of any parking meter zone, the adoption of any limitation on the time period for which a vehicle may be parked, or reservation of any parking space for persons with a disability that qualifies for parking privileges under state law. In any review of a decision of the Agency pursuant to this section, the Agency's decision shall stand unless the Board of Supervisors reverses the decision of the Agency not later than 60 days after submission of a request to the Board of Supervisors.

(ii) Nothing in subsection 8 shall modify the power of the Board of Supervisors to establish civil offenses, infractions and misdemeanors.

(iii) Notwithstanding the authority established in subsection 8, to the extent state law contemplates that any Agency action authorized by subsection 8 be effectuated by ordinance, such action shall be effectuated by resolution of the Board of Directors and, if a referendum petition contains the requisite number of signatures, shall be subject to referendum in accordance with Article 14, and the Board of Supervisors shall have the power to reconsider or repeal the action as provided in Article 14.

9. Have exclusive authority to establish policies regarding and procure goods and services for the enforcement of regulations limiting parking, stopping, standing or loading and the collection of parking-related revenues and, along with the Police Department, have authority to enforce parking, stopping, standing or loading regulations;

10. Be responsible for chairing the Interdepartmental Staff Committee on Traffic and Transportation (ISCOTT) or any successor body;

11. Be responsible for cooperating with and assisting the Police Department in the promotion of traffic safety; studying and responding to complaints related to street design, traffic control devices, roadway features and pavement markings; collecting compiling and analyzing traffic data and traffic accident data and planning improvements to improve the safety of the City's roadways; and conducting traffic research and planning;

12. Have exclusive authority to apply for, accept, and expend state, federal, or other public or private grant funds for Agency purposes;

13. To the maximum extent permitted by law, with the concurrence of the Board of Supervisors, and notwithstanding the requirements and limitations of Sections 9.107, 9.108, and 9.109, have authority without further voter approval to incur debt for Agency purposes and to issue or cause to be issued bonds, notes, certificates of indebtedness, commercial paper, financing leases, certificates of participation or any other debt instruments. Upon recommendation from the Board of Directors, the Board of Supervisors may authorize the Agency to incur on behalf of the City such debt or other obligations provided: 1) the Controller first certifies that sufficient unencumbered balances are expected to be available in the proper fund to meet all payments under such obligations as they become due; and 2) any debt obligation, if secured, is secured by revenues or assets under the jurisdiction of the Agency.

14. Have the authority to conduct investigations into any matter within its jurisdiction through the power of inquiry, including the power to hold public hearings and take testimony, and to take such action as may be necessary to act upon its findings; and

15. Exercise such other powers and duties as shall be prescribed by ordinance of the Board of Supervisors.

(c) The Agency's Board of Directors shall:

1. Appoint a Director of Transportation, who shall serve at the pleasure of the Board. The Director of Transportation shall be employed pursuant to an individual contract. His or her compensation shall be comparable to the compensation of the chief executive officers of the public transportation systems in the United States which the Board of Directors, after an independent survey, determine most closely resemble the Agency in size, mission, and complexity. In addition, the Board of Directors shall provide an incentive compensation plan consistent with the requirements of Section 8A.104(k) under which a portion of the Director's compensation is based on achievement of service standards adopted by the Board of Directors.
2. Appoint an executive secretary who shall be responsible for administering the affairs of the Board of Directors and who shall serve at the pleasure of the Board.
3. In addition to any training that may be required by City, State or federal law, attend a minimum of four hours of training in each calendar year, provided by the City Attorney and the Controller regarding the legal and financial responsibilities of the Board and the Agency.
- (d) The Director of Transportation shall appoint all subordinate personnel of the Agency, including deputy directors. The deputy directors shall serve at the pleasure of the Director of Transportation.
- (e) Upon recommendation of the City Attorney and the approval of the Board of Directors, the City Attorney may compromise, settle, or dismiss any litigation, legal proceedings, claims, demands or grievances which may be pending for or on behalf of, or against the Agency relative to any matter or property solely under the Agency's jurisdiction. Unlitigated claims or demands against the Agency shall be handled as set forth in Charter Section 6.102. Any payment pursuant to the compromise, settlement, or dismissal of such litigation, legal proceedings, claims, demands, or grievances, unless otherwise specified by the Board of Supervisors, shall be made from the Municipal Transportation Fund.
- (f) The Agency's Board of Directors, and its individual members, shall deal with administrative matters solely through the Director of Transportation or his or her designees. Any dictation, suggestion, or interference by a director in the administrative affairs of the Agency, other than through the Director of Transportation or his or her designees, shall constitute official misconduct; provided, however, that nothing herein contained shall restrict the Board of Directors' powers of hearing and inquiry as provided in this Section.
- (g) Notwithstanding any provision of Chapter 6 or 21 of the Administrative Code establishing any threshold amount for exercise of executive authority to execute contracts, or any successor provision of the San Francisco Municipal Code, the Agency's Board of Directors may adopt threshold amounts under which the Director of Transportation and his or her designees may approve contracts.
- (h) Except provided in this Article, the Agency shall be subject to the provisions of this Charter applicable to boards, commissions, and departments of the City and County, including Sections 2.114, 3.105, 4.101, 4.103, 4.104, 4.113, 6.102, 9.118, 16.100, and A8.346. Sections 4.102, 4.126, and 4.132 shall not be applicable to the Agency.
(Added November 1999; Amended by Proposition A, Approved 11/6/2007)

SEC. 8A.104. PERSONNEL AND MERIT SYSTEM.**SEC. 8A.104. PERSONNEL AND MERIT SYSTEM.**

- (a) The Agency shall establish its own personnel/labor relations office. The Director of Transportation shall appoint a personnel/labor relations manager, who shall serve at the pleasure of the Director of Transportation and shall establish regular meetings with labor to

discuss issues within the scope of representation on terms to be determined through collective bargaining.

(b) Except as otherwise provided in this Section, the Agency shall be governed by the rules of the civil service system administered by the City and appeals provided in civil service rules shall be heard by the City's Civil Service Commission. Unless otherwise agreed by the Agency and affected employee organizations, appeals to the Civil Service Commission shall include only those matters within the jurisdiction of the Civil Service Commission which establish, implement, and regulate the civil service merit system as listed in Section A8.409-3.

(c) Effective July 1, 2000, except for the administration of health services, the Agency shall assume all powers and duties vested in the Department of Human Resources and the Director of Human Resources under Articles X and XI of this Charter in connection with job classifications within the Agency performing "service-critical" functions. Except for the matters set forth in subsection (f), the Department of Human Resources and the Director of Human Resources shall maintain all powers and duties under Articles X and XI as to all other Agency employees.

(d) On or before April 15, 2000, the Agency shall designate "service-critical" classifications and functions for all existing classifications used by the Municipal Railway; provided, however, that employees in classifications designated as "service-critical" shall continue to be covered by any Citywide collective bargaining agreement covering their classifications until the expiration of that agreement.

(e) For purposes of this Article, "service-critical" functions are:

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

The Agency shall consult with affected employee organizations before designating particular job classifications as performing "service-critical" functions. If an employee organization disagrees with the Agency's designation of a particular job classification as "service-critical" pursuant to the above standards, the organization may, within seven days of the Agency's decision, request immediate arbitration. The arbitrator shall be chosen pursuant to the procedures for the selection of arbitrators contained in the memorandum of understanding of the affected employee organization. The arbitrator shall determine only whether the Agency's designation is reasonable based on the above standards. The arbitrator's decision shall be final and binding.

The Agency may designate functions other than those listed above, and the job classifications performing those additional functions, as "service-critical," subject to the consultation and arbitration provisions of this Section. In deciding a dispute over such a designation, the arbitrator shall decide whether the job functions of the designated classes relate directly to achievement of the goals and milestones adopted pursuant to Section 8A.103 and are comparable to the above categories in the extent to which they are critical to service.

(f) In addition, the Agency shall, with respect to all Agency employees, succeed to the powers and duties of the Director of Human Resources under Article X to review and resolve allegations of discrimination, as defined in Article XVII, against employees or job applicants,

or allegations of nepotism or other prohibited forms of favoritism. To the extent resolution of a discrimination complaint or request for accommodation involves matters or employees beyond the Agency's jurisdiction, the Agency shall coordinate with and be subject to applicable determinations of the Director of Human Resources.

(g) The Agency shall be responsible for creating and, as appropriate, modifying Agency bargaining units for classifications designated by the Agency as "service-critical" and shall establish policies and procedures pursuant to Government Code sections 3507 and 3507.1 for creation and modification of such bargaining units. When the Agency creates or modifies a bargaining unit, employees in existing classifications placed in such bargaining unit shall continue to be represented by their current employee organizations.

(h) The Agency may create new classifications of Agency employees. Such classifications shall be subject to the civil service provisions of the Charter unless exempted pursuant to Section 10.104, or subsection (i).

(i) The Agency may create new classifications and positions in those classifications exempt from the civil service system for managerial employees in MTA bargaining units M and EM in addition to those exempt positions provided in Section 10.104; provided, however, that the total number of such exempt managerial positions within the Agency shall not exceed 2.75 percent of the Agency's total workforce, exclusive of the exempt positions provided in Section 10.104. This provision shall not be utilized to eliminate personnel holding existing permanent civil service managerial positions on November 2, 1999.

Persons serving in exempt managerial positions shall serve at the pleasure of the Director of Transportation. Such exempt management employees, to the extent they request placement in a bargaining unit, shall not be placed in the same bargaining units as non-exempt employees of the Agency.

(j) The Civil Service Commission shall annually review both exempt and non-exempt classifications of the Agency to ensure compliance with the provisions of subsections (h) and (i).

(k) Upon the expiration of labor contracts negotiated by the Department of Human Resources and approved by the Board of Supervisors, and except for retirement benefits, the wages, hours, working conditions, and benefits of the employees in classifications within the Municipal Railway designated by the Agency as "service-critical" shall be fixed by the Agency after meeting and conferring as required by the laws of the State of California and this Charter, including Sections A8.346, A8.404 and A8.409. These agreements shall utilize, and shall not alter or interfere with, the health plans established by the City's Health Service Board; provided, however, that the Agency may contribute toward defraying the cost of employees' health premiums. For any job classification that exists both as a "service-critical" classification in the Agency and elsewhere in City service, the base wage rate negotiated by the Agency for that classification shall not be less than the wage rate set in the Citywide memorandum of understanding for that classification.

(l) Notwithstanding subsection (k), the Agency may, in its sole discretion, utilize the City's collective bargaining agreements with any employee organization representing less than 10 percent of the Agency's workforce.

(m) In addition to the base pay established in collective bargaining agreements, agreements negotiated by the Agency relating to compensation for Agency managers and employees in classifications designated by the Agency as "service-critical" may provide incentive bonuses based upon the achievement of the service standards in Section 8A.103(c) and other standards and milestones adopted pursuant to Section 8A.103. Such agreements may also provide for additional incentives based on other standards established by the Board of

Directors, including incentives to improve attendance. The Board of Directors may also establish a program under which a component of the compensation paid to the Director of Transportation and exempt managers is based upon the achievement of service standards adopted by the Board of Directors. Notwithstanding any other provision of Article 8A, all such incentive programs shall be at the sole discretion of the Agency Board of Directors, subject to any bargaining obligation imposed by state law.

(n) For employees whose wages, hours and terms and conditions of employment are set by the Agency, the Agency shall exercise all powers of the City and County, the Board of Supervisors, the Mayor, and the Director of Human Resources under Sections A8.404 and A8.409. The mediation/arbitration board set forth in Section A8.409-4 shall consider the following additional factors when making a determination in any impasse proceeding involving the Agency: the interests and welfare of transit riders, residents, and other members of the public; the Agency's ability to meet the costs of the decision of the arbitration board without materially reducing service or requiring that the Agency raise fares in a manner inconsistent with Section 8A.108(b); and the Agency's ability to efficiently and effectively tailor work hours and schedules for transit system employees to the public demand for transit service. Notwithstanding the timelines described in Section A8.409-4, to be effective the beginning of the next succeeding fiscal year, all collective bargaining agreements must be submitted to the Board of Directors no later than June 15 for final adoption on or before June 30.

(o) The voters find that for transit system employees whose wages, hours and terms and conditions of employment are set by the Agency, the Agency's discretion in establishing and adjusting scheduling, deployment, assignment, staffing, sign ups, and the use and number of part-time transit system personnel based upon service needs is essential to the effective, efficient, and reliable operation of the transit system. In any mediation/arbitration proceeding under Section 8.409-4 with an employee organization representing transit system employees, the employee organization shall have the burden of proving that any restrictions proposed on the Agency's ability to exercise broad discretion with respect to these matters are justified. To meet this burden, the employee organization must prove by clear and convincing evidence that the justification for such restrictions outweighs the public's interest in effective, efficient, and reliable transit service and is consistent with best practices. The mediation/arbitration board shall not treat the provisions of MOUs for transit system employees adopted prior to the effective date of this provision as precedential in establishing the terms of a successor agreement. The mediation/arbitration board's jurisdiction shall be limited to matters within the mandatory scope of bargaining under state law.

(p) The voters find that unscheduled employee absences adversely affect customer service. Accordingly, not later than January 1, 2001, the agency shall create a comprehensive plan for the reduction of unscheduled absences. In addition, the Agency shall take all legally permitted steps to eliminate unexcused absences. Neither the Agency nor an arbitrator shall have authority to approve or award any memorandum of understanding or other binding agreement which restricts the authority of the Agency to administer appropriate discipline for unexcused absences.

(q) In addition, the voters find that Agency service has been impaired by the existence of side-letters and reliance on "past practices" that have been treated as binding or precedential but have not been expressly authorized by the Board of Directors or the Director of Transportation, and have not been and are not subject to public scrutiny. Accordingly, for employees whose wages, hours and terms and conditions of employment are set by the Agency, no side-letter or practice within the scope of bargaining may be deemed binding or

precedential by the Agency or any arbitrator unless the side-letter or practice has been approved in writing by the Director of Transportation or, where appropriate, by the Board of Directors upon the recommendation of the Director of Transportation and appended to the MOU of the affected employee organization or organizations subject to the procedures set out in this charter. No MOU or arbitration award approved or issued after the November 2010 general election shall provide or require that work rules or past practices remain unchanged during the life of the MOU, unless the specific work rules or past practices are explicitly set forth in the MOU. All side-letters shall expire no later than the expiration date of the MOU.

(r) Before adopting any tentative agreement with an employee organization covering matters within the scope of representation, the Agency shall, at a duly noticed public meeting, disclose in writing the contents of such tentative agreement, a detailed analysis of the proposed agreement, a comparison of the differences between the agreement reached and the prior agreement, an analysis of all costs for each year of the term of such agreement, and whether funds are available to cover these costs. Such tentative agreement between the Agency and employee organization shall not be approved by the Agency until 15 calendar days after the above disclosures have been made. (Added November 1999; Amended by Proposition A, Approved 11/6/2007; Proposition G, Approved 11/2/2010)

ARTICLE X

PERSONNEL ADMINISTRATION

- SEC. 10.100. Civil Service Commission.
- SEC. 10.101. General Powers and Duties.
- SEC. 10.102. Department of Human Resources.
- SEC. 10.103. Human Resources Director.
- SEC. 10.104. Exclusions from Civil Service Appointment.
- SEC. 10.105. Provisional Appointments.

SEC. 10.100. CIVIL SERVICE COMMISSION.

There is hereby established a Civil Service Commission which is charged with the duty of providing qualified persons for appointment to the service of the City and County.

The Commission shall consist of five members appointed by the Mayor, pursuant to Section 3.100, for six-year terms. Not less than two members of the Commission shall be women.

The persons so appointed shall, before taking office, make under oath and file in the office of the County Clerk the following declaration: "I am opposed to appointments to the public service as a reward for political activity and will execute the office of Civil Service Commissioner in the spirit of this declaration."

A commissioner may be removed only upon charges preferred in the same manner as in this Charter provided for elective officers.

The regular meetings of the Commission shall be open to the public and held at such a time as will give the general public and employees of the City and County adequate time within which to appear before the Commission after the regular daily working hours of 8:00 a.m. to 5:00 p.m. Such person or persons shall be given an opportunity to be heard by the Commission before final action is taken in any case involving such person or persons.

SEC. 10.101. GENERAL POWERS AND DUTIES.

The Civil Service Commission shall adopt rules, policies and procedures to carry out the civil service merit system provisions of this charter and, except as otherwise provided in this Charter, such rules shall govern applications; examinations; eligibility; duration of eligible lists; certification of eligibles; leaves of absence for employees and officers; appointments; promotions; transfers; resignations; lay-offs or reduction in force, both permanent and temporary, due to lack of work or funds, retrenchment or completion of work; the designation and filling of positions, as exempt, temporary, provisional, part-time, seasonal or permanent; status and status rights; 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; classification; conflict of interest; and such other matters as are not in conflict with this Charter; provided, however, that the minimum rule for the certification of eligibles shall be the Rule of Three Scores, and provided further that rules for leave due to illness or disability shall be approved by the Board of Supervisors. Changes to the rules may be proposed by members of the Commission, the Executive Assistant or the Human Resources Director and approved or rejected by the Commission. The Commission may, upon ten days' notice, make changes in the rules, which

changes shall thereupon be printed and be in force; provided that no such changes in rules shall affect a case pending before the Commission.

The Commission shall have power to institute and prosecute legal proceedings for violations of any civil service merit system or Department of Human Resources provisions of this Charter.

The Commission shall establish an inspection service for the purpose of investigating the conduct or an action of appointees in all positions and of securing records of service for promotion and other purposes. All departments shall cooperate with the Commission in making its investigations and any person hindering the Commission or its agents shall be subject to suspension.

The Commission shall by rule establish procedures to review and resolve allegations of discrimination as defined in Article XVII of this Charter or otherwise prohibited nepotism or favoritism appealed to it pursuant to this section. The determination reached under Commission procedures shall be final and shall forthwith be enforced by every employee and officer.

The Commission shall have the power to inquire into the operation of the civil service merit system to ensure compliance with merit principles and rules established by the Commission. After such inquiry, the Commission may direct the Human Resources Director to take such action as the Commission believes necessary to carry out the civil service provisions of this Charter. In any hearing conducted by the Commission or by any hearing officer it appoints pursuant to this section, the Commission or the hearing officer shall have the power to subpoena and require the attendance of witnesses and the production of records.

The Commission may require periodic reports from the Human Resources Director in a manner and form which it shall prescribe.

The Commission may hear appeals from an action of the Human Resources Director in accordance with its rules, including but not limited to:

1. Allegations of discrimination as defined in Article XVII of this Charter.
- Notwithstanding any other provisions of this Charter except the fiscal provisions hereof, the decision of the Commission regarding allegations of discrimination shall forthwith be enforced by every officer and employee;
2. Allegations of fraud; and
 3. Allegations of conflict of interest.

No action by the Human Resources Director which is the subject of any appeal shall be stayed during the appeal process except by a majority vote of the Civil Service Commission.

The Commission shall have the power and it shall be its duty to appoint an executive assistant to be the administrative head of the affairs under its control who shall serve at its pleasure; provided, however, that any person who has Civil Service status in the position of executive assistant to the Commission on the effective date of this section as amended shall continue to have Civil Service status in the position of executive assistant under the Civil Service provisions of this Charter. The executive assistant shall periodically report to the Commission on operation of the civil service merit system and may make recommendations to the Civil Service Commission regarding its rules, policies and procedures.

SEC. 10.102. DEPARTMENT OF HUMAN RESOURCES.

The Department of Human Resources shall consist of a Human Resources Director and such employees as may be necessary to carry out its functions and duties.

Pursuant to and in accordance with policies, rules and procedures of the Civil Services Commission governing the merit system, the Department of Human Resources shall be the personnel department for the City and County and shall determine appointments on the basis of merit and fitness as shown by appropriate test and, except as specifically set forth in this Charter, shall perform all tests, duties and functions previously performed by the Civil Service Commission, including but not limited to authority to recruit, select, certify, appoint, train, evaluate, promote career development, classify positions, administer salaries, administer employee discipline, discharge and other related personnel activities in order to maintain an effective and responsive work force.

The Department of Human Resources shall be responsible for coordination of all state, local and federal health and safety mandates, programs and requirements relating to employees including but not limited to industrial hygiene programs, health and safety programs, OSHA compliance and return to work programs. Department heads shall coordinate such activities of employees under their jurisdiction with the Human Resources Director.

The Department of Human Resources shall be responsible for policy, management and administration of the worker's compensation program and shall review and determine all applications for disability leave.

Subject to Section 11.100 hereof, the Department of Human Resources shall be responsible for management and administration of all labor relations of the City and County.

The Department of Human Resources shall be responsible for management and administration of all health services of employees. The transfer of such power and control to the Department of Human Resources shall occur no later than October 1, 1995.

Except for the purpose of inquiry, the Mayor shall deal with the administration of the civil service merit system solely through the Human Resources Director and the Civil Service Commission or their designees. The Mayor shall not dictate, suggest or interfere with the merit system activities of the Civil Service Commission or Human Resources Department. Administrative matters shall be dealt with only in the manner provided by this Charter, and any dictation, suggestion or interference herein prohibited shall constitute official misconduct; provided that nothing herein contained shall restrict the power of hearing and inquiry as provided in this Charter.

SEC. 10.103. HUMAN RESOURCES DIRECTOR.

A Human Resources Director shall be selected by the Mayor from candidates nominated by the Civil Service Commission and confirmed by vote of the Board of Supervisors. The Human Resources Director shall possess not less than ten years professional experience in personnel, human resources management, labor or employee relations at least five years of which must be in federal, state or local governmental personnel management and such other qualifications as determined by the Commission. Notwithstanding any other provisions of this Charter, the Human Resources Director shall be appointed by and serve at the pleasure of the Mayor, provided that the Mayor's removal of the Human Resources Director may be rejected by a four-fifths vote of the Commission. Failure of the Commission to act within 30 days shall be deemed approval of the Mayor's action. The nominee of the Mayor may be appointed acting Human Resources Director pending confirmation. The person so appointed shall, before taking office, make under oath and file in the Office of the County Clerk the following declaration: "I am opposed to appointments to the public service as a reward for political activity and will execute the Office of Human Resources Director in the spirit of this declaration."

The appointment of the Director of the Human Resources Department as of the effective date of this Charter shall be effective until July 1, 1996, after which time he may be reappointed to the position in accordance with the appointment method provided herein.

The Human Resources Director shall have full power to administer the affairs of the Department. He or she shall have all powers of a department head and may appoint a Director of Employee Relations, an executive assistant and one confidential secretary, each of whom shall be exempt from the civil service provisions of this Charter, to assist in the administration and management of the functions of the department.

The Human Resources Director shall review and resolve allegations of discrimination as defined in Article XVII of this Charter against employees or applicants, or otherwise prohibited nepotism or favoritism. Notwithstanding any other provisions of this Charter except the fiscal provisions hereof, the decision of the Human Resources Director shall forthwith be enforced by every employee and officer, unless the decision is appealed to the Commission in accordance with Section 10.101.

The Human Resources Director shall investigate all employee complaints concerning job-related conduct of City and County employees and shall promptly report to the source of the complaint.

The Human Resources Director shall promote effective and efficient management through personnel programs that encourage productivity, job satisfaction and exemplary performance.

The Human Resources Director shall provide a procedure for resolution of employee disputes which shall be consistent with other provisions of this Charter and shall be utilized by all department heads and appointing officers in the absence of an applicable grievance procedure in a binding labor agreement.

The Human Resources Director shall verify that all persons whose names appear on City and County payrolls have been legally appointed to or employed in positions legally established under this Charter. The Controller shall not draw his or her warrant for any claim for salary, wages or compensation which has been disapproved by the Human Resources Director.

Consistent with the foregoing and other applicable provisions of this Charter, the Human Resources Director may delegate to the various appointing officers appropriate personnel responsibilities, and shall consult with appointing officers with respect to Civil Service Commission rules affecting their operations.

The Human Resources Director shall establish a system of job classification. The decision of the Human Resources Director regarding classification matters shall be final unless appealed to the Commission; provided, however, that nothing herein shall be construed to alter the scope of bargaining set forth in the following sections of the 1932 Charter: 8.400, 8.403, 8.404, 8.405, 8.407-1, 8.409 et seq. and 8.590-1 et seq.

The allocation or reallocation of a position shall not adversely affect the civil service rights of an occupant regularly holding such position. No person shall hold a position outside of the classification to which the person has been appointed, provided that every employee of any department or office shall discharge any of the duties pertaining to such department or office to which the employee's department head may temporarily assign the employee. (Amended November 2004)

SEC. 10.104. EXCLUSIONS FROM CIVIL SERVICE APPOINTMENT.

All employees of the City and County shall be appointed through competitive examination unless exempted by this Charter. The following positions shall be exempt from

competitive civil service selection, appointment and removal procedures, and the person serving in the position shall serve at the pleasure of the appointing authority:

1. All supervisory and policy-level positions within the office of the Mayor and the office of the City Administrator;
2. All elected officers of the City and County and their chief deputies or chief assistants;
3. All members of commissions, boards and advisory committees;
4. Not more than one commission secretary for each commission or board;
5. All heads of agencies and departments, unless otherwise provided for herein;
6. All non-uniformed deputy heads of departments;
7. All uniformed deputy heads of departments, police commanders and Fire Chiefs aides;
8. Not more than one confidential secretary and executive assistant in each department and agency;
9. The Clerk of the Board of Supervisors, legislative analyst and assistants to the members of the Board of Supervisors.
10. All paraprofessional aides of the Unified School District and teaching instructional aides of the Community College District;
11. Persons employed in positions outside the City and County upon construction work being performed by the City and County when such positions are exempted from the classified civil service by an order of the civil service commission;
12. Persons employed in positions in any department for expert professional temporary services, when such positions are exempted from said classified civil service for a specified period of said temporary service by order of the civil service commission.

The proportion of full-time employees in the above exempt categories to the total number of civil service employees of the City and County shall not be greater than such proportion as existed on July 1, 1994, unless modified by Civil Service Commission rule, approved by the Board of Supervisors.

13. All attorneys, including an attorney to the Sheriff and an attorney for the Tax Collector, City Attorney's and District Attorney's investigators, hospital chief administrators, physicians and dentists serving in their professional capacity (except those physicians and dentists whose duties are significantly administrative or supervisory);

14. The law librarian, assistant law librarians, bookbinder of the Law Library, purchaser, curators, Assistant Sheriff, Deputy Port Director, Chief of the Bureau of Maritime Affairs, Director of Administration and Finance of the Port, Port Sales Manager, Port Traffic Manager, Chief Wharfinger, Port Commercial Property Manager, Actuary of the Employee's Retirement System, Director of the Zoo, Chief Veterinarian of the Zoo, Director of the Arboretum and Botanical Garden, Director of Employee Relations, Health Service Administrator, Executive Assistant to the Human Services Director, and any other positions designated as exempt under the 1932 Charter, as amended;

15. Positions determined by the Controller and approved annually by the Board of Supervisors to be positions where the work or services can be practically performed under private contract at a lesser cost than similar work performed by employees of the City and County, except where such work or services are required to be performed by officers or employees of the City and County under the provisions of this Charter or other applicable law.

In addition, with the approval of the Civil Service Commission, exempt employees shall include:

16. Temporary and seasonal appointments not to exceed the equivalent of half-time during any fiscal year, except that such positions may be filled through regular civil service procedures;

17. Appointments, which shall not exceed two years and shall not be renewable, as substitutes for civil service employees on leave, except that such positions may be filled through regular Civil Service procedures;

18. Appointments, which shall not exceed three years and shall not be renewable, for special projects and professional services with limited term funding, except that such positions may be filled through regular civil service procedures; and

19. Entry level positions designated by an appointing officer with approval of the Civil Service Commission for persons who met minimum qualifications and are certified as blind or severely disabled; persons so appointed whose job performance is rated satisfactory by their appointing officer shall after one year of continuous service acquire Civil Service status.

SEC. 10.105. PROVISIONAL APPOINTMENTS.

Provisional appointments for classified positions for which no eligible list exists shall not exceed three years. Provisional appointments may only be renewed with the approval of the Board of Supervisors and upon certification by the Human Resources Director that for reasons beyond his or her control the Department has been unable to conduct examinations for these positions.

ARTICLE XI

EMPLOYER-EMPLOYEE RELATIONS SYSTEM

SEC. 11.100. General.

SEC. 11.101. Employee Relations Office.

SEC. 11.100. GENERAL.

Subject to this Charter and consistent with state law, the Mayor through the Human Resources Director or his/her designee and in consultation with the Board of Supervisors shall be responsible for meeting and conferring with employees or their recognized employee organizations regarding salaries, working conditions, benefits and other terms and conditions of employment to be embodied in memoranda of understanding. The Human Resources Director shall assume day-to-day administration of all labor relations responsibilities previously vested in the Mayor or Board of Supervisors.

The Human Resources Director shall submit proposed memoranda of understanding including, where applicable, schedules of compensation, benefits and working conditions to the Mayor, who upon approval shall forward the proposed memoranda of understanding to the Board of Supervisors for determination by a majority vote. The Board of Supervisors shall have the power to accept or reject such memoranda of understanding. It shall be the duty of the Board of Supervisors, upon approval of any such memoranda of understanding to enact appropriate ordinances authorizing payment of any compensation or benefits or other terms and conditions of employment so approved.

Nothing in this section shall supersede any dates specified in Sections A8.409-4 and A8.590-5, or elsewhere in this Charter for fixing compensation, except that, should the Board of Supervisors reject any memorandum of understanding and/or schedule of compensation and benefits, the Board of Supervisors shall by motion simultaneously extend by 45 days from the date of rejection the date for final submission to the Board of Supervisors of ordinances approving or adopting salary, benefits and/or working conditions pursuant to such sections. (Amended by Proposition A, Approved 11/5/2009)

SEC. 11.101. EMPLOYEE RELATIONS OFFICE.

The Human Resources Director shall:

1. Represent the City and County and/or its departments in the implementation of those provisions of Title I, Division 4, Chapter 10 of the Government Code applicable to the City and County, subject to the Mayor's authority under Charter Section 11.100;
2. Coordinate the meet and confer process between the City and County, its employees and/or their designated representatives;
3. Negotiate and administer memoranda of understanding; and
4. Perform related duties necessary to administer the employee relations functions of the City and County.

ARTICLE XIII

ELECTIONS

SEC. 13.103.5. Elections Commission.

SEC. 13.104 Department of Elections.

SEC. 13.104.5. Use of Other City Employees and Officers

SEC. 13.103.5. ELECTIONS COMMISSION.

An Elections Commission shall be established to oversee all public federal, state, district and municipal elections in the City and County. The Commission shall set general policies for the Department of Elections and shall be responsible for the proper administration of the general practices of the Department, subject to the budgetary and fiscal provisions of this Charter. These duties shall include but not be limited to approving written plans prior to each election, submitted by the Director of Elections, detailing the policies, procedures, and personnel that will be used to conduct the election as well as an assessment of how well the plan succeeded in carrying out a free, fair and functional election.

The Commission shall consist of seven members who shall serve five-year terms. No person appointed as a Commission member may serve as such for more than two successive five-year terms. Any person appointed as a Commission member to complete more than two and one half years of a five-year term shall be deemed, for the purpose of this section, to have served one full term. No person having served two successive five-year terms may serve as a Commission member until at least five years after the expiration of the second successive term in office. Any Commission member who resigns with less than two and one half years remaining until the expiration of the term shall be deemed, for the purposes of this section, to have served a full five-year term.

The Mayor, the Board of Supervisors, the City Attorney, the Public Defender, the District Attorney, the Treasurer, and the Board of Education of the San Francisco Unified School District each shall appoint one member of the Commission. The member appointed by the Mayor shall have a background in the electoral process. The member appointed by the City Attorney shall have a background in elections law. The member appointed by the Treasurer shall have a background in financial management. The members appointed by the District Attorney, Public Defender, the Board of Education of the San Francisco Unified School District, and the Board of Supervisors shall be broadly representative of the general public. In the event a vacancy occurs, the appointing authority who appointed the member vacating the office shall appoint a qualified person to complete the remainder of the term. All members initially appointed to the Election Commission shall take office on the first day of January, 2002.

The initial terms of Commission members shall expire according to the following guidelines: the term of the members appointed by the Mayor and the Board of Education of the San Francisco Unified School District shall expire on January 1, 2003; the term of the members appointed by the Board of Supervisors and the Treasurer shall expire on January 1 2004; the term of the member appointed by the City Attorney shall expire January 1, 2005; the term of the member appointed by the Public Defender shall expire January 1, 2006; and the term of the member appointed by the District Attorney shall expire January 1, 2007.

Members of the Commission shall serve without compensation. Members of the Commission shall be officers of the City and County, and may be removed by the appointing

authority only pursuant to Section 15.105. During his or her tenure, members and employees of the Elections Commission are subject to the following restrictions:

- (a) **Restrictions on Holding Office.** No member or employee of the Elections Commission may hold any other City or County office or be an officer of a political party.
- (b) **Restrictions on Employment.** No member or employee of the Elections Commission may be a registered campaign consultant or registered lobbyist, or be employed by or receive gifts or other compensation from a registered campaign consultant or registered lobbyist. No member of the Elections Commission may hold any employment with the City and County and no employee of the Elections Commission may hold any other employment with the City and County.
- (c) **Restrictions on Political Activities.** No member or employee of the Elections Commission may participate in any campaign supporting or opposing a candidate or ballot measure that will appear on the San Francisco ballot, other than candidates seeking election to federal or statewide office. For purposes of this section, participation in a campaign includes but is not limited to making contributions or soliciting contributions to any committee, including general purpose committees; publicly endorsing or urging endorsement of any candidate or ballot measure; or participating in decisions by organizations to participate in a campaign.

If a person appointed to the Elections Commission is, at the time of appointment, an officer or employee, as prohibited by this section, that person shall be eligible to serve on the Elections Commission only if he or she resigns from his or her office or employment within thirty days of appointment. (Added November 2001; amended November 2002)

SEC. 13.104. DEPARTMENT OF ELECTIONS.

A Department of Elections shall be established to conduct all public federal, state, district and municipal elections in the City and County. The department shall be administered by the Director of Elections, who shall be vested with the day-to-day conduct and management of the Department and of voter registration and matters pertaining to elections in the City and County. The Director shall report to the Elections Commission.

For purposes of this section, the conduct of elections shall include, but not be limited to: voter registration; the nomination and filing process for candidates to City and County offices; the preparation and distribution of voter information materials; ballots, precinct operations and vote count; the prevention of fraud in such elections; and the recount of ballots in cases of challenge or fraud.

The Director shall be appointed by the Elections Commission from a list of qualified applicants provided pursuant to the civil service provisions of this Charter. The Director shall serve a five-year term, during which he or she may be removed by the Elections Commission for cause, upon written charges and following a hearing. The Elections Commission shall present the written charges to the Director no less than thirty days before the hearing. If the Elections Commission votes to remove the Director, he or she shall have the right to appeal to the Civil Service Commission. On appeal, the Civil Service Commission shall be limited to consideration of the record before the Elections Commission; however, the Civil Service Commission may independently evaluate and weigh evidence and may in its discretion consider evidence proffered to the Elections Commission that the Commission excluded and may in its discretion exclude evidence that the Elections Commission considered. The term of the Director shall expire five years after his or her appointment. No less than thirty days before the expiration of the Director's term, the Elections Commission shall appoint a Director for the next term, who may but need not be the incumbent Director. Subject to the

civil service provisions of this Charter, the Director shall have the power to appoint and remove other employees of the Department of Elections.

In addition to any other conflict of interest provisions applicable to City employees, the Director of Elections and all other employees of the Department of Elections shall be subject to the conflict-of-interest provisions in Section 13.103.5. The Elections Commission, may upon the recommendation of the Director of Elections and a finding that the Department will not have adequate staffing to conduct an election, request from the Board of Supervisors a waiver of the conflict-of-interest provisions in Section 13.103.5 for employees working no more than thirty days in a single calendar year. The Board of Supervisors shall approve or deny such requests from the Elections Commission by motion. (Amended November 2001)

SEC. 13.104.5. USE OF OTHER CITY EMPLOYEES AND OFFICERS.

Except as provided below, no City employee or officer, other than the Director of Elections, an appointee of the Director of Elections or a member of the Elections Commission, may in any capacity perform any function relating to the conduct of an election that this Charter places under the Department of Elections. This section prohibits City personnel from providing to the Department of Elections services that are unique to that department. This section does not prohibit City personnel from providing to the Department of Elections ordinary services that are unrelated to the conduct of an election and that are indistinguishable from services performed for other City departments. These general support services include, but are not limited to, services relating to human resources, personnel processing, payroll, workers compensation, budgeting, accounting, procurement, contracting, and the maintenance of telephone and voice mail systems. The Elections Commission may, upon the recommendation of the Director of Elections request from the Board of Supervisors a waiver of this prohibition so as to allow City employees and officers to assist the Department of Elections. The Board of Supervisors shall approve or deny such requests from the Elections Commission by motion.

The City Attorney shall serve as legal counsel to the Elections Commission and the Department of Elections. The Commission may, by a majority vote of its members, hire outside legal counsel to advise the Commission and the Department on matters that directly involve the election or campaign of the City Attorney, if the City Attorney is standing for election. All outside legal counsel hired pursuant to this Section shall be a member in good standing of the California State Bar. In selecting outside legal counsel, the Commission shall give preference to engaging the services of a city attorney's office, a county counsel's office or other public entity law office with an expertise regarding the subject-matter jurisdiction of the Elections Commission. In the event that the Commission concludes that private counsel is necessary, it may, by a majority vote, engage the services of a private attorney who has at least five years' experience in the subject-matter jurisdiction of the Elections Commission. Any private counsel retained pursuant to this Section shall be subject to the conflict of interest provisions of Section 13.103.5. Any contract for outside legal counsel authorized by this section shall be paid for by the Commission and shall be subject to the budgetary and fiscal provisions of this charter.

The Sheriff shall be responsible for transporting all voted ballots and all other documents or devices used to record votes from the polls to the central counting location and approving a security plan for the ballots until the certification of election results. This requirement shall not become operative following its adoption until the Sheriff has completed meeting and conferring required by state law. The Elections Commission shall send a copy of the approved transportation and security plan to the Board of Supervisors.

The Director of Elections shall develop and submit for the approval of the Elections Commission an alternative transportation and security plan if an incumbent sheriff is running for election or if there is a measure on the San Francisco ballot that would have a material, financial effect on the Sheriff or the uniformed personnel of the Sheriff's department as determined by the Ethics Commission. The Director of Elections shall invite the Secretary of State to comment on any alternative transportation and security plan. The Elections Commission shall send a copy of the approved alternative transportation and security plan to the Board of Supervisors. The Board of Supervisors shall have the authority to enter into any contracts or take whatever actions are necessary to meet the alternative security requirements of this section. (Added November 2001; amended November 2002)

ARTICLE XV

ETHICS

- SEC. 15.100. Ethics Commission.
- SEC. 15.101. Executive Director and Commission Staff.
- SEC. 15.102. Rules and Regulations.
- SEC. 15.103. Conflict of Interest.
- SEC. 15.105. Suspension and Removal.

SEC. 15.100. ETHICS COMMISSION.

The Ethics Commission shall consist of five members who shall serve six-year terms; provided that the first five commissioners to be appointed to take office on the first day of February, 2002 shall by lot classify their terms so that the term of one commissioner shall expire at 12:00 o'clock noon on each of the second, third, fourth, fifth and sixth anniversaries of such date, respectively; and, on the expiration of these and successive terms of office, the appointments shall be made for six-year terms.

The Mayor, the Board of Supervisors, the City Attorney, the District Attorney and the Assessor each shall appoint one member of the Commission. The member appointed by the Mayor shall have a background in public information and public meetings. The member appointed by the City Attorney shall have a background in law as it relates to government ethics. The member appointed by the Assessor shall have a background in campaign finance. The members appointed by the District Attorney and Board of Supervisors shall be broadly representative of the general public.

In the event a vacancy occurs, the officer who appointed the member vacating the office shall appoint a qualified person to complete the remainder of the term. Members of the Commission shall serve without compensation. Members of the Commission shall be officers of the City and County, and may be removed by the appointing authority only pursuant to Section 15.105.

No person may serve more than one six-year term as a member of the Commission, provided that persons appointed to fill a vacancy for an unexpired term with less than three years remaining or appointed to an initial term of three or fewer years shall be eligible to be appointed to one additional six-year term. Any term served before the effective date of this Section shall not count toward a member's term limit. Any person who completes a term as a Commissioner shall be eligible for reappointment six years after the expiration of his or her term. Notwithstanding any provisions of this Section or any other section of the Charter to the contrary, the respective terms of office of the members of the Commission who shall hold office on the first day of February, 2002, shall expire at 12 o'clock noon on said date, and the five persons appointed as members of the Commission as provided in this Section shall succeed to said offices on said first day of February, 2002, at 12 o'clock noon; provided that if any appointing authority has not made a new appointment by such date, the sitting member shall continue to serve until replaced the new appointee.

During his or her tenure, members and employees of the Ethics Commission are subject to the following restrictions:

- (a) Restrictions on Holding Office. No member or employee of the Ethics Commission may hold any other City or County office or be an officer of a political party.
- (b) Restrictions on Employment. No member or employee of the Ethics Commission may be a registered lobbyist or campaign consultant, or be employed by or receive gifts or

other compensation from a registered lobbyist or campaign consultant. No member of the Ethics Commission may hold employment with the City and County and no employee of the Commission may hold any other employment with the City and County.

(c) **Restrictions on Political Activities.** No member or employee of the Ethics Commission may participate in any campaign supporting or opposing a candidate for City elective office, a City ballot measure, or a City officer running for any elective office. For the purposes of this section, participation in a campaign includes but is not limited to making contributions or soliciting contributions to any committee within the Ethics Commission's jurisdiction, publicly endorsing or urging endorsement of a candidate or ballot measure, or participating in decisions by organizations to participate in a campaign.

The Commission may subpoena witnesses, compel their attendance and testimony, administer oaths and affirmations, take evidence and require by subpoena the production of any books, papers, records or other items material to the performance of the Commission's duties or exercise of its powers. (Amended November 2001; November 2002; November 2003)

SEC. 15.101. EXECUTIVE DIRECTOR AND COMMISSION STAFF.

The Commission shall appoint and may remove an Executive Director. The Executive Director shall have a background in campaign finance, public information and public meetings and the law as it relates to governmental ethics. The Executive Director shall be the chief executive of the department and shall have all the powers provided for department heads. Subject to the civil service provisions of this Charter, the Executive Director shall have the power to appoint and remove other employees of the Commission. In addition to any other conflict of interest provisions applicable to City employees, the Executive Director and all other employees of the Commission shall be subject to the conflict of interest provisions in Section 15.100, except that the post-employment restrictions contained therein shall apply only to the Executive Director and management-level employees. (Amended November 2001)

SEC. 15.102. RULES AND REGULATIONS.

The Commission may adopt, amend and rescind rules and regulations consistent with and related to carrying out the purposes and provisions of this Charter and ordinances related to campaign finances, conflicts of interest, lobbying, campaign consultants and governmental ethics and to govern procedures of the Commission. In addition, the Commission may adopt rules and regulations relating to carrying out the purposes and provisions of ordinances regarding open meetings and public records. The Commission shall transmit to the Board of Supervisors rules and regulations adopted by the Commission within 24 hours of their adoption. A rule or regulation adopted by the Commission shall become effective 60 days after the date of its adoption unless before the expiration of this 60-day period two-thirds of all members of the Board of Supervisors vote to veto the rule or regulation.

The City Attorney shall be the legal advisor of the Commission.

Any ordinance which the Supervisors are empowered to pass relating to conflicts of interest, campaign finance, lobbying, campaign consultants or governmental ethics may be submitted to the electors at the next succeeding general election by the Ethics Commission by a four-fifths vote of all its members. (Amended November 2001)

SEC. 15.103. CONFLICT OF INTEREST.

Public office is a public trust and all officers and employees of the City and County shall exercise their public duties in a manner consistent with this trust. The City may adopt conflict of interest and governmental ethics laws to implement this provision and to prescribe penalties in addition to discipline and removal authorized in this Charter. All officers and employees of the City and County shall be subject to such conflict of interest and governmental ethics laws and the penalties prescribed by such laws.(Amended November 2003)

SEC. 15.105. SUSPENSION AND REMOVAL.

(a) **ELECTIVE AND CERTAIN APPOINTED OFFICERS.** Any elective officer, and any member of the Airport Commission, Asian Art Commission, Civil Service Commission, Commission on the Status of Women, Golden Gate Concourse Authority Board of Directors, Health Commission, Human Services Commission, Juvenile Probation Commission, Municipal Transportation Agency Board of Directors, Port Commission, Public Utilities Commission, Recreation and Park Commission, Fine Arts Museums Board of Trustees, Taxi Commission, War Memorial and Performing Art Center Board of Trustees, Board of Education or Community College Board is subject to suspension and removal for official misconduct as provided in this section. Such officer may be suspended by the Mayor and the Mayor shall appoint a qualified person to discharge the duties of the office during the period of suspension. Upon such suspension, the Mayor shall immediately notify the Ethics Commission and Board of Supervisors thereof in writing and the cause thereof, and shall present written charges against such suspended officer to the Ethics Commission and Board of Supervisors at or prior to their next regular meetings following such suspension, and shall immediately furnish a copy of the same to such officer, who shall have the right to appear with counsel before the Ethics Commission in his or her defense. The Ethics Commission shall hold a hearing not less than five days after the filing of written charges. After the hearing, the Ethics Commission shall transmit the full record of the hearing to the Board of Supervisors with a recommendation as to whether the charges should be sustained. If, after reviewing the complete record, the charges are sustained by not less than a three-fourths vote of all members of the Board of Supervisors, the suspended officer shall be removed from office; if not so sustained, or if not acted on by the Board of Supervisors within 30 days after the receipt of the record from the Ethics Commission, the suspended officer shall thereby be reinstated.

(b) **BUILDING INSPECTION COMMISSION, PLANNING COMMISSION, BOARD OF APPEALS, ELECTIONS COMMISSION, ETHICS COMMISSION, AND ENTERTAINMENT COMMISSION.** Members of the Building Inspection Commission, the Planning Commission, the Board of Appeals, the Elections Commission, the Ethics Commission, and the Entertainment Commission may be suspended and removed pursuant to the provisions of subsection (a) of this section except that the Mayor may initiate removal only of the Mayor's appointees and the appointing authority shall act in place of the Mayor for all other appointees.

(c) **REMOVAL FOR CONVICTION OF A FELONY CRIME INVOLVING MORAL TURPITUDE.**

(1) Officers Enumerated in Subsections (a) and (b).

(A) An appointing authority must immediately remove from office any official enumerated in subsections (a) or (b) upon:

(i) a court's final conviction of that official of a felony crime involving moral turpitude; and

(ii) a determination made by the Ethics Commission, after a hearing, that the crime for which the official was convicted warrants removal.

(B) For the purposes of this subsection, the Mayor shall act as the appointing authority for any elective official.

(C) Removal under this subsection is not subject to the procedures in subsections (a) and (b) of this section.

(2) Other Officers and Employees.

(A) At will appointees. Officers and employees who hold their positions at the pleasure of their appointing authority must be removed upon:

(i) a final conviction of a felony crime involving moral turpitude; and

(ii) a determination made by the Ethics Commission, after a hearing, that the crime for which the appointee was convicted warrants removal.

(B) For cause appointees. Officers and employees who by law may be removed only for cause must be removed upon:

(i) a final conviction of a felony crime involving moral turpitude; and

(ii) a determination made by the Ethics Commission, after a hearing, that the crime for which the appointee was convicted warrants removal.

(3) Penalty for Failure to Remove. Failure to remove an appointee as required under this subsection shall be official misconduct.

(d) DISQUALIFICATION.

(1) (A) Any person who has been removed from any federal, state, county or city office or employment upon a final conviction of a felony crime involving moral turpitude shall be ineligible for election or appointment to City office or employment for a period of ten years after removal.

(B) Any person removed from any federal, state, county or city office or employment for official misconduct shall be ineligible for election or appointment to City office or employment for a period of five years after removal.

(2) (A) Any City department head, board, commission or other appointing authority that removes a City officer or employee from office or employment on the grounds of official misconduct must invoke the disqualification provision in subsection (d)(1)(B) and provide notice of such disqualification in writing to the City officer or employee.

(B) Upon the request of any former City officer or employee, the Ethics Commission may, after a public hearing, overturn the application of the disqualification provision of subsection (d)(1)(B) if: (i) the decision that the former officer or employee engaged in official misconduct was not made after a hearing by a court, the Board of Supervisors, the Ethics Commission, an administrative body, an administrative hearing officer, or a labor arbitrator; and (ii) if the officer or employee does not have the right to appeal his or her restriction on holding future office or employment to the San Francisco Civil Service Commission.

(e) OFFICIAL MISCONDUCT. Official misconduct means any wrongful behavior by a public officer in relation to the duties of his or her office, willful in its character, including any failure, refusal or neglect of an officer to perform any duty enjoined on him or her by law, or conduct that falls below the standard of decency, good faith and right action impliedly required of all public officers and including any violation of a specific conflict of interest or governmental ethics law. When any City law provides that a violation of the law

constitutes or is deemed official misconduct, the conduct is covered by this definition and may subject the person to discipline and/or removal from office.
(Amended November 2001; March 2002; November 2003)

ARTICLE XVI

MISCELLANEOUS PROVISIONS

- SEC. 16.116. Appendix A - Employment Provisions.
 SEC. 16.118. Appendix C - Ethics Provisions.
 SEC. 16.123. Civilian Positions within the Police Department.
 SEC. 16.125. Domestic Partnership.

SEC. 16.116. APPENDIX A - EMPLOYMENT PROVISIONS.

The following sections of the Charter of 1932, as amended, shall remain in effect as a part of this Charter as “[Appendix A-Employment Provisions](#),” except that in instance of conflict or inconsistency between these sections of the Charter of 1932 and the body of this Charter, this Charter shall prevail, and subject to the following limitations and amendments:

1. All references to sections of “the Charter” or “this Charter” shall be construed to refer to the Charter of 1932, as defined above;
2. All definitions or descriptions included through such references shall remain in force, unless in conflict or inconsistent with definitions or descriptions in this Charter, or unless amended by the Board of Supervisors; and
3. Effective upon adoption of this Charter, references to “wife,” “surviving spouse,” “widow” or “widower” shall be construed to include “spouse,” or “surviving spouse.”

The following sections from the Charter of 1932, as amended, shall be included in Appendix A with full force and effect, and each shall be designated with a prefix “A”:

- | | |
|-----------------|---|
| 7.204 | Contractors' Working Conditions |
| 8.329 | Certification of Eligibles |
| 8.341 | Removal or Discharge of Permanent, Non-Probationary Employees |
| 8.342-8.344 | Disciplinary Suspensions; Police and Fire Department Suspensions;
Exoneration of Charges |
| 8.345-8.346 | Disciplinary Action-Strikes |
| 8.364 | Catastrophic Sick Leave |
| 8.400-8.406 | Salaries and Wages for Teachers, Muni, Police, Fire and
Miscellaneous Employees |
| 8.409-8.409-6 | Collective Bargaining |
| 8.410-8.411 | Expenses |
| 8.420-8.429 | Health Service System Benefits |
| 8.430 [1st] | “Medical Care” Defined |
| 8.431-8.432 | Health Service System Benefits |
| 8.440-8.441 | Vacations |
| 8.450-8.452 | Hours and Tours of Duty |
| 8.500-8.517 | Retirement System |
| 8.518-8.588-15 | Retirement System |
| 8.590-1-8.590-7 | Collective Bargaining for Fire, Police and Airport Police |

The provisions of Appendix A may be amended only pursuant to the provisions of state law governing charter amendments.

SEC. 16.118. APPENDIX C—ETHICS PROVISIONS.

The following sections of the Charter of 1932, as amended, shall be included in [Appendix C](#) with full force and effect, and each shall be designated with a prefix “C”:

3.699-10-3.699-16 Ethics Commission Procedures

The provisions of Appendix C may be amended only pursuant to the provisions of state law governing charter amendments. (Amended November 2003)

SEC. 16.123. CIVILIAN POSITIONS WITHIN THE POLICE DEPARTMENT.

(a) The Controller shall review sworn and civilian staffing needs in the San Francisco Police Department. As part of that review, the Controller shall review police staffing levels and patterns in comparable jurisdictions, and best practices regarding police staffing.

The Controller and the Chief of Police shall also audit all positions in the Police Department and identify those positions that must be filled by sworn officers and those that could be filled by civilian personnel or that, under best practices in other jurisdictions, typically are filled by civilian personnel.

In conducting these studies, the Controller and the Chief of Police shall consult with the Board of Supervisors' Budget Analyst, the Director of the Department of Human Resources, and a representative of the bargaining unit representing sworn members of the Police Department.

Upon the completion of these studies, the Controller and the Chief of Police shall forward to the Mayor and the Board of Supervisors a list of positions in the Police Department currently filled by sworn officers that could be filled by civilian personnel.

Upon submission of the list of positions to the Mayor and the Board of Supervisors, the provisions of subsection (a) shall expire and the City Attorney shall cause them to be deleted from future publications of the Charter, and shall cause the remaining provisions to be relettered accordingly.

(b) Positions may only be converted from sworn to civilian as they become vacant. No sworn officer shall be laid off in order to convert a position to civilian personnel.

If the Mayor and the Board of Supervisors convert positions from sworn officers to civilian personnel through the budget process, the minimum staffing level set in Section 4.127 shall be reduced by the same number of positions if the Controller and the Chief of Police jointly certify that the reduction will not decrease the number of police officers dedicated to neighborhood community policing, patrol and investigations and will not substantially interfere with the delivery of police services or the ability of the Police Department to protect the public in the event of an emergency. (Added March 2004)

SEC. 16.125. DOMESTIC PARTNERSHIP.

The Board of Supervisors may, by a vote of three-fourths of its members, amend or repeal the voter approved Domestic Partnership Ordinance, as codified in Chapter 62 of the San Francisco Administrative Code, as it deems necessary (1) to eliminate any residency requirement for establishing a Domestic Partnership by filing with the County Clerk, (2) to recognize domestic partnerships formed in other jurisdictions to the same extent as marriages formed in other jurisdictions, and (3) to afford domestic partners, to the fullest extent legally possible, the same rights, benefits, responsibilities, obligations and duties as spouses. (Added March 2004)

ARTICLE XVII

DEFINITIONS

For all purposes of this Charter, the following terms shall have the meanings specified below:

“Business day” shall mean any day other than a Saturday, Sunday or holiday on which governmental agencies are authorized by law to close.

“Confirm” or “confirmation” shall mean the approval by a majority of the members of the Board of Supervisors.

“Discrimination” shall mean violations of civil rights on account of race, color, religion, creed, sex, national origin, ethnicity, age, disability or medical condition, political affiliation, sexual orientation, ancestry, marital or domestic partners status, gender identity, parental status, other non-merit factors, or any category provided for by ordinance.

“Domestic partners” shall mean persons who register their partnerships pursuant to the voter-approved Domestic Partnership Ordinance.

“Elector” shall mean a person registered to vote in the City and County.

“For cause” shall mean the issuance of a written public statement by the Mayor describing those actions taken by an individual as a member of a board or commission which are the reasons for removal, provided such reasons constitute official misconduct in office.

“General municipal election” shall mean the election to be held in the City and County on the Tuesday immediately following the first Monday in November in odd-numbered years.

“Initiative” shall mean (1) a proposal by the voters with respect to any ordinance, act or other measure which is within the powers conferred upon the Board of Supervisors to enact, any legislative act which is within the power conferred upon any other official, board, commission or other unit of government to adopt, or any declaration of policy; or (2) any measure submitted to the voters by the Mayor or by the Board of Supervisors, or four or more members of the Board.

“Notice” shall mean publication in an official newspaper (as defined by ordinance), and a contemporaneous filing with the Clerk of the Board of Supervisors or other appropriate office.

“One-third,” “a majority” or “two-thirds” of the Board of Supervisors or any other board or commission of the City and County shall mean one-third, a majority or two-thirds of all members of such board or commission.

“Published” shall mean published in an official newspaper of the City and County.

“Referendum” shall mean the power of the voters to nullify ordinances involving legislative matters except that the referendum power shall not extend to any portion of the annual budget or appropriations, annual salary ordinances, ordinances authorizing the City Attorney to compromise litigation, ordinances levying taxes, ordinances relative to purely administrative matters, ordinances necessary to enable the Mayor to carry out the Mayor's emergency powers, or ordinances adopted pursuant to Section 9.106 of this Charter.

“Special municipal election” shall mean, in addition to special elections otherwise required by law, the election called by (1) the Director of Elections with respect to an initiative, referendum or recall, and (2) the Board of Supervisors with respect to bond issues, election of an official not required to be elected at the general municipal election, or an initiative or referendum.

“Statewide election” shall mean an election held throughout the state.

“Voter” shall mean an elector who is registered in accordance with the provisions of state law. (Amended November 2003)

ARTICLE XVIII

TRANSITION PROVISIONS

- SEC. 18.100. Effective Date of this Article XVIII.
- SEC. 18.101. Operative Date of this Charter; Effect of Enactment on Existing Law.
- SEC. 18.103. Transfer of 1932 Charter Sections to Ordinance and Initiative Ordinances.
- SEC. 18.104. Transfer of Functions, Powers and Duties.
- SEC. 18.105. Changes in Offices and Positions.
- SEC. 18.108. Status of Incumbent Officer and Employees.
- SEC. 18.109. Exempt Positions.
- SEC. 18.110. Provisional Appointments.
- SEC. 18.115. Deletion of Ordinances Regulating Conflicts of Interest and Transfer of Charter Sections Regulating Conflicts of Interest into the Campaign and Governmental Conduct Code.

SEC. 18.100. EFFECTIVE DATE OF THIS ARTICLE XVIII.

This Article XVIII shall take effect upon the filing of this Charter with the Secretary of State of the State of California. This Article, and each individual section, shall expire and go out of existence when the last act, required to be done in this Article, or individual section, has been completed; and, thereafter, the Clerk of the Board of Supervisors shall secure its removal from the next printing of this Charter.

SEC. 18.101. OPERATIVE DATE OF THIS CHARTER; EFFECT OF ENACTMENT ON EXISTING LAW.

This Charter shall be operative July 1, 1996, and on that date shall supersede the Charter of 1932. Any authority vested in the Mayor to remove commissioners and department heads not granted in the Charter of 1932 shall be effective July 1, 1997. All references in this Article to the "Charter of 1932" shall be to the Charter of 1932, as recodified in 1971, and as amended as of December 31, 1995.

To the extent the provisions of this Charter are the same in terms or in effect as provisions of the Charter of 1932, they shall be construed and applied as a continuation of those provisions.

All provisions of local law relating to or affecting the City and County in force when this Charter becomes operative are hereby repealed and superseded only to the extent they are inconsistent with the provisions of this Charter.

Any amendments to the Charter of 1932 adopted at the November 7, 1995, election shall be incorporated into this Charter and shall supersede any conflicting provisions, even if the amendments receive fewer votes than this Charter. The Clerk of the Board of Supervisors, in consultation with the City Attorney, shall conform the format and terminology of the amendments to this Charter.

In adopting this revised Charter, the voters do not intend to amend or otherwise affect the provisions of any initiative ordinance in effect on the date this revision is adopted, including the Initiative Refuse Collection and Disposal Ordinance, adopted November 8, 1932, as amended, except that the City Administrator and the General Manager of Public Utilities shall succeed to the functions of the Chief Administrative Officer and the Manager of Utilities, respectively, as specified in that Initiative Ordinance.

The Retirement Board shall continue to exercise powers of management and control of workers' compensation programs until those functions are transferred pursuant to previously adopted ordinances to the Department of Human Resources.

SEC 18.103. TRANSFER OF 1932 CHARTER SECTIONS TO ORDINANCE AND INITIATIVE ORDINANCES.

The following sections of the Charter of 1932 shall be deemed enacted into ordinance and may be amended by the Board of Supervisors on the operative date of this Charter; provided, however, that in the instance of conflict or inconsistency between the ordinance or a portion of the ordinance and this Charter, this Charter shall prevail:

1.103
2.101
2.203
2.203-3
3.100, paragraph 8, sentences 5-6
3.201
3.301-3.303, inclusive
3.402
3.501
3.502
3.523
3.529
3.531
3.533-3.535, inclusive
3.537-3.539, inclusive
3.540-3.547, inclusive
3.551-3.552
3.560
3.570-3.572, inclusive
3.590-3.599, inclusive
3.601
3.621-3.624, inclusive
3.631, 3.632, and 3.634
3.640-3.641, inclusive
3.642, second sentence only
3.680, third paragraph only
3.691-3.694, inclusive
3.698.1-3.698.3, inclusive
3.699-2
3.707
6.207
6.300-6.304, inclusive
6.306-6.310, inclusive
6.312-6.313
6.400-6.403, inclusive
6.407-6.408, inclusive
6.410
7.100-7.104, inclusive

7.200-7.203, inclusive
7.205-7.206, inclusive
7.304
7.306
7.308
7.400-7.405, inclusive
7.600-7.606, inclusive
7.701-7.703, inclusive
8.104
8.106
8.311
8.410-8.411
9.104, fifth paragraph only
9.113-9.115, inclusive

Ordinances and policy declarations adopted by the voters shall not be published as part of this Charter, in an appendix or otherwise, but shall be published as provided in this Charter for other ordinances, and shall be included in any codification of ordinances as provided in this Charter and be designated as initiative ordinances.

SEC. 18.104. TRANSFER OF FUNCTIONS, POWERS AND DUTIES.

On the operative date of this Charter, all offices, agencies and departments of the City and County then in existence under the Charter of 1932 shall continue to perform their functions, exercise their authority and fulfill their responsibilities, as they existed immediately before this Charter's becoming operative subject to the provisions of this Article. Not later than 90 days after the operative date of this Charter, each such office, agency and department for which this Charter does not provide shall cease to exist, and its functions, powers and duties shall be transferred to the appropriate governmental unit created by this Charter or under the authority of this Charter. The Board of Supervisors and the Mayor shall take all action necessary to provide for the orderly transfer of functions, authority and responsibility on or before the date of such transfer.

SEC. 18.105. CHANGES IN OFFICES AND POSITIONS.

The Chief Administrative Officer and the Controller serving on November 7, 1995, shall be appointed to the offices, respectively, of City Administrator and Controller. These offices shall have the functions, powers and duties assigned by this Charter, and their initial terms of office in effect immediately prior to the date of this Charter shall remain unchanged, except that the term of office of the City Administrator shall be five years from the incumbent's appointment as Chief Administrative Officer.

The Clerk of the Board of Supervisors serving on November 7, 1995, shall be appointed as Clerk of the Board of Supervisors. This position shall remain a classified position as long as the person holding the position on November 7, 1995, remains in this position.

The Secretary-General Manager of the Retirement System serving on November 7, 1995, shall succeed to the position of executive director. This position shall remain a classified position as long as the person holding the position on November 7, 1995, remains in this position.

The General Manager of the Department of Social Services shall succeed to the position of executive director of the Department of Human Services.

The offices of Assessor and Recorder shall be consolidated no earlier than July 1, 1997. Prior to that date, the functions, powers and duties of the Recorder shall continue to be performed by the Recorder-County Clerk, as that office is established in the Charter of 1932. After July 1, 1997, the functions, powers and duties of the County Clerk shall be transferred to the City Administrator and the functions, powers and duties of the Recorder shall be transferred to the Assessor-Recorder. The person holding office as Recorder-County Clerk at the time of the transfer shall become a deputy department head to the Assessor-Recorder, and shall maintain his or her classified status.

The Social Services Commission shall succeed to the Human Services Commission.

On the operative date of this Charter, the City Administrator shall be responsible for the following functions until they are reassigned by the Mayor, with approval by the Board of Supervisors, or by operation of this Charter: Department of Public Works, Government Services, Purchasing, Real Estate, Electricity and Telecommunication, Public Guardian, Convention Facilities, Animal Control, County Clerk/Recorder, County Agriculture, Weights and Measures and Registrar of Voters/Department of Elections; Medical Examiner; and all projects previously assigned by ordinance to the Chief Administrative Office, including but not limited to: George R. Moscone Center Project, Clean Water program, Publicity and Advertising Fund, Risk Management, Beautification project, EIPSC, Waterfront project and Solid Waste Management.

SEC. 18.108. STATUS OF INCUMBENT OFFICERS AND EMPLOYEES.

The changes in and transfers of functions, powers and duties which occur at the time this Charter becomes operative shall not affect or impair the rights or privileges of permanent civil service officers or employees of the City and County relating to appointment, rank, grade, compensation, tenure of office, promotion, discipline, removal, pensions and retirement, except as provided in this Charter.

Whenever a position previously within the classified municipal civil service is, pursuant to this Charter, designated exempt from the civil service provisions of this Charter, the permanent civil service incumbent in such position at the time this Charter becomes operative shall continue to have civil service status in that position under the civil service provisions of this Charter.

If by the terms of this Charter, or action taken by authority of this Charter:

1. All or substantially all of the duties of any position exempt from the civil service provisions of the Charter of 1932 are transferred to another office, agency or department, that position shall be transferred to that office, agency or department and the person holding the position on the operative date of this Charter shall be transferred with the position.
2. All or substantially all of the duties of any civil service position are transferred to another office, agency or department, that position shall be transferred to that office, agency or department and the permanent civil service appointee holding the position on the operative date of this Charter shall be transferred with the position.

SEC. 18.109. EXEMPT POSITIONS.

The Board of Supervisors and the Mayor, through the budget for the fiscal year ending June 30, 1996, shall designate the positions exempt from civil service, within the categories provided in Article X of this Charter.

SEC. 18.110. PROVISIONAL APPOINTMENTS.

Unless their appointments are renewed pursuant to the provisions of Section 10.105, the employment of all provisional employees, appointed under the Charter of 1932, whose appointment does not meet the provisions of this Charter, shall be terminated within three years of the operative date of this Charter in accordance with the rules and regulations governing layoffs. Such provisional employees may qualify for certification as eligibles under rules and regulations expressly authorized by civil service rules approved by the Board of Supervisors. Such rules may establish special credit for civil service examinations for years of service or, through other methods, recognize the service of such employees who have held such employment for more than six months at the operative date of this Charter.

SEC. 18.115. DELETION OF ORDINANCES REGULATING CONFLICTS OF INTEREST AND TRANSFER OF CHARTER SECTIONS REGULATING CONFLICTS OF INTEREST INTO THE CAMPAIGN AND GOVERNMENTAL CONDUCT CODE.

(a) On the effective date of this Charter Amendment, Section 1.50 of the Administrative Code and Section 1.200; Article III, Chapter 2 and Section 3.200; Article III, Chapter 3 and Section 3.300; Article III, Chapter 4 and Sections 3.400 and 3.405; Article III, Chapter 5 and Sections 3.500, 3.505, 3.510, 3.515, 3.520, 3.525, 3.530, 3.535, 3.540, 3.545; Article III, Chapter 6 and Section 3.600; and Article III, Chapter 7 and Sections 3.700, 3.705, 3.710, 3.715, 3.720, 3.725, 3.730, 3.735, and 3.740 of the Campaign and Governmental Conduct Code shall be deemed repealed, and the City Attorney is authorized and directed to take appropriate steps to remove them from future editions of published codes.

(b) On the effective date of this Charter Amendment, Charter Sections C9.101 – C9.127 shall be deemed enacted into ordinance, and the City Attorney is directed and authorized to codify Section C9.101 as Administrative Code Section 1.50; Section C9.102 as Campaign and Governmental Conduct Code Section 1.200; Section C9.103 as Campaign and Governmental Conduct Code Section 3.1-102.5; Section C9.127 in a new Chapter 3 of the Campaign and Governmental Conduct Code titled "Ethics Commission" as Section 3.300; and the remaining sections in a new Chapter 2 of the Campaign and Governmental Conduct Code titled "Conflict of Interest and Other Prohibited Activities" as follows: Section C9.104 as Section 3.200; Section C9.105 as Section 3.202; Section C9.106 as Section 3.204; Section C9.107 as Section 3.206; Section C9.108 as Section 3.208; Section C9.109 as Section 3.210; Section C9.110 as Section 3.212; Section C9.111 as Section 3.214; Section C9.112 as Section 3.216; Section C9.113 as Section 3.218; Section C9.114 as Section 3.220; Section C9.115 as Section 3.222; Section C9.116 as Section 3.224; Section C9.117 as Section 3.226; Section C9.118 as Section 3.228; Section C9.119 as Section 3.230; Section C9.120 as Section 3.232; Section C9.121 as Section 3.234; Section C9.122 as Section 3.236; Section C9.123 as Section 3.238; Section C9.124 as Section 3.240; Section C9.125 as Section 3.242; and Section C9.126 as Section 3.244.

These sections may be amended by the Board of Supervisors if (a) the amendment serves the purposes of the Ordinance; (b) the Ethics Commission approves the proposed amendment by at least a four-fifths vote of all its members; (c) the proposed amendment is available for public review at least 30 days before the amendment is considered by the Board of Supervisors; and (d) the Board of Supervisors approves the proposed amendment by at least a two-thirds vote of all its members. (Added November 2003)

APPENDIX A:

EMPLOYMENT PROVISIONS*

* Citations in these appendices to other Charter sections refer to provisions of the 1932 Charter, as amended. Not all of those provisions have been carried forward under the new Charter.

A7.204 Contractors' Working Conditions

A8.329 Certification of Eligibles

A8.341 Removal or Discharge of Permanent, Non-Probationary Employees

A8.342 Disciplinary Suspensions

A8.343 Fine, Suspension and Dismissal in Police and Fire Departments

A8.344 Temporary Suspension Pending Commission Hearing; Exoneration of Charges

A8.345 Disciplinary Action against Striking Employees

A8.346 Disciplinary Action against Striking Employees other than Members of Police and Fire Department

A8.364 Authorization to Transfer Unused Sick Leave

A8.365 Compensation During Parental Leave

A8.365-1 Definition

A8.365-2 Eligibility

A8.365-3 Duration

A8.365-4 Supplemental Compensation

A8.365-5 Reimbursement

A8.365-6 Non-Vested Benefit

A8.365-7 Rules for Administration, Interpretation and Regulation of Parental Leave

A8.400 General Rules for Establishing and Paying Compensation

A8.401 Early Retirement Benefits Targeted to Mitigate Layoffs

A8.401-1 Purpose

A8.401-2 Early Retirement Benefits

A8.401-3 Authority

A8.401-4 Schedule

A8.401-5 Eligibility

A8.401-6 Notification Procedure

A8.401-7 Extension

A8.401-8 Costs

A8.401-9 School and Community College Districts

A8.401-10 Non-Vested Benefit

A8.401-11 Discretionary Authority

A8.402 Compensation of Teachers, Part-Time Employees and Certain Other Groups

A8.403 Compensation for Registered Nurse Classifications

A8.404 Salaries and Benefits of Carmen

A8.404-1 FY 2009-2010 Interim Economic Provisions

A8.405 Salaries of Uniformed Forces in the Police and Fire Departments

A8.406 Salary Deductions

A8.409 Declaration of Policy

A8.409-1 Employees Covered

A8.409-2 Interim Provisions

A8.409-3 Obligation to Bargain in Good Faith

A8.409-4 Impasse Resolution Procedures
A8.409-5 Retirement Benefits
A8.409-6 Employee Relations Rules
A8.409-7 Retiree Health Care Trust Fund
A8.409-8 FY 2009-2010 Economic Provisions And Future Proceedings
A8.425 Persons Covered
A8.428 Health Service System Trust Fund
A8.432 Retiree Health Care Trust Fund
A8.440 Annual Vacations of Employees
A8.441 Authorization to Transfer Vacation Credits
A8.450 Municipal Railway
A8.451 Police Department
A8.452 Fire Department
A8.500 Retirement System For Officers And Employees
A8.500-1 Reciprocal Pension Benefits within the Retirement System and with
Other Public Pension Plans
A8.500-2 Domestic Partner Qualified Survivor Benefits
A8.502 Retirement of Elective Officers
A8.506-2 Miscellaneous Safety Employees
A8.506-5 District Attorneys, Public Defenders and Public Defender Investigators
A8.509 Retirement--Miscellaneous Officers And Employees On And After July 1, 1947
A8.511(c) Pensions of Retired Persons
A8.522-1 Early Retirement Benefits
A8.522-2 Recalculation/Effective Date of Retirement
A8.522-3 Return to Service
A8.522-5 Compliance with Tax Laws
A8.523 Retirement System Credit For Unpaid Parental Leave
A8.523-1 Definitions
A8.523-2 Eligibility
A8.523-3 Election to Purchase Service Credit for Unpaid Parental Leave
A8.523-4 Cost Neutrality
A8.523-5 Credit in Retirement System For Unpaid Parental Leave
A8.523-6 Non-Vested Benefit
A8.523-7 Applicability
A8.526-1 Supplemental Cost of Living Benefit
A8.526-2 Cost of Living Adjustment in Allowances on and After January 10, 2009
A8.526-3 Supplemental Cost of Living Benefits on and After January 10, 2009
A8.559-1 Definitions
A8.559-14 Right to Transfer
A8.584-3 Retirement For Incapacity
A8.584-13 Forfeiture For Crimes Involving Moral Turpitude
A8.585-10 Computation of Service
A8.585-14 Right to Transfer
A8.586-1 Definitions
A8.586-2 Service Retirement
A8.586-3 Retirement for Incapacity
A8.586-4 Death Allowance
A8.586-5 Payment to Surviving Dependents

A8.586-6 Adjustment of Allowances
A8.586-7 Adjustment for Compensation Payments
A8.586-8 Death Benefit
A8.586-9 Refunds and Redeposits
A8.586-10 Computation of Service
A8.586-11 Sources of Funds
A8.586-12 Right to Retire
A8.586-13 Limitation on Employment during Retirement
A8.586-14 Conflicting Charter Provisions
A8.586-15 Vesting
A8.586-16 Forfeiture For Crimes Involving Moral Turpitude
A8.587 Retirement--Miscellaneous Officers and Employees on and after November 7, 2000
A8.587-1 Definitions
A8.587-2 Service Retirement
A8.587-7 Computation of Service
A8.587-9 Right to Retire
A8.587-14 Forfeiture For Crimes Involving Moral Turpitude
A8.588-10 Computation of Service
A8.588-16 Forfeiture for Crimes Involving Moral Turpitude
A8.590-1 Declaration of Policy
A8.590-2 Employees Covered
A8.590-3 Prohibition against Strikes
A8.590-4 Obligation to Negotiate in Good Faith
A8.590-5 Impasse Resolution Procedures
A8.590-6 Retiree Benefit Adjustments
A8.590-7 Preservation of Tax Benefits
A8.590-8 Retiree Health Care Trust Fund
A8.595 Members of the Police Department on January 1, 2003 who are Members of the Retirement System under Charter Section A8.559
A8.595-1 Definitions
A8.595-2 Service Retirement
A8.595-3 Retirement for Incapacity
A8.595-4 Death Allowance
A8.595-5 Payment to Surviving Dependents
A8.595-6 Adjustment of Allowances
A8.595-7 Adjustment for Compensation Payments
A8.595-8 Death Benefit
A8.595-9 Refunds and Redeposits
A8.595-10 Computation of Service
A8.595-11 Sources of Funds
A8.595-12 Right to Retire
A8.595-13 Limitation in Employment During Retirement
A8.595-14 Vesting
A8.596 Members of the Fire Department on January 1, 2003 who are Members of the Retirement System under Charter Section A8.585
A8.596-1 Definitions
A8.596-2 Service Retirement
A8.596-3 Retirement for Incapacity

- A8.596-4 Death Allowance
- A8.596-5 Payment to Surviving Dependents
- A8.596-6 Adjustment of Allowances
- A8.596-7 Adjustment for Compensation Payments
- A8.596-8 Death Benefit
- A8.596-9 Refunds and Redeposits
- A8.596-10 Computation of Service
- A8.596-11 Sources of Funds
- A8.596-12 Right to Retire
- A8.596-13 Limitation in Employment During Retirement
- A8.596-14 Vesting
- A8.597 Members of the Police Department on January 1, 2003 who are Members of the Retirement System under Charter Section A8.586, and Members of the Police Department after January 1, 2003
 - A8.597-1 Definitions
 - A8.597-2 Service Retirement
 - A8.597-3 Retirement for Incapacity
 - A8.597-4 Death Allowance
 - A8.597-5 Payment to Surviving Dependents
 - A8.597-6 Adjustment of Allowances
 - A8.597-7 Adjustment for Compensation Payments
 - A8.597-8 Death Benefit
 - A8.597-9 Refunds and Redeposits
 - A8.597-10 Computation of Service
 - A8.597-11 Sources of Funds
 - A8.597-12 Right to Retire
 - A8.597-13 Limitation on Employment During Retirement
 - A8.597-14 Conflicting Charter Provisions
 - A8.597-15 Vesting
 - A8.597-16 Forfeiture for Crimes Involving Moral Turpitude
- A8.598 Members of the Fire Department on January 1, 2003 who are Members of the Retirement System under Charter Section A8.588, and Members of the Fire Department after January 1, 2003
 - A8.598-1 Definitions
 - A8.598-2 Service Retirement
 - A8.598-3 Retirement for Incapacity
 - A8.598-4 Death Allowance
 - A8.598-5 Payment to Surviving Dependents
 - A8.598-6 Adjustment of Allowances
 - A8.598-7 Adjustment for Compensation Payments
 - A8.598-8 Death Benefit
 - A8.598-9 Refunds and Redeposits
 - A8.598-10 Computation of Service
 - A8.598-11 Sources of Funds
 - A8.598-12 Right to Retire
 - A8.598-13 Limitation on Employment During Retirement
 - A8.598-14 Conflicting Charter Provisions
 - A8.598-15 Vesting

A8.598-16 Forfeiture for Crimes Involving Moral Turpitude

A8.599 Tax-Deferred Plans for Accumulated Compensation

A7.204 CONTRACTORS' WORKING CONDITIONS

Every contract for any public work or improvement to be performed at the expense of the City and County, or paid out of moneys deposited in the treasury, whether such work is to be done directly under contract awarded, or indirectly by or under subcontract, subpartnership, day labor, station work, piece work, or any other arrangement whatsoever, must provide:

(a) that in the performance of the contract and all work thereunder, eight hours shall be the maximum hours of labor on any calendar day, except that hours of labor in excess of eight hours per day may be permitted when conditions so warrant upon the approval of the department head responsible for the supervision of the contract, provided that compensation for all hours worked in excess of eight hours per day conforms to the requirements of the Labor Code of the State of California and all applicable federal laws;

(b) that any person performing labor thereunder shall be paid not less than the highest general prevailing rate of wages in private employment for similar work; however, the Board of Supervisors may by resolution exempt from the prevailing wage requirement any contract where the work is to be performed by a non-profit organization that provides job training and work experience for disadvantaged individuals in need of such training and experience, and either (1) has a board of directors which is appointed by the Mayor, or (2) exists primarily to design and build urban gardens, yards and play areas;

(c) that any person performing labor in the execution of the contract shall be a citizen of the United States;

(d) that all laborers employed in the execution of any contract within the limits of the City and County shall have been residents of the City and County for a period of one year immediately preceding the date of their engagements to perform labor thereunder; provided, however, that the officer empowered to award any such contract may, upon application of the contractor, waive such residence qualifications and issue a permit specifying the extent and terms of such waiver whenever the fact be established that the required number of laborers and mechanics possessing qualifications required by the work to be done cannot be engaged to perform labor thereunder.

The term "public work" or "improvement," as used in this section shall, include the fabrication, manufacturing or assembling of materials in any shop, plant, manufacturing establishment or other place of employment, when the said materials are of unique or special design, or are made according to plans and specifications for the particular work or improvement and any arrangement made for the manufacturing, fabrication or assembling of such materials shall be deemed to be a contract or a subcontract subject to the provisions of this section.

The Board of Supervisors shall have full power and authority to enact all necessary ordinances to carry out the terms of this section and may by ordinance provide that any contract for any public work or improvement or for the purchase of materials which are to be manufactured, fabricated or assembled for any public work or improvement, a preference in price not to exceed 10 percent shall be allowed in favor of such materials as are to be manufactured, fabricated or assembled within the City and County of San Francisco as against similar materials which may be manufactured, fabricated or assembled outside thereof. When any such materials are to be fabricated, assembled or manufactured by any subcontractor or materialman for the purpose of supplying the same to any contractor bidding

on or performing any contract for any public work or improvement, said sub-contractor or materialman manufacturing, fabricating, assembling or furnishing said materials manufactured, assembled or fabricated within the City and County of San Francisco shall be entitled to the same preferential as would any original contractor or materialman furnishing the same if the Board of Supervisors by ordinance so provide. When any ordinance shall so provide any officer, board or commission letting any contract may in determining the lowest responsible bidder for the doing or performing of any public work or improvement add to said bid or sub-bid an amount sufficient not exceeding 10 percent in order to give preference to materials manufactured, fabricated or assembled within the City and County of San Francisco.

A8.329 CERTIFICATION OF ELIGIBLES

Whenever a position controlled by the civil service provisions of this Charter is to be filled, the appointing officer shall make a requisition to the department of human resources for a person to fill it. Thereupon, the department shall certify to the appointing officer the names and addresses of all those persons meeting the certification rule established for that classification. The Civil Service Commission shall establish certification rules. Certification rules shall not be more restrictive than the certification of all candidates receiving the three highest scores on the list of eligibles for such positions. The appointing officer shall fill the position by the appointment of one of the persons certified. In making such certification, sex shall be disregarded except when a statute, rule of the commission or the appointing officer specifies sex; provided however, the appointing officer shall give due consideration to applicable civil service equal employment opportunity (EEO) goals so as to maximize diversity at all levels of City employment. The Mayor and the Board of Supervisors shall annually review each department's performance in meeting its civil service EEO obligations.

From the requisition of the appointing officer or otherwise, the department shall determine whether the position is, in character, temporary, seasonal or permanent, and shall notify the candidate in accordance therewith to the end that the candidate may have knowledge of the probable duration of employment. The department shall provide for such waiver of temporary or seasonal employment as it may deem just to candidates.

Notwithstanding anything to the contrary in this or any other provision of the Charter, an employee who has been certified from a regularly adopted eligible list to a non-permanent position in a civil service classification shall be entitled to appointment to a permanent position within that same classification before the department certifies to the appointing officer the names and addresses of persons standing higher on the list of eligibles who are not then current employees, subject to a demonstration of satisfactory job performance in the non-permanent position for a period and in the manner provided by rule of the commission. The provisions of this section as herein amended shall only be applicable to requisitions for permanent positions filled from and after January 1, 1980.

A8.341 REMOVAL OR DISCHARGE OF PERMANENT, NON-PROBATIONARY EMPLOYEES

A. Any person employed under the civil service provisions of this Charter, exclusive of members of the uniformed ranks of the police and fire departments as provided under Section 8.343 hereof, in a position defined by the commission as "permanent" may be removed or discharged by the appointing officer for just cause, after being provided with written notice of the charges, copies of all documentation upon which the charges are based and after an opportunity to respond to the charges before the appointing officer or his or her designee.

Pending investigation of conduct involving misappropriation of public funds or property, misuse or destruction of public property, drug addiction or habitual intemperance, mistreatment of persons, immorality, acts which would constitute a felony or misdemeanor involving moral turpitude, or acts which present an immediate danger to the public health and safety the appointing officer may place the accused person on unpaid administrative leave for no more than 30 days unless the investigation shall be delayed beyond such time by the act of the accused person. When the appointing officer imposes discharge or removal he or she shall, in writing, notify the person removed or discharged of the right to appeal the discharge or removal by mailing such statement to his last known address. The employee shall have thirty days from the date of mailing of the notice to file an appeal of the matter in writing with the appointing officer. Upon receipt of a timely appeal, the appeal shall be conducted forthwith by a qualified and unbiased hearing officer who shall be employed under contract by the City and County and selected by procedures set forth in the rules of the civil service commission. The hearing officer shall publicly hear and determine the appeal, and may approve the discharge or removal, or exonerate, or suspend the accused.

If the employee is exonerated the hearing officer may, at his or her discretion, order payment of salary to the employee for the period of the discharge or removal or unpaid administrative leave, and the report of such period of discharge or removal or unpaid administrative leave shall thereupon be expunged from the record of service of such employee.

The civil service commission shall immediately be notified of the charges when made, of the action of the appointing officer to remove or discharge, of the appeal, and of the finding thereon. The finding of the hearing officer shall be final.

The civil service commission may remove or discharge an employee for any charge filed by a citizen or by any member of or authorized agent of the commission when the appointing officer neglects or refuses to take such action against the employee within 30 days of notification to the department head of the occurrence or event giving rise to the charge. Removal or discharge may be made for any cause after the employee is provided with written notice of the charges, copies of all documentation upon which the charges are based and after the employee has had the opportunity to respond to the charges before the civil service commission or its designee. The decision of the civil service commission shall be final.

Nothing in this section shall limit or restrict rules adopted by the commission governing dismissal of probationary employees, lay-offs or reduction in force or providing for the removal of any appointee who has abandoned his or her position as defined by civil service commission rule.

B. Notwithstanding the provisions of Subsection A above, a recognized employee organization and any affected City department may agree to alternative procedures, including final and binding arbitration by a neutral arbitrator jointly selected by the employee organization and the City, to deal with charges brought against individual employees, the resolution of such charges and the appropriate discipline, if any, to be imposed on the employee. Said alternative procedures shall be included in a Memorandum of Understanding between the City and the employee organization which shall be effective when ratified by the Board of Supervisors.

A8.342 DISCIPLINARY SUSPENSIONS

The appointing officer may, for disciplinary purposes, suspend a subordinate for a period not exceeding 30 days; and suspension shall carry with it the loss of salary for the period of suspension. The suspended employee shall be notified in writing of the reason for

such suspension, and if the suspension be for more than five days the employee shall, at his request, be given a hearing by the appointing officer. The decision of the appointing officer in all cases of suspension for disciplinary purposes shall be final.

A8.343 FINE, SUSPENSION AND DISMISSAL IN POLICE AND FIRE DEPARTMENTS

Members of the uniformed ranks of the fire or the police department guilty of any offense or violation of the rules and regulations of their respective departments, shall be liable to be punished by reprimand, or by fine not exceeding one month's salary for any offense, or by suspension for not to exceed three months, or by dismissal, after trial and hearing by the commissioners of their respective departments; provided, however, that the chief of each respective department for disciplinary purposes may suspend such member for a period not to exceed 10 days for violation of the rules and regulations of his department. Any such member so suspended shall have the right to appeal such suspension to the fire commission or to the police commission, as the case may be, and have a trial and hearing on such suspension. Written notice of appeal must be filed within 10 days after such suspension and the hearing of said appeal must be held within 30 days after the filing of said notice of appeal. If the commission shall reverse or alter the finding of the chief, it shall order that the member affected be paid salary for the time of the suspension received or altered. In the event the chief should exercise such power of suspension, the member involved shall not be subject to any further disciplinary action for the same offense; provided, that where the Office of Citizen Complaints has sustained a complaint and recommended discipline in excess of a 10-day suspension, the Chief of Police may not exercise his or her power of suspension under this section without first meeting and conferring with the director of the Office of Citizen Complaints and affording the director an opportunity to verify and file charges with the Police Commission pursuant to Section 4.127. If the director of the Office of Citizen Complaints verifies and files charges, the Police Commission shall conduct a trial and hearing thereon, and the Chief of Police may not suspend the member pending the outcome of the Police Commission proceedings on the charges except as provided in Section A8.344.

Subject to the foregoing, members of the uniformed ranks of either department shall not be subject to dismissal, nor to punishment for any breach of duty or misconduct, except for cause, nor until after a fair and impartial trial before the commissioners of their respective departments, upon a verified complaint filed with such commission setting forth specifically the acts complained of, and after such reasonable notice to them as to time and place of hearings as such commission may, by rule, prescribe. The accused shall be entitled, upon hearing, to appear personally and by counsel; to have a public trial; and to secure and enforce, free of expense, the attendance of all witnesses necessary for his defense. (Amended November 2003)

A8.344 TEMPORARY SUSPENSION PENDING COMMISSION HEARING; EXONERATION OF CHARGES

In the circumstances listed in Section A8.341 the chief of the police department and the chief of the fire department may temporarily suspend a member of the respective department pending a hearing before the police or fire commission on disciplinary charges against the member, and the member shall be entitled to a prompt administrative hearing to determine if he or she should remain suspended pending the outcome of the commission proceedings. If a member of the uniformed ranks of the police and fire departments is

suspended by the chief of the respective department pending hearing before the police or fire commission for charges filed against him and subsequently takes a voluntary leave of absence without pay pending his trial before the commission, and, if after such trial he is exonerated of the charges filed against him, the commission shall order payment of salary to such member for the time under suspension and may, in its discretion, order payment of salary to such member for the time on voluntary leave of absence without pay, and the report of such suspension and leave of absence without pay shall thereupon be expunged from the record of service of such member. (Added November 2003)

A8.345 DISCIPLINARY ACTION AGAINST STRIKING EMPLOYEES

The people of the City and County of San Francisco hereby find that the instigation of, or participation in, strikes against said City and County by any member of the uniformed forces of the police or fire departments constitutes a serious threat to the lives, property and welfare of the citizens of said City and County and hereby declares as follows:

No uniformed member of the police and fire departments employed under the civil service provisions of this Charter shall instigate, participate in, or afford leadership to a strike against the City and County, or engage in any picketing activity in furtherance of such a strike. In the event of any such strike against the City and County, it shall be the duty of the appropriate appointing officer of the City and County to ascertain the identity of any officer or employee of the City and County under his jurisdiction who is in violation of the provisions of this section and to initiate dismissal proceedings against said officer or employee in accordance with the provisions of Section 8.341 of this chapter. Any citizen of the City and County may file written charges against an officer or employee in violation of the provisions of this section and the appropriate appointing officer shall receive and investigate, without delay, any such written charge, and forthwith inform said citizen of findings and action, or proposed action, thereon.

If the appointing officer, after a hearing, determines that the charges are supported by the evidence submitted, said appointing officer shall dismiss the employee involved and said employee shall not be reinstated or returned to City and County of San Francisco employment except as a new employee who is employed in accordance with the regular employment practices of the City and County in effect for the particular position of employment.

In the event any appointing officer determines that he shall be unable to meet constitutional due process requirements in providing a timely hearing to any officer or employee charged hereunder, he may, subject to the budget and fiscal provisions of the Charter, engage the services of one or more qualified hearing officers to conduct hearings hereunder. In conducting said hearings, any hearing officer shall have the same powers as granted to an appointing officer hereunder.

No officer, board or commission of the City and County shall have the power to grant amnesty to any person charged with a violation of any of the provisions of this section.

In order to bring the provisions of this section to the attention of any person who may be affected thereby, each member of the uniformed force of the police department and each member of the uniformed force of the fire department on the effective date of this section, and each person appointed to the position of Q2 police officer or the position of H2 fireman on or after the effective date of this section shall be furnished a copy of the provisions of this section and shall make under oath and file in the office of the civil service commission the following declaration: "I hereby acknowledge receipt of a copy of the provisions of Section 8.345 of the Charter of the City and County of San Francisco and hereby declare that during

the term of my employment in either the Police Department or the Fire Department of said City and County, I shall neither instigate, participate in or afford leadership to a strike against said City and County nor engage in any picketing activity in furtherance of such a strike."

A dismissal imposed pursuant to this section (8.345) shall not be appealable to the civil service commission.

A8.346 DISCIPLINARY ACTION AGAINST STRIKING EMPLOYEES OTHER THAN MEMBERS OF POLICE AND FIRE DEPARTMENT

The people of the City and County of San Francisco hereby find that the instigation of or participation in, strikes against said City and County by any officer or employee of said City and County constitutes a serious threat to the lives, property, and welfare of the citizens of said City and County and hereby declare as follows:

(a) As used in this section the word "strike" shall mean the willful failure to report for duty, the willful absence from one's position, any concerted stoppage or slowdown of work, any concerted interruption of operations or services by employees, or the willful abstinence in whole or in part from the full, faithful, and proper performance of the duties of employment, for the purpose of inducing, influencing, or coercing a change in the conditions of employment; provided, however, that nothing contained in this section shall be construed to limit, impair, or affect the right of any municipal employee to express or communicate a view, grievance, complaint, or opinion on any matter related to the conditions or compensation of municipal employment or their betterment, so long as the same is not designed to and does not interfere with the full, faithful, and proper performance of the duties of employment.

(b) No person holding a position by appointment or employment under the civil service provisions of this Charter, exclusive of uniformed members of the police and fire departments as provided under Section 8.345 of this Charter, which persons are hereinafter referred to as municipal employees, shall strike, nor shall any municipal employee cause, instigate, or afford leadership to a strike against the City and County of San Francisco. For the purposes of this section, any municipal employee who willfully fails to report for duty, is willfully absent from his or her position, willfully engages in a work stoppage or slowdown, willfully interrupts City operations or services, or in any way willfully abstains in whole or in part from the full, faithful, and proper performance of the duties of his or her employment because such municipal employee is "honoring" a strike by other municipal employees, shall be deemed to be on strike.

(c) No person exercising any authority, supervision, or direction over any municipal employee shall have the power to authorize, approve, or consent to a strike by any one or more municipal employees, and such person shall not authorize, approve, or consent to such strike. No officer, board, commission or committee of the City and County of San Francisco shall have the power to grant amnesty to any person who has violated any of the provisions of this section, and such officer or bodies shall not grant amnesty to any person who has violated any of the provisions of this section.

(d) Notwithstanding any other provision of law, a person violating any of the provisions of this section may subsequent to such violation be appointed or reappointed, employed or re-employed as a municipal employee of the City and County of San Francisco, but only on the following conditions:

(1) such person shall be appointed or reappointed, employed or re-employed as a new appointee or employee, who is appointed or employed in accordance with all Charter

provisions, ordinances, rules or regulations of said City and County in effect for new employees at the time of appointment, reappointment, employment or re-employment;

(2) the compensation of such person shall not be increased by virtue of any previous employment with said City and County.

(e) In the event of a strike, or if the Mayor with the concurrence of a majority of the Board of Supervisors determines that a strike is imminent, a special committee shall convene forthwith, which special committee shall consist of the presidents of the airports commission, civil service commission, fire commission, police commission, public transportation commission and public utilities commission. The president of the civil service commission shall serve as chairman of the special committee. Notwithstanding any other provision of law, it shall be the duty of the special committee to dismiss in accordance with the provisions of this section any municipal employee found to be in violation of any provisions of this section. Any person may file with the special committee written charges against a municipal employee or employees in violation of any of the provisions of this section and the special committee shall receive and investigate, without undue delay, and where necessary take appropriate actions regarding any such written charge(s), and forthwith inform that person of its findings and action, or proposed action thereon.

In the event of a strike or determination of imminent strike as specified above, each appointing officer shall deliver each day no later than 12:00 o'clock noon to the chairman of the special committee a record of the absence of each employee under his or her authority for the prior day and a written report describing incidents of and the participant(s) in violations of this section wherever the identity of the participant(s) is known to him or her and the participant(s) is (are) under his or her authority.

In addition each appointing officer shall provide to the special committee, whenever it has been convened under authority of law, any other information determined by the special committee to be necessary for the discharge of its duties. The failure of an appointing officer to discharge any of the duties imposed upon him or her by this section shall be official misconduct.

(f) An employee charged by the special committee with a violation of this section shall be notified of the time and place of the hearing on the charges and of the nature of the charges against him or her. Said employee shall be given such other information as is required by due process. Said employee shall respond to said charges by a sworn affidavit, signed by him or her, and by such other information and documentation and in such a manner as is prescribed by the special committee. An employee failing to provide the responses required by this section or in any way failing to comply with the procedural time limitations and information requirements imposed by the special committee shall be immediately suspended and shall not be entitled to a hearing until he or she has fully complied with the aforementioned requirements.

If the special committee, after a hearing, determines that the charges against the employee are supported by the preponderance of the evidence submitted, said special committee shall dismiss the employee involved and said employee shall not be reinstated or returned to City and County service except as specified in Subsection (d). A dismissal or suspension invoked pursuant to the provisions of this section shall not be appealable to the civil service commission.

(g) The special committee shall discharge its duties in a timely manner while preserving the due process rights of employees with the objective of obtaining immediate sanctions against striking employees. The willful failure of any member of this special committee faithfully

and fully to discharge his or her duties in a timely manner and to accord absolute priority to the performance of those duties shall be deemed official misconduct.

In the event the special committee determines that it shall be unable to comply with constitutional due process requirements that a timely hearing be provided or that it shall be unable to comply with its obligations fully and in a timely manner to investigate and hear all violations of this section, then the special committee may, subject to the budget and fiscal provisions of the Charter, engage the administrative and clerical personnel, investigators, and one or more hearing officers to conduct hearings hereunder. In conducting hearings, the hearing officers shall have the same powers of inquiry and disposition as the special committee.

(h) In order to provide for the effective operation of this section in the event of a strike or determination of imminent strike, the president of the civil service commission, not later than 30 days after this section becomes effective, shall convene the special committee which shall adopt rules, regulations, and procedures for the investigation, hearing and disposition of all violations of this section.

(i) In order to bring the provisions of this section to the attention of any person who may be affected thereby, each municipal employee on the effective date of this section, exclusive of members of the uniformed forces of the police and fire departments as provided in Section 8.345 hereof, and each person appointed or employed as a municipal employee pursuant to the civil service provisions of this Charter, exclusive of persons appointed to the entrance positions in the uniformed forces of the police and fire departments as provided in Section 8.345 hereof, on or after the effective date of this section shall be furnished a copy of this section and shall acknowledge such receipt in writing. The signed, written receipt shall be filed in the office of the civil service commission and maintained therein for the term of his or her employment with the City and County of San Francisco.

(j) The provisions of Sections 3.100 and 3.100-1, relating to the emergency powers of the Mayor, shall not be applicable to the provisions of this section.

(k) If any clause, sentence, paragraph, subsection, or part of this section shall be adjudged by any court of competent jurisdiction to be invalid, such judgment shall not affect, impair or invalidate the remainder thereof, but shall be confined in its operation to the clause, sentence, paragraph, subsection, or part thereof directly involved in the controversy in which such judgment shall have been rendered.

A8.364 AUTHORIZATION TO TRANSFER UNUSED SICK LEAVE

(a) Employees of the City and County of San Francisco may transfer their unused accumulated sick leave to other employees of the City and County of San Francisco who have been determined to be catastrophically ill, and who have exhausted their vacation allowance, sick leave and compensatory time off, provided that such determination and such transfer may be made only in compliance with the terms and conditions established by ordinance adopted by the Board of Supervisors.

(b) Notwithstanding Sections 8.360 and 8.363 of this Charter, within sixty (60) days of the effective date of this section, the Health Commission, Civil Service Commission, and Retirement Board shall conduct a joint hearing to consider and develop recommendations for submission to the Board of Supervisors. The Board of Supervisors shall adopt an ordinance, as provided in subsection (a), and establish any rules necessary to administer, interpret, and regulate the provisions of this section, provided that all such rules shall be approved, amended, or rejected by resolution by the Board of Supervisors. (Amended November 1999)

A8.365 COMPENSATION DURING PARENTAL LEAVE

Under federal, state and local law, employees are entitled to take an unpaid leave of absence in the event of pregnancy disability or to care for a child after birth or placement for adoption or foster care. But employees may not have the financial resources to take advantage of this leave. This section provides compensation to supplement state disability insurance payments, paid sick leave, compensatory time, and other forms of paid leave, to ensure that an employee will receive the equivalent of the employee's salary for 12 weeks or, if the employee is temporarily disabled by pregnancy, up to 16 weeks, while on approved leave.

In accordance with this section, eligible employees on approved Parental Leave shall receive supplemental compensation as set forth herein.

Nothing in this section shall be construed to expand, reduce or otherwise affect the total amount of leave time available to employees under federal, state, or local law, Civil Service Commission rules, or applicable memoranda of understanding between the City and County of San Francisco and employee organizations. This section is intended to supplement other available sources of income during specified periods of leave to which the employee is otherwise eligible. Except for leave mandated by law, requests for leave continue to be subject to the approval of the appointing officer. (Added November 2002)

A8.365-1 DEFINITIONS

The following words and phrases as used in this section, unless a different meaning is plainly required by the context, shall have the following meaning:

"Domestic Partner" shall have the same meaning as set forth in Administrative Code Section 62.1 et seq.

"Employee" shall mean any person who is appointed to a position created by or which is under the jurisdiction of the City and County, whose compensation is paid by the City and County, and who is under the control of the City and County as to employment, direction and discharge and does not include persons who occupy classified or certificated positions with the San Francisco Unified School District or the Community College District or who work for the City as independent contractors.

"Paid Leave" shall mean all paid time-off provided by the Charter, the Administrative Code, the Civil Service Rules or through a collective bargaining agreement and shall include but not be limited to vacation, sick leave, compensatory time, administrative or executive leave and floating holidays. For purposes of this section, "Paid Leave" shall not include statutory holidays.

"Parental Leave" shall mean (a) Family Medical Leave as defined below; (b) Temporary Pregnancy Disability Leave as defined below:

(a) "Family Medical Leave" shall mean leave taken pursuant to the Family and Medical Leave Act, the California Family Rights Act, or Civil Service Commission Rules, where such leave is taken after the birth of a child to the employee, the employee's spouse or the employee's domestic partner or for placement of a child with the employee's family for adoption or foster care, and has been requested and approved in accordance with the procedures set forth in those respective statutes or rules.

(b) "Temporary Pregnancy Disability Leave" shall mean disability leave taken in accordance with State law or the Civil Service Commission Rules because of an employee's inability to work, as certified by a health care provider, for reasons of pregnancy, childbirth, or related conditions, as defined by the California Fair Employment and Housing Act, Govt. Code Section 12945(b)(2) et seq.

"Supplemental Compensation" shall mean compensation paid by the City to eligible employees on Parental Leave. The amount of Supplemental Compensation shall be the employee's regular base wage less (1) accrued paid leave from the City and (2) any payments received by the employee from a federal, state or other local government agency in lieu of compensation. (Added November 2002)

A8.365-2 ELIGIBILITY

The following employees shall be eligible to receive compensation as set forth herein:

- (a) Permanent, provisional, and exempt employees whose normal work week is not less than twenty (20) hours upon completion of six months of continuous service; and
- (b) All other employees of the City and County of San Francisco, including "as needed" employees, who have worked one thousand and forty hours (1040) in the twelve (12) months prior to the beginning of the parental leave and whose average work week is not less than twenty hours. (Added November 2002)

A8.365-3 DURATION

Employees shall receive supplemental compensation as set forth herein for a period not to exceed twelve weeks while on approved Family Medical Leave. Employees who take approved Temporary Pregnancy Disability Leave shall receive up to an additional four weeks of compensation. Such compensation shall be subject to the conditions set forth in Section A8.365-4. (Added November 2002)

A8.365-4 SUPPLEMENTAL COMPENSATION

- (a) Employees shall receive their regular base wage while on approved Parental Leave subject to the following conditions:
 - (1) Employees on approved Parental Leave shall first exhaust all accrued paid leave before receiving any Supplemental Compensation under this section. If an employee chooses not to exhaust these leaves, the total amount of the benefit for which the employee would otherwise have been eligible will be reduced by the amount of paid leave accrued by the employee as of the start of the leave.
 - (2) The amount of Supplemental Compensation shall be reduced by any payments received by the employee from a federal, state or other local government agency while on Parental Leave.
 - (3) Supplemental Compensation shall be provided for no more than twelve weeks, in the case of employees taking Family Medical Leave, or sixteen weeks, in the case of employees who take Temporary Pregnancy Disability Leave. For employees eligible for both Family Medical Leave and Temporary Pregnancy Disability Leave, Supplemental Compensation shall be provided for no more than sixteen weeks total. The twelve or sixteen week period shall be reduced by any paid leave taken after the birth of a child to the employee, the employee's spouse, or the employee's domestic partner, placement of a child with the employee's family for adoption or foster care, or taken for temporary pregnancy disability, within twelve months prior to the commencement of Parental Leave as defined herein.
 - (4) Under no circumstance shall an employee receive from the City supplemental compensation under this Charter section which would result in an employee receiving total compensation while on Parental Leave which is greater than the employee's regular base wage.
- (b) During parental leave, the City shall continue to pay the contributions required by this Charter for retirement and health benefits, and any employer-paid employee retirement and

health contributions required under the memorandum of understanding or unrepresented ordinance covering the employee. Retirement contributions shall be based on the actual amount of City pay received during the period of parental leave. (Added November 2002)

A8.365-5 REIMBURSEMENT

Any individual receiving compensation pursuant to this section shall execute an agreement providing that if the individual voluntarily separates from City service prior to returning to work for at least six months, the compensation described in Section A8.365-4 shall be treated as a loan payable with interest at a rate equal to the greater of (i) the rate received for the concurrent period by the Treasurer's Pooled Cash Account or (ii) the minimum amount necessary to avoid imputed income under the Internal Revenue Code of 1986, as amended from time to time, and any successor statute. Unless an alternative repayment schedule is agreed to by the City and the individual, such loan shall be payable in equal monthly installments over a period not to exceed 5 years, commencing 30 days following the individual's separation from City employment. (Added November 2002)

A8.365-6 NON-VESTED BENEFIT

This Charter section creates no vested benefits. The voters expressly reserve the right to review the City's parental leave policy and the benefits provided in this section and may alter or repeal such benefits for any or no reason.

A8.365-7 RULES FOR ADMINISTRATION, INTERPRETATION AND REGULATION OF PARENTAL LEAVE

Within 120 days of approval by the voters of this Amendment, the Department of Human Resources shall develop any procedures necessary to administer, interpret, and regulate the provisions of this section, provided that all such rules shall be approved, amended, or rejected by ordinance by the Board of Supervisors.

The amendments of this section contained in the proposition therefor submitted to the electorate on November 5, 2002 shall be effective July 1, 2003. (Added November 2002)

A8.400 GENERAL RULES FOR ESTABLISHING AND PAYING COMPENSATION

(a) The Board of Supervisors shall have power and it shall be its duty to fix by ordinance from time to time, as provided in Section 8.401, all salaries, wages and compensations of every kind and nature, except pension or retirement allowances, for the positions, or places of employment, of all officers and employees of all departments, offices, boards and commissions of the City and County in all cases where such compensations are paid by the City and County.

(b) The Board of Supervisors shall have power by ordinance to provide the periods when salaries and wages earned shall be paid provided, that until such ordinance becomes effective, all wages and salaries shall be paid semi-monthly. No salary or wage shall be paid in advance. It shall be official misconduct for any officer or employee to present or approve a claim for full-time or continuous personal service other than in the manner provided by this Charter.

(c) All personal services shall be paid by warrants on the basis of a claim, bill, timeroll or payroll approved by the head of the department or office employing such service. The claims, bills or payrolls, hereinafter designated as payrolls, for salaries, wages or compensation for personal services of all officers, assistants and employees of every class or description, without regard to the name or title by which they are known, for each department or office of

the City and County shall be transmitted to the department of human resources before presentation to the controller.

(d) The human resources director shall verify that all persons whose names appear on payrolls have been legally appointed to or employed in positions legally established under this Charter. In performing such verification said director may rely upon the results of electronic data processing. Said director shall direct his attention to exception reports produced by such processing; he shall approve or disapprove each item thereon and transmit said exception reports to the controller. The controller shall not draw his warrant for any claim for personal services, salary, wages or compensation which has been disapproved by the said director.

(e) For the purpose of the verification of claims, bills, timerolls, or payrolls, contractual services represented by teams or trucks hired by any principal executive or other officer of the City and County shall be considered in the same manner as personal service items and shall be included on payrolls as approved by said principal executive or other officers, and shall be subject to examination and approval by the human resources director and the controller in the same manner as payments for personal services.

(f) The salary, wage or other compensation fixed for each officer and employee in, or as provided by this Charter, shall be in full compensation for all services rendered, and every officer and employee shall pay all fees and other moneys received by him, in the course of his office or employment, into the City and County treasury.

(g) No officer or employee shall be paid for a greater time than that covered by his actual service; provided, however, that the basic amount of salary, wage or other compensation, excluding premium pay differentials of any type whatsoever of any officer or employee who may be called upon for jury service in any municipal, state or federal court, shall not be diminished during the term of such jury service. There shall, however, be deducted from the amount of basic salary, wage or other compensation, excluding any pay premium differentials of any type whatsoever payable by the City and County to the officer or employee for such period as such officer or employee may be absent on account of jury service, any amounts which the officer or employee may receive on account of such jury service. Any absence from regular duty or employment while on jury duty shall be indicated on timerolls by an appropriate symbol to be designated by the controller.

(h) Notwithstanding any other limitation in the Charter to the contrary, and subject to meet and confer obligations of state law, the Mayor may request that the Board of Supervisors enact, and the Board shall then have the power to so enact, an ordinance entitling City officers or employees called to active duty with a United States military reserve organization to receive from the City the following as part of the individual's compensation: for a period to be specified in the ordinance, the difference between the amount of the individual's military pay and the amount the individual would have received as a City officer or employee had the employee worked his or her normal work schedule, including any merit raises which otherwise would have been granted during the time the individual was on active duty. Any such ordinance shall be subject to the following limitations and conditions:

1. The individual must have been called into active service for a period greater than 30 consecutive days.
2. The purpose for such call to active service shall be extraordinary circumstances and shall not include scheduled training, drills, unit training assemblies, or similar events.
3. The amounts authorized pursuant to such an ordinance shall be offset by amounts required to be paid pursuant to any other law in order that there be no double payments.

4. Any individual receiving compensation pursuant to such an ordinance shall execute an agreement providing that if such individual does not return to City service within 60 days of release from active duty, or if the individual is not fit for employment at that time, within 60 days of return to fitness for employment, then that compensation shall be treated as a loan payable with interest at a rate equal to the greater of (i) the rate received for the concurrent period by the Treasurer's Pooled Cash Account or (ii) the minimum amount necessary to avoid imputed income under the Internal Revenue Code of 1986, as amended from time to time, and any successor statute. Such loan shall be payable in equal monthly installments over a period not to exceed 5 years, commencing 90 days after the individual's release from active service or return to fitness for employment, as the case may be.
5. Such an ordinance shall not apply to any active duty served voluntarily after the time that the individual is called to active service.
6. Such ordinance shall not be retroactive. (Amended March 2004)

A8.401 EARLY RETIREMENT BENEFITS TARGETED TO MITIGATE LAYOFFS

A8.401-1 PURPOSE

The current fiscal crisis requires the City and County to lay off employees to balance its budget. The need for such layoffs is expected to continue through fiscal years 2003-2004 and 2004-2005. The purpose of this early retirement measure is to: (1) encourage employees in classifications identified for layoff, due to cuts in City and County services or functions, to take early retirement, (2) minimize the effects of layoffs on employees already laid off from these classifications by increasing the possibility of return from holdover lists, (3) achieve good labor relations by extending the benefits to eligible employees who were laid off after March 1, 2003, but before the date this measure was enacted, (4) limit early retirement benefits to employees in classifications identified for layoffs, (5) provide for certification by the Controller that the number of employees selected for early retirement benefits in each classification shall not exceed the number of employees separated due to layoff, and (6) provide for participation by the School District and the Community College District. (Added November 2003)

A8.401-2 EARLY RETIREMENT BENEFITS

The following criteria govern those employees eligible to receive the early retirement benefit set forth in Section A8.522 of the Charter. (Added November 2003)

A8.401-3 AUTHORITY

During fiscal years 2003-2004 and 2004-2005, the Mayor shall identify, subject to confirmation by the Controller and the Director of the Department of Human Resources ("Director"):

- (A) City and County services or functions that have been terminated or reduced during the fiscal year because of budget constraints, and
- (B) The classifications of positions that have been eliminated in the budget for the fiscal year because of the termination or reduction of City and County services or functions ("Identified Classifications"). (Added November 2003)

A8.401-4 SCHEDULE

The determinations made by the Mayor, Controller and the Director under Section A8.401-3, above, shall be made after the Board of Supervisors has enacted the budget for the fiscal year or adopted a supplemental change to the budget. (Added November 2003)

A8.401-5 ELIGIBILITY

The Director shall develop procedures according to the following criteria and limitations to identify those employees eligible to receive early retirement benefits due to layoffs in Identified Classifications.

(A) The Director shall identify employees eligible for early retirement benefits in the following order:

1. Permanent civil service employees

a. In order of seniority, employees currently employed in an Identified Classification and employees laid off between March 1, 2003 and June 30, 2005 from an Identified Classification.

b. In order of seniority, employees currently employed in classifications that have been near-listed to an Identified Classification.

The Director shall determine seniority at the time of notification using the Civil Service Commission rules on layoff. A current employee who has not received notice that he or she will be separated from employment due to layoff shall be eligible for early retirement benefits only if his or her retirement would result in the retention or return to employment of an employee who has received notice of separation or been separated from employment due to layoff.

2. Exempt and provisional employees.

Exempt and provisional employees, employed under Charter Sections 10.104 or 10.105, shall be eligible for early retirement benefits only if they have been involuntarily separated from employment due to layoff between March 1, 2003 and June 30, 2005 from an Identified Classification.

(B) The number of employees who receive early retirement benefits in each Identified Classification shall not exceed the number of employees noticed for separation or separated from employment due to layoffs in the Identified Classification. The Controller shall certify the names of the employees identified, and that the number of employees identified for early retirement benefits in each Identified Classification does not exceed the number of employees separated from employment due to layoffs in the Identified Classification.

(Added November 2003)

A8.401-6 NOTIFICATION PROCEDURE

The Director shall notify in writing those employees eligible for early retirement benefits, with a copy to the Retirement System, and shall set a deadline for the employees to retire, not to exceed 30 days after notification. (Added November 2003)

A8.401-7 EXTENSION

This program may be extended by a three-fourths vote of the Board of Supervisors. The Board may authorize an extension limited to fiscal years 2005-2006 and 2006-2007.

(Added November 2003)

A8.401-8 COSTS

The City and County, not the Retirement System, shall bear the costs of identifying and giving notice, as described in this section, to employees eligible for the early retirement benefit. (Added November 2003)

A8.401-9 SCHOOL AND COMMUNITY COLLEGE DISTRICTS

For the purpose of offering early retirement benefits to their eligible employees, the San Francisco Unified School District and the San Francisco Community College District, through their authorized officials, shall exercise the authority granted in Section A8.401-3 to identify classifications of positions, held by employees enrolled in the San Francisco Retirement System, that meet the criteria in Section A8.401-3. Any offer of early retirement benefits to School District or Community College District employees shall be governed by the criteria, limitations and procedures set forth in Sections A8.401-3 through A8.401-8 above. The determinations made in Section A8.401-3 by the School District or the Community College District shall be made after the governing bodies of the School District or Community College District, as appropriate, have adopted the budget for the fiscal year or adopted a supplemental change to the budget. (Added November 2003)

A8.401-10 NON-VESTED BENEFIT

This Section and Section A8.522 do not create vested rights in any employee who has not yet retired under this Section. The voters expressly reserve the right to alter or repeal for any reason the early retirement benefits provided in this Section and Section A8.522. (Added November 2003)

A8.401-11 DISCRETIONARY AUTHORITY

The determinations made under this Section are within the sole discretion of the City and County, School District and Community College District. In adopting this Charter amendment the voters intend to grant broad discretion to City and County officials, including the Director and the Controller, as well as appropriate School District and Community College District officials. The voters intend that courts grant deference to these officials' interpretations and applications of the provisions of this Charter amendment. The voters intend that courts defer to the decisions of these officials unless they are devoid of any conceivable basis in reason. The voters do not intend to impose any duties on the City and County, or its officials, including the Director and Controller, or on the School District, Community College District, or their officials, for breach of which any aggrieved party may recover damages, attorneys fees or costs. (Added November 2003)

A8.402 COMPENSATION OF TEACHERS, PART-TIME EMPLOYEES AND CERTAIN OTHER GROUPS

Compensations of the teaching and other technical forces of the school department and employees of the Steinhart Aquarium and law library departments, construction employees engaged outside of the City and County, part-time employees, and inmate and institutional help receiving less than \$50 per month, shall be fixed by the department head in charge thereof, with the approval of the board or commission, if any, in charge of the department concerned and subject to the budget and appropriation provisions of this Charter; provided that part-time employees shall be recorded as such by a principal executive, only with approval of the civil service commission and, when so recorded, shall be noted as part-time on payrolls, budget estimates, salary ordinance and similar documents.

A8.403 COMPENSATION FOR REGISTERED NURSE CLASSIFICATIONS

The salary, conditions and benefits of employment of the various classifications of nurses required to possess a registered nurse license issued by the State of California as provided for in this section as compensation shall be determined and fixed annually as follows:

- (a) On or before May 1, 1982, and each year thereafter, the civil service commission shall certify to the Board of Supervisors for the acute care staff nurse classification the highest prevailing salary schedule in effect on April 15 of that year, and salary adjustments, if any, to be effective during the City and County's next succeeding fiscal year, granted by collective bargaining agreement to comparable registered nurse employees in public and private employment in the counties of Alameda, Contra Costa, Marin, San Mateo, San Francisco and Santa Clara. Rates of pay for other registered nurse classifications shall reflect not less than the same relationships to the benchmark registered nurse classification that those classifications had in fiscal year 1980-1981 to the then benchmark classification.
- (b) The Board of Supervisors shall on or before June 1, 1982, and each year thereafter, fix a salary schedule for each classification which shall not be in excess of the schedules certified by the civil service commission, for each such classification, except as provided in Subsection (f) below, and provided, further, that no employee's basic rate of pay shall be reduced to conform to the highest prevailing salary schedule except as provided for in Section 8.406;
- (c) The rates of pay fixed for each classification shall become effective at the beginning of the next succeeding fiscal year;
- (d) The terms "salary schedule" and "salary schedules" wherever used in this section are hereby defined and intended to include only the maximum rate of pay provided in each such salary schedule; the term "salary adjustments" shall mean an increase or decrease to the maximum rate of pay;
- (e) At the time the Board of Supervisors fixes the salary schedule as provided in (b) above, the Board of Supervisors may fix as conditions and benefits of employment other than salaries as compensation for each classification, conditions and benefits not to exceed the intent of those conditions and benefits granted by collective bargaining agreements to comparable classifications by the employer used for certification of the highest prevailing salary schedule by the civil service commission. The Board of Supervisors may establish such conditions and benefits notwithstanding other provisions or limitations of this Charter, with the exception that such conditions and benefits shall not involve any change in the administration of or benefits of the Retirement System, health service system or vacation allowances provided elsewhere in this Charter. Conditions and benefits of employment existing prior to July 1, 1982 may be continued by the Board of Supervisors;
- (f) When the employer used for certification in Subsection (a) above, provides rates of pay during the current fiscal year in excess of those fixed by the Board of Supervisors for said current fiscal year, or vacation and health service benefits greater than such similar benefits provided by this Charter for the staff nurse classification, the civil service commission shall certify to the Board of Supervisors an amount not to exceed the difference of such salary and benefits converted to dollar values and the Board of Supervisors may provide additional salary, conditions and benefits of employment at a cost not to exceed said dollar value.

A8.404 SALARIES AND BENEFITS OF CARMEN

(a) The wages, conditions and benefits of employment of the various classifications of employment of platform employees and coach or bus operators of the municipal railway as compensation shall be determined pursuant to Charter section A8.409 et seq. as modified by Charter section 8A.104.

(b) In the first MOU negotiated or awarded through arbitration pertaining to transit operators covered by this section after the November 2010 general election, the Agency's contribution for active employee health coverage shall not be less than the City contribution for the majority of other employees covered by section A8.409 et seq. for the employee only, and at each level of dependent coverage provided under the Health Service System. This subsection may be waived upon the mutual consent of the Agency and the employee organization representing transit operators. (Amended by Proposition A, Approved 11/6/2007; Proposition G, Approved 11/2/2010)

A8.404-1 FY 2009-2010 INTERIM ECONOMIC PROVISIONS

Notwithstanding any other provision of Charter Section A8.404, 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, but not including any trust fund contributions required under Section A8.404(f)) shall not be increased for miscellaneous City and County platform employees, and coach or bus operators of the municipal railway, above the levels set in, place as of close of business June 30, 2009, nor may new economic provisions be added. (Added by Proposition B, 6/3/2008)

A8.405 SALARIES OF UNIFORMED FORCES IN THE POLICE AND FIRE DEPARTMENTS

(a) Not later than the first day of August of each year, the civil service commission shall survey and certify to the Board of Supervisors rates of compensation paid police officers or patrol officers employed in the respective police departments in all cities of 350,000 population or over in the State of California, based upon the latest federal decennial census. For the purpose of the civil service commission's survey and certification the rates contained in said certification shall be the average of the maximum rates paid to each police officer or patrol officer classification performing the same or essentially the same duties as police officers or patrol officers in the City and County of San Francisco.

Thereupon the Board of Supervisors shall have the power, and it shall be its duty, by ordinance, to fix rates of compensation for the members of the police department whose annual compensations are set forth in Section 3.531 of this Charter and said rates shall be in lieu of said annual compensations and shall be effective from the first day of July of the current fiscal year.

The rates of compensation, fixed in said ordinance,

(1) for the fourth year of service and thereafter for police officers, police patrol drivers and women protective officers the compensation shall be fixed at a rate which is the average maximum wage paid to police officer or patrol officer classifications in regular service in the cities included in the certified report of the civil service commission. "Average wage" as used in this paragraph shall mean the sum of the maximum averages certified by the civil service commission divided by the number of police officer classifications in cities in said certification;

(2) for the first, second and third year of service for police officers, police patrol drivers and women protective officers shall be established in accordance with the general percentage differential between seniority steps found in the salary ranges included in the cities certified by the civil service commission for the same class;

(3) for said members of the police department other than police officers, police patrol drivers and women protective officers shall include the same percent of adjustment as that established by said ordinance for police officers in the fourth year of service; and

(4) shall be set at the dollar amount nearest the fractional amount which may result from percentage adjustment specified in this section, half dollars being taken to the next higher dollar amount.

The rates of compensation set forth in the budget estimates, the budget and the annual salary ordinance shall be those fixed by the Board of Supervisors as in this section provided and appropriations therefore shall be based thereon.

The expression "rates of compensation," as used in this section in relation to said survey, is hereby declared to apply only to a basic amount of wages, with included range scales, and does not include such working benefits as might be set up by any other City by way of holidays, vacations, other permitted absences of any type whatsoever, overtime, night or split shift, or pay for specialized services within a classification or rank, or other premium pay differentials of any type whatsoever. The foregoing enumeration is not exclusive, but it is the intent of this section that nothing other than a basic amount of wages, with included range scales, is to be included within the meaning of "rates of compensation."

Working benefits and premium pay differential of any type shall be allowed or paid to members of the police department referred to herein only as is otherwise provided in this Charter.

For all purposes of the Retirement System, the expression "rates of compensation" as used in this section, shall mean "salary attached to the rank" as used in Section 166 of the Charter of 1932, as amended, and with the addition of fifteen dollars (\$15) per month now provided in Subsection (b) with respect to members assigned to two-wheel motorcycle duty, shall also mean "compensation earnable" as used in Section 8.549.

The term "police officers or patrol officers" as used in this section shall mean the persons employed in the police departments of said cities of 350,000 population or over or of the City and County of San Francisco, to perform substantially the duties being performed on the effective date of this section by police officers, police patrol drivers and women protective officers in the San Francisco Police Department.

In determining years of service necessary for a police officer, woman protective officer and police patrol driver to receive the annual compensation as provided for herein, service rendered prior to the effective date of this amendment shall be given full credit and allowed.

The absence of any police officer, woman protective officer or police patrol driver on military leave, as defined by Section 8.361 of this Charter, shall be reckoned a part of his service under the City and County, for the purpose of computing years of service in gaining added compensation as provided for herein.

On the recommendation of the chief of police, the commission may reward any member of the department for heroic or meritorious conduct. The form or amount of said reward to be discretionary with the commission, but not to exceed one month's salary in any one instance.

If any member of the department appointed as an assistant inspector is a sergeant at the time of the appointment or is appointed a sergeant thereafter, such member shall receive the rate of compensation attached to the rank of sergeant.

(b) Not later than first day of August of each year the civil service commission shall survey, and certify to the Board of Supervisors, additional rates of pay paid to members assigned to all two-wheel motorcycle duty in the respective police departments of all cities of 350,000 population or over in the State of California, based upon the latest decennial census. For the purpose of the civil service commission's survey and certification the additional rates for two-wheel motorcycle duty shall include the average additional amount paid to members assigned to two-wheel motorcycle duty in the cities surveyed.

Thereupon the Board of Supervisors shall have the power, and it shall be its duty, by ordinance, to fix the additional rate of pay for the members of the police department who are assigned two-wheel motorcycle duty. The additional rate of pay will be determined by the average additional wage paid to members in regular service in the cities included in the certified report of the civil service commission who are assigned to two-wheel motorcycle duty. "Average wage" as used in this paragraph shall mean the sum of the additional rates of pay certified by the civil service commission divided by the number of cities in said certification. Said additional rates shall be in lieu of said annual compensations and shall be effective from the first day of July of the current fiscal year.

Said rate of pay shall be in addition to the rate of compensation provided for in Subsection (a).

In no event shall the additional rate so fixed be less than fifteen dollars (\$15) per month.

(c) Not later than the first day of August of each year, the civil service commission shall survey and certify to the Board of Supervisors rates of compensation paid firefighters employed in the respective fire departments of all cities of 350,000 population or over in the State of California, based upon the latest federal decennial census. For the purpose of the civil service commission's survey and certification the rates contained in said certification shall be the average of the maximum rates paid to each firefighter classification performing the same or essentially the same duties as firefighters in the City and County of San Francisco.

Thereupon, the Board of Supervisors shall have the power, and it shall be its duty, by ordinance, to fix rates of compensation for the members of the fire department whose annual compensations are set forth or otherwise provided in Section 3.542 of this Charter, and said rates shall be in lieu of said annual compensations and shall be effective from the first day of July of the current fiscal year.

The rates of compensation, fixed in said ordinance,

(1) for the fourth year of service and thereafter the rate of compensation shall be fixed at a rate which is the average of the maximum compensation paid firefighter classifications in regular service in the cities included in the certified report of the civil service commission. "Average wage" as used in this paragraph shall mean the sum of the maximum averages certified by the civil service commission divided by the number of firefighter classifications in cities in said certification;

(2) for the first, second and third year of service for firefighters shall be established in accordance with the general percentage differential between seniority steps found in the salary ranges included in the cities certified by the civil service commission for the same class;

- (3) for said members of the fire department other than firefighters shall include the same percent of adjustment as that established by said ordinance for firefighters in the fourth year of service; and
- (4) shall be set at the dollar amount nearest the fractional amount which may result from percentage adjustment specified in this section, half dollars being taken to the next higher dollar amount.

The expression "rates of compensation" as used in this section, in relation to said survey, is hereby declared to apply only to a basic amount of wages, with included range scales, and does not include such working benefits as might be set up by any other City by way of holidays, vacations, other permitted absences for any type whatsoever, overtime, night or split shift, or pay for specialized services within a classification or rank, or other premium pay differentials of any type whatsoever. The foregoing enumeration is not exclusive, but it is the intent of this section that nothing other than a basic amount of wages, with included range scales, is to be included within the meaning of "rates of compensation."

Working benefits and premium pay differentials of any type shall be allowed or paid to members of the fire department referred to herein only as is otherwise provided in this Charter.

For all purposes of the Retirement System, the expression "rates of compensation," as used in Subsections (c) and (d) of this section shall mean "salary attached to the rank" as used in Section 169 of the Charter of 1932, as amended and "compensation earnable" as used in Section 8.549.

The term "firefighters" as used in this section shall mean the persons employed, in the fire departments of said cities of 350,000 population or over or of the City and County of San Francisco, to perform substantially the duties being performed on the effective date of this section by drivers, stokers, tillermen, truckmen, or hosemen, in the San Francisco Fire Department.

The expression "members of the fire department" does not include members of the fire commission.

The absence of any officer or member of the fire department on military leave of absence, as defined by Section 8.361 of this Charter shall be reckoned a part of such member's service under the City and County, for the purpose of computing years of service in gaining added compensation as provided in this Charter.

On the recommendation of the chief of department, the commission may reward any officer or member of the department for heroic or meritorious conduct, the form or amount of said award to be discretionary with the fire commission, but not to exceed one month's salary in any one instance.

The rates of compensation for the ranks of captain, bureau of fire prevention and public safety, and lieutenant, bureau of fire investigation, shall be thirteen percent (13%) above the compensation established for the ranks of captain and lieutenant as provided for in this section. The rates of compensation for the ranks of inspector, bureau of fire prevention and public safety, and investigator, bureau of fire investigation, shall be ten percent (10%) above the compensation established for the rank of chief's operator as provided for in this section. The rate of compensation shall be set at the dollar amount nearest the fractional amount which may result from percentage adjustment specified in this subsection, half dollars being taken to the next higher dollar amount.

- (d) The rates of compensation fixed pursuant to the provisions of Subsection (a)(1), (2) and (3) and the rates of compensation fixed pursuant to the provisions of Subsection (c)(1), (2) and (3) shall be the same. Such rates shall not exceed the highest average rate of

compensation fixed pursuant to Subsections (a)(1), (2) and (3) and (c)(1), (2) and (3) above, whether it be paid to police officers, patrol officers or firefighters; provided, further, that the minimum rate of compensation attached to the rank of sergeant in the police department shall be equal to the rate of compensation attached to the rank of lieutenant in the fire department. (e) Not later than the 25th day of August the Board of Supervisors shall have the power and it shall be its duty, subject to the fiscal provisions of the Charter but without reference or amendment to the annual budget, to amend the annual appropriation ordinance and the annual salary ordinance as necessary to include the provisions of paying the rates of compensation fixed by the Board of Supervisors as in this section provided for uniformed members of the police and fire departments for the then current fiscal year.

Notwithstanding any other Charter provision, the rates of compensation for police officers and firefighters shall be annually further increased as follows:

(1) In the event that any City of 350,000 population or over in the State of California as defined in subsections (a) and (c) of this section has not finalized, fixed, or reached agreement as to the rates of compensation prior to the 25th day of August, the date for further and additional fixing of the rates of compensation and for further and additional amending of the annual appropriation ordinance and annual salary ordinance to provide for the paying of additional rates of compensation to police officers and firefighters shall extend to the 30th day of June of the following year.

(2) Should any City as defined in subsections (a) and (c) of this section finalize, fix or reach agreement as to the rates of compensation after the 25th day of August but prior to the 30th day of June of the following year, the Board of Supervisors shall have the power, and it shall be its duty, subject to the fiscal provisions of the Charter, by ordinance, within 30 calendar days of said finalizing, fixing, or reaching agreement, further to fix the rates of compensation for the uniformed members of the police and fire departments and to further amend the annual appropriation ordinance and the annual salary ordinance to include provisions for paying the rates of compensation as so further fixed pursuant to subsections (a), (b) and (c) of this section, and said rate of compensation shall be effective retroactive to the effective date of the agreement or legislation designated in subsections (a) and (c), but in no event prior to July 1 of the current fiscal year.

(f) Not later than the first day of August of each year, the civil service commission shall determine and certify to the Board of Supervisors the percentage of increase or decrease in the cost of living during the 12-month period ending March 31st of that same year as shown by the Consumer Price Index, All Items San Francisco, and the percentage of increase or decrease in the cost of living during the same period as shown by the Consumer Price Index, All Items, in the cities included in the certified report of said commission. The Consumer Price Index referred to herein is defined as that certain index issued by the U. S. Bureau of Labor Statistics and published in the Monthly Labor Review or a successor publication. In the event the U. S. Bureau of Labor Statistics discontinues the compilation and publication of said indexes, the Board of Supervisors shall have the power, and it shall be its duty, to appoint a statistical fact finding committee to determine the same data pursuant to the methods theretofore used by the U. S. Bureau of Labor Statistics. The cost of living adjustments as hereinafter provided shall be based upon the percentage of such increases or decreases. The Board of Supervisors may, in addition to the rates of compensation as established herein, and at the same time said rates of compensation are established, increase said rates of compensation by an amount equal to the difference between the average cost of living increase of the cities included in the certified report of the civil service commission and the actual cost of living increase for San Francisco. In the event the Board of Supervisors

elects not to grant such cost of living increase in any year in which any such increase might be granted, the Board of Supervisors shall, upon a written request filed with the clerk of the Board of Supervisors not later than the 10th day of September of said year by representatives of the uniformed members of the police and fire departments, as designated by the police and fire commissions, respectively, submit the question of said cost of living increase to the qualified electors of the City and County at the next succeeding Citywide election. In the event said cost of living increase is approved by a majority of the qualified electors voting thereon, said cost of living increase shall be effective as of the first day of the then current fiscal year.

(g) Notwithstanding any of the provisions contained in this section, no uniformed member of the police or fire department employed before July 1, 1976, whose compensation is fixed pursuant to the formula contained herein, shall suffer a salary reduction by the application of any new compensation schedules, and the rates for fiscal year 1975-76 shall continue until such time as the new schedules equal or exceed the current salary increment schedules, provided, however, that such time shall not be extended beyond June 30, 1982, and provided further that this prohibition against reduction of compensation for the designated employees shall not be deemed to supersede the provisions of Section 8.406 of this Charter.

(h) Notwithstanding any of the provisions contained in this section, no uniformed member of the police or fire department, whose compensation is fixed pursuant to the formula contained herein, shall suffer a salary reduction by the application of the compensation schedules provided for herein. Provided, however, that this prohibition against reduction of compensation for the designated employees shall not be deemed to supersede the provisions of Section 8.406 of this Charter.

(i) This amendment shall become effective immediately upon certification of election results and its provisions shall pertain to fixing rates of pay for police officers and firefighters during fiscal year 1986-87.

A8.406 SALARY DEDUCTIONS

Whenever, in the judgment of the Mayor and the Board of Supervisors, extraordinary economic conditions actually exist due to unemployment, fire, earthquake, flood or other calamity, which adversely affect the life, health and welfare of the citizens of the City and County or of any considerable portion thereof, the Board of Supervisors, by a three-fourths vote of all of its members, with the concurrence of the Mayor, shall have power as follows, to-wit:

(a) To officially declare that a public emergency exists, and to fix the approximate anticipated time during which said emergency shall continue, provided that no such emergency shall be anticipated to continue beyond the end of the fiscal year during which the same is declared, unless such emergency be declared subsequent to the first day of January of said year, in which event the said emergency may be anticipated to continue until the end of the next succeeding fiscal year.

(b) To provide that while said emergency as declared shall continue to exist there shall be deducted from the gross salaries and compensations, exclusive of pension and retirement allowances, of each officer and employee of the City and County of San Francisco, including officers and employees of the board of education, not more than the respective amounts hereinafter set forth. Said deductions shall be made on the basis of the salary and compensation rate of said several officers and employees which were in effect during the calendar month immediately preceding the month during which said emergency was declared and not reduced by this section.

If said salary and compensation deductions are not reflected in the annual budget and appropriation ordinances, as set forth in Subsection (c) of this section, the amount of said deductions shall be used for the purpose of meeting or alleviating the emergency which has been declared, or to balance any deficiency existing in the general funds of the City arising by reason of the delinquency in the payment of taxes or other revenue as compared with the anticipated revenues over the same period. Provided that where salaries or compensations are paid out of bond funds, utility funds, or other trust funds, which are not provided from the revenues of the City, all deductions made shall revert to the respective funds from which said salaries or compensations are paid.

The maximum deductions from the salary or compensation of each officer or employee heretofore referred to shall be as follows, to-wit:

- (1) From the salaries or compensation of officers or employees whose gross earnings exceed \$100 per month and do not exceed \$120 per month, three percent of the amount of the gross monthly earnings of each of said officers or employees.
- (2) From the salaries or compensations of officers or employees whose gross earnings exceed the sum of \$120 per month and do not exceed the sum of \$150 per month, seven percent of the gross monthly earnings of each of said officers or employees.
- (3) From the salaries or compensations of officers or employees whose gross earnings exceed the sum of \$150 per month, and do not exceed the sum of \$185 per month, 10 percent of the gross monthly earnings of each of said officers or employees.
- (4) From the salaries or compensations of all officers or employees whose gross earnings exceed the sum of \$185 per month, and do not exceed the sum of \$275 per month, 12½ percent of the gross monthly earnings of each of said officers or employees.
- (5) From the salaries or compensations of all officers or employees whose gross earnings exceed the sum of \$275 per month, and do not exceed the sum of \$600 per month, 15 percent of the gross monthly earnings of said officers or employees.
- (6) From the salaries or compensations of all officers or employees whose gross earnings exceed the sum of \$600 per month, and do not exceed the sum of \$834 per month, 18 percent of the gross monthly earnings of each of said officers or employees.
- (7) From the salaries or compensations of all officers or employees whose gross earnings exceed the sum of \$834 per month, 20 percent of the gross monthly earnings of each of said officers or employees.
- (8) Provided, however, that no more than 5-1/2 percent of the gross monthly earnings of per diem employees whose compensations are fixed on the basis of a five-day week shall be deducted from the salaries or earnings of any such employee.

Said deductions shall be made from said earnings or compensations in monthly or semi-monthly installments according to the time at which said salaries or compensations are paid; provided that where the earnings of any officer or employee are on an hourly or per diem basis deductions based on his total earnings for the month shall be deducted from the installment of said earnings paid for the last half of the month.

(c) Should any such emergency declared as herein provided be anticipated to continue into the next fiscal year following the one during which said emergency has been declared, the controller and the Mayor in preparing or submitting their respective annual budget estimates shall base and estimate the net salaries and compensations to be paid at amounts not to exceed the said salaries and compensations as reduced by the above-mentioned percentages on the above-mentioned salary and compensation rates, and the annual appropriation and salary ordinance shall fix said net salaries and compensation accordingly. When any emergency is declared after the annual budget is prepared or adopted, or after the

annual appropriation or salary ordinances are enacted, and before the annual tax rate is fixed as provided by law, said budget and said appropriation and salary ordinances may be revised or reenacted, so that the deductions herein authorized to be made may be reflected in the amount of the tax levy.

(d) All of such deductions, whether made after the passing of the annual budget appropriation and salary ordinance or included therein, shall be deemed as temporary deductions from the salaries and compensations of said officers and employees, and shall be continued only during the anticipated period for which said emergency has been declared.

(e) In making the deductions herein provided for, the value of board, room and laundry or other maintenance furnished by the City and County to any officer or employee, when the same is made a part of his compensation by the civil service commission, shall be added to the monetary salary or compensation paid to said employee, and the amount of deductions from said salary or compensation shall be based on said monetary salary plus the value of said board, room and laundry or other maintenance, provided that no deduction shall be made for quarters furnished to any officer or member of the fire department.

(f) During the period that any emergency shall exist after being so determined as hereinbefore provided, the controller, with the approval of the Mayor and the Board of Supervisors, may reallocate any unencumbered balance, or any part thereof, to the credit of any department or office exclusive of monies or appropriations made or required to be made to any bond, bond interest, bond redemption, pension, utility, or trust fund, so that the same shall be available to meet the necessities of said emergency, irrespective as to whether the amount allocated to said department or office is fixed by this Charter or is the result of a tax provided by said Charter to be levied for said department. Should the period during which said emergency is anticipated to exist extend beyond the end of the fiscal year in which the same was declared to exist, the Mayor, with the approval of the Board of Supervisors, may reduce the amount of any mandatory appropriation provided to be allocated to any office or department; or may reduce the amount of any tax provided by the Charter to be levied for the support or maintenance of any department or office. Provided that no such deduction in appropriation, provided by this Charter to be made to any department, or in the reallocation of funds, or reduction in the amount of said tax otherwise provided to be levied to produce funds for any department, shall be greater than is necessary to reflect the deductions in salaries provided in the section to be made by reason of said emergency.

The provisions of this section shall have precedence over conflicting provisions of this Charter, but nothing herein contained shall adversely affect the rights of the officers and employees as set forth in Section 8.400 (h) of the Charter, during the period when no public emergency exists. Contributions by the City and County and by members of the San Francisco City and County Employees' Retirement System to, and benefits, pension payments and allowances under said Retirement System, shall be calculated on the basis of gross salaries and compensations of such members in the same manner and amounts as if no deductions from said gross salaries and compensations were made under this section.

Should any emergency be declared pursuant to the provisions of this section, which, in the judgment of the Board of Supervisors, will necessitate deductions from the salaries of the officers and employees of the City and County, over and above the amounts herein provided for, the Board of Supervisors by unanimous vote of all of its members, and with the approval of the Mayor may authorize a further deduction from the salaries and compensations of any of said officers and employees by increasing the maximum deductions in this section provided for, up to and including an amount not to exceed 25 percent of said

respective salaries or compensations as the same existed before any deduction by authority of this section.

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 8.400(h), 8.401-1, and 8.407 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 cost-of-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.

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; Amended by Proposition C, Approved 11/7/2006)

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 memoranda 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.
- (d) In the event no agreement is reached prior to the conclusion of the arbitration hearings, the 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, A8.432, and A8.433, and shall not be subject to the dispute resolution procedures contained in Charter Section A8.409-4. (Added by Proposition B, 6/3/2008)

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

Notwithstanding any other provision of Charter Sections A8.409 through A8.409-8, 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, 6/3/2008)

A8.425 PERSONS COVERED

Each plan may make provision for the participation in the benefits of the system by the dependents of members, retired City and County employees, temporary City and County employees, such other dependents of deceased and retired City and County employees as the Board of Supervisors may authorize by ordinance, teachers and other employees of the San Francisco Unified School District retired under the San Francisco City and County Employees' Retirement System and resigned employees of the City and County and resigned teachers and employees of the school district whose resignations occur after June 15, 1955, and within 30 days immediately prior to the date on which, but for their resignations, they would have become retired members of the said Retirement System, on whose relinquishment of retirement allowances as permitted by the Charter occurs after such date

and resigned employees of the San Francisco Unified School District not otherwise included. A resigned employee or teacher is one whose employment has terminated other than by retirement, discharge or death or who has relinquished retirement allowances. The purpose of empowering the health service board to make provision for the participation in the benefits of the system to the aforementioned resigned teachers and employees of the San Francisco Unified School District is to enable them, subject to the health service board's exercise of its power, to participate in the benefits of the system after transferring to the State Teachers' Retirement System from the San Francisco City and County Employees' Retirement System. The purpose of empowering the health service board to make provision for participation in the benefits of the system by the aforementioned resigned employees of the City and County and other resigned employees of San Francisco Unified School District is to permit the health service board to have power to treat them the same as it treats resigned teachers and employees of the San Francisco Unified School District.

As used in this section, and for the purpose of this section, the terms "City and County employees" and "employees of the City and County" shall include officers and employees of the Parking Authority of the City and County of San Francisco.

In addition to "the average contributions" in Subsection (b) of Section A8.428, the Board of Supervisors may provide by ordinance for additional funds from the City and County to pay the full cost of any plan for medical benefits adopted under Sections A8.422 or A8.423 for current members of the Board of Supervisors. The Board of Supervisors may also provide by ordinance for the continuation in any plan by former supervisors who agree to and do pay the full cost of such benefit. (Amended March 2000)

A8.428 HEALTH SERVICE SYSTEM TRUST FUND

There is hereby created a health service system trust fund. The costs of the health service system shall be borne by the members of the system and retired persons, the City and County of San Francisco because of its members and retired persons, the Parking Authority of the City and County of San Francisco because of its members and retired persons, the San Francisco Unified School District because of its members and retired persons and the San Francisco Community College District because of its members and retired persons.

(a) Definitions.

"Credited Service" means years of employment with the Employers.

"Employers " as used in this section means the City and County of San Francisco ("City and County"), the San Francisco Unified School District ("School District") and/or the San Francisco Community College District ("Community College District"). Employers shall also include the Superior Court of California, County of San Francisco ("Superior Court"), to the extent the Superior Court participates in the City's Health Service System, under A8.428(e).

"Hired on or Before January 9, 2009" as used in this section means employees of the City and County, the School District and/or the Community College District who were hired on or before January 9, 2009, excluding the following categories of employees: (1) as-needed employees who have, never earned 1,040 or more hours of compensation during any 12-month period ending on or before January 9, 2009; and/or (2) employees who have separated from the Employers on or before January 9, 2009, and have less than 5 years of Credited Service.

"PERS" as used in this section shall mean the Public Employees' Retirement System of the State of California.

"Registered as Domestic Partners " as used in this section means persons who have established a domestic partnership according to the provisions of Chapter 62 of the San Francisco Administrative Code, as amended from time to time. Domestic partners who have formed their domestic partnership only by notarization of a declaration of Domestic Partnership as provided in Chapter 62 of the San Francisco Administrative Code shall not be recognized or treated as a domestic partnership under this Section unless and until the domestic partnership is registered or certified.

"Retirement System" as used in this section shall mean the San Francisco City and County Employees' Retirement System.

"Retired under the San Francisco City and County Employees' Retirement System" as used in this section includes persons who retire for service; retire for disability; or who receive a retirement or vesting allowance from the Retirement System.

A "Retired Person" as used in this section means:

- (1) A former member of the health service system, hired by the Employers on or before January 9, 2009, retired under the San Francisco City and County Employees' Retirement System or PERS (hereinafter, "Retired Employee who was Hired on or Before January 9, 2009"); and,
- (2) The surviving spouse or surviving domestic partner of an active employee hired on or before January 9, 2009, provided that the surviving spouse or surviving domestic partner and the active employee have been married or Registered as Domestic Partners for a period of at least one year prior to the death of the active employee;
- (3) The surviving spouse or surviving domestic partner of a Retired Employee who was Hired on or Before January 9, 2009, provided that the surviving spouse or surviving domestic partner and the Retired Employee who was Hired on or Before January 9, 2009 have been married or Registered as Domestic Partners for a period of at least one year prior to the death of the Retired Employee who was Hired on or Before January 9, 2009;
- (4) A former member of the health service system, hired by the Employers on or after January 10, 2009, and retired under the Retirement System or PERS for disability or retired under the Retirement System or PERS: (i) within 180 days of separation from employment from the Employers; and (ii) with 10 or more years of Credited Service with the Employers (hereinafter, "Retired Employee who was Hired on or After January 10, 2009");
- (5) The surviving spouse or surviving domestic partner of an active employee hired on or after January 10, 2009, with 10 or more years of Credited Service with the Employers, or who died in the line of duty where the surviving spouse or surviving domestic partner is entitled to a death allowance as a result of the death in the line of duty, provided that the surviving spouse or surviving domestic partner and the active, employee have been married or Registered as Domestic Partners for a period of at least one year prior to the death of the active employee; or
- (6) The surviving spouse or surviving domestic partner of a Retired Employee who was Hired on or After January 10, 2009, provided that the surviving spouse or surviving domestic partner and the Retired Employee who was Hired on or After January 10, 2009, have been married or Registered as Domestic Partners for a period of at least one year prior to the death of the Retired Employee who was Hired on or After January 10, 2009.

(b) Employer Contributions.

The City and County, the School District and the Community College District shall each contribute to the health service fund amounts sufficient for the following purposes, and subject to the following limitations:

- (1) All funds necessary to efficiently administer the health service system.

(2) The City and County, the School, District and the Community College District shall contribute to the health service system fund with respect to each of their members an amount equal to "the average contribution," as certified by the health service board in accordance with the provisions of Section A8.423.

(3) Retired Employees Who Were Hired on or Before January 9, 2009.

For Retired Persons identified in A8.428 Subsections (a)(1), (a)(2) and (a)(3), the Employers shall contribute to the health service fund, amounts subject to the following limitations: Monthly contributions required from Retired Persons and the surviving spouses and surviving domestic partners of active employees and Retired Persons participating in the system shall be equal to the monthly contributions required from members in the system for health coverage excluding health coverage or subsidies for health coverage paid for active employees as a result of collective bargaining, with the following modifications:

- (i) the total contributions required from Retired Persons who are also covered under Medicare shall be reduced by an amount equal to the amount contributed monthly by such persons to Medicare;
- (ii) because the monthly cost of health coverage for Retired Persons may be higher than the monthly cost of health coverage for active employees, the City and County, the School District and the Community College District shall contribute funds sufficient to defray the difference in cost to the system in providing the same health coverage to Retired Persons and the surviving spouses and surviving domestic partners of active employees and Retired Persons as is provided for active employee members excluding health coverage or subsidies for health coverage paid for active employees as a result of collective bargaining;
- (iii) after application of Subsections (3), (3)(i) and (3)(ii), the City and County, the School District and the Community College District shall contribute 50% of Retired Persons' remaining monthly contributions.

(4) Retired Employees Who Were Hired on or After January 10, 2009 - Categories of Employees Eligible for 100% Employer Contribution.

For Retired Persons identified in A8.428 Subsections (a)(4), (a)(5) and (a)(6), the Employers shall contribute 100% of the employer contribution established in A8.428 Subsection (b)(3) for:

- (i) A Retired Employee who was Hired on or After January 10, 2009, with 20 or more years of Credited Service with the Employers; and their surviving spouses or surviving domestic partners;
- (ii) The surviving spouses or surviving domestic partners of active employees hired on or after January 10, 2009, with 20 or more years of Credited Service with the Employers;
- (iii) Retired Persons who retired for disability; and their surviving spouses or surviving domestic partners; and
- (iv) The surviving spouses or surviving domestic partners of active employees who died in the line of duty where the surviving spouse or surviving domestic partner is entitled to a death allowance as a result of the death in the line of duty.

(5) Retired Employees Who Were Hired on or After January 10, 2009 - Categories of Employees Eligible for 50%--75% Employer Contribution.

For Retired Persons identified in A8.428 Subsections (a)(4), (a)(5) and (a)(6), the Employers shall contribute:

- (i) 50% percent of the employer contribution established in A8.428 Subsection (b)(3) for a Retired Employee who was Hired on or After January 10, 2009, with, at least 10 but less than 15 years of Credited Service with the Employers: their surviving spouses or surviving domestic partners: and the surviving spouses or surviving domestic partners of active

employees hired on or after January 10, 2009, with at least 10 but less than 15 years of Credited Service with the Employers; and

(ii) 75% percent of the employer contribution established in A8.428 Subsection (b)(3) for a Retired Employee who was Hired on or After January 10, 2009, with at least 15 but less than 20 years of Credited Service with the Employers; their surviving spouses or surviving domestic partners; and the surviving spouses or surviving domestic partners of active employees hired, on or after January 10, 2009, with at least 15 but less than 20 years of Credited Service with the Employers.

(6) Employees Hired on or After January 10, 2009 - Categories of Employees Eligible for Access to Retiree Medical Benefits Coverage.

An employee hired on or after January 10, 2009, and retired under the Retirement System or PERS with five (5) or more years Credited Service with the Employers, shall be eligible to receive health benefits as a member of the health service system, provided that he or she makes monthly contributions equal to one hundred percent, (100%) of the total premiums for health coverage as established by the Health, Service Board, including the total cost for dependent coverage. At such time as he or she becomes eligible to receive benefits under A8.428 Subsection (a)(4), the Employers shall contribute the amounts established in A8.428 Subsections (b)(4), (b)(5), and (c), as applicable.

(7) Chart Summarizing Employer Contributions Under A8.428 Subsections (b)(4), (b)(5) and (b)(6) For Employees Hired on or After January 10, 2009.

Years of Credited Service At Retirement	Percentage of Employer Contribution Established in A8.428 Subsection (b)(3)
1. Less than 5 years of Credited Service with the Employers (except for the surviving spouses or surviving domestic partners of active employees who died in the line of duty)	No Retiree Medical Benefits Coverage
2. At least 5 but less than 10 years of Credited Service with the Employers; or greater than 10 years of Credited Service with the Employers but not eligible to receive benefits under Subsections (a)(4), (b)(4) and (b)(5) (A8.428 Subsection (b)(6))	0% Access to Retiree Medical Benefits Coverage, Including Access to Dependant Coverage, But No Employer Contribution; Employee Pays Health Insurance Premium
3. At least 10 but less than 15 years of Credited Service with the Employers (A8.428 Subsection (b)(5))	50%
4. At least 15 but less than 20 years of Credited Service with the Employers (A8.428 Subsection (b)(5))	75%
5. At least 20 years of Credited Service with the Employers; Retired Persons who retired for disability; surviving spouses or surviving domestic partners of active employees who died in the line of duty (A8.428 Subsection (b)(4))	100%

The above chart is a simplified summary of Employer contributions under A8.428 Subsections (b)(4), (b)(5) and (b)(6) for employees hired on or after January 10, 2009. The express language of Subsections (b)(4), (b)(5) and (b)(6), and not the summary chart or its content, shall determine Employer contributions.

(c) The City and County, the San Francisco Unified School District and the San Francisco Community College District shall contribute to the health service system fund 50% of the monthly contributions required for the first dependent of Retired Persons in the system. Except as hereinbefore set forth, the City and County, the School District and the Community College District shall not contribute to the health service system fund any sums on account of participation in the benefits of the system by members' dependents, except surviving spouses and surviving domestic partners, Retired Persons' dependents, except surviving spouses and surviving domestic partners, persons who retired and elected not to receive benefits from the Retirement System; resigned employees and teachers defined in Section A8.425, and any employee whose compensation is fixed in accordance with Sections A8.401, A8.403, or A8.404 of this Charter and whose compensation therein includes an additional amount for health and welfare benefits or whose health service costs are reimbursed through any fund established for said purpose by ordinance of the Board of Supervisors.

(d) It shall be the duty of the Board of Supervisors, the Board of Education and the Governing Board of the Community College District annually to appropriate to the health service system fund such amounts as are necessary to cover the respective obligations of the City and County, the School District and the Community College District hereby imposed. Contributions to the health service system fund of the City and County, of the School District and of the Community College District shall be charged against the general fund or the school, utility, bond or other special fund concerned.

(e) To the extent the Superior Court elects to participate in the City's Health Service System for the provision of active and retiree health care benefits, Superior Court employees shall be treated the same as City employees for the purposes of vesting, employer contribution rates, and benefit levels, in accordance with the Trial Court Employment Protection and Governance Act and applicable State law. The Superior Court shall pay all administrative and health care costs related to the Superior Court's covered employees or retirees as a participating Employer. The Superior Court may withdraw from participation in the City's Health Service System at any time, which shall not require an amendment to this Charter.

The amendments of this section contained in the proposition therefor submitted to the electorate on June 3, 2008 shall be operative January 10, 2009. The purpose of the January 10, 2009, Charter amendment is to amend Section A8.428 to change the required years of service and employer retiree health care contribution amounts for employees hired on or after January 10, 2009. Nothing in this Charter amendment shall expand or contract the groups of employees eligible for retiree health care benefits beyond, those groups eligible as of June 3, 2008. (Amended November 1984; November 2000; November 2004; Amended by Proposition B, 6/3/2008)

A8.432 RETIREE HEALTH CARE TRUST FUND

There is hereby created a Retiree Health Care Trust Fund (RHCTF) for the purpose described in Section 12.204. The Retiree Health Trust Fund Board (Board) described in Section 12.204 shall have exclusive authority and control over the administration of the RHCTF, investments of trust assets, and disbursements from, the trust in accordance with the provisions of this Charter.

Active officers and employees of the City and County and Participating Employers, who commenced employment with the City and County, or the Participating Employers, on or after January 10, 2009, shall contribute their respective Employer's "Normal Cost" to the RHCTF. The annual active employee contribution rate shall be the Employers' "Normal Cost" as determined by the Employers' respective General Accounting Standards Board (GASB) Actuaries computed as a percentage of compensation not to exceed 2% of pre-tax compensation to the RHCTF. The Employers' GASB actuaries shall determine the Employers' respective "Normal Cost" on an annual basis.

The City and County and Participating Employers shall each contribute 1% of compensation for officers and employees hired on or after January 10, 2009. Once an Employer has no Unfunded Actuarial Accrued Liability and the Retiree Health Trust Fund is Fully Funded, then the Employer and its active officers and employees hired on or after January 10, 2009, shall instead each contribute 50% of the "Normal Cost" as determined by the Employers' respective GASB actuaries, not to exceed 2% of pre-tax compensation, and the 1% Employer contribution shall no longer be required.

Contributions to the RHCTF from the City and County, and its officers and employees, and each Participating Employer, and their officers and employees, shall be segregated from each other and only used as a funding source to defray each Employers' obligations to pay for retiree health care under Section A8.428 and each Employers' share of administrative expenses. The funds may be pooled for investment purposes only.

No disbursements, other than to defray reasonable expenses of administering the RHCTF, may be made from the trust prior to January 1, 2015. Commencing January 7, 2015, trust assets may be used to defray the cost of the City's, and other Participating Employers', obligations to pay for health coverage for the retired persons and their survivors entitled to health care coverage under Section A8.428. The amount and frequency of such disbursements shall be determined by the Board in consultation with the Employers' respective GASB Actuaries.

(a) Definitions.

"Actuarial Accrued Liability" as used in this section, means "Actuarial Accrued Liability" as that term is defined under GASB No. 45.

"Employers" as used in this section means the City and County and the Participating Employers.

"Fully Funded" as used in this section means that an Employer's GASB Actuary has determined that the market value of assets in the Retiree Health Care Trust Fund equals or exceeds the Actuarial Accrued Liability.

"GASB Actuary" and **"GASB Actuaries"** as used in this section means the actuarial firms hired by the Employers to provide estimates of each Employers' respective total liability and annual required contribution for post retirement health benefits under GASB No. 45.

"GASB No. 45" as used in this section means Statement No. 45 of the Governmental Accounting Standards Board, Accounting and Financial Reporting by Employers for Postemployment Benefits Other Than Pensions.

"Health coverage" as used in this section, means the health benefits or health insurance provided by the health service system for retirees, survivors and dependents under Section A8.428.

"Normal Cost" as used in this section, means the Employers' normal cost under GASB No. 45 as determined by the Employers' respective GASB Actuaries.

"Retiree" as used in this section, means a former employee who is retired and is entitled to health coverage under Section A8.428, and the qualified survivors or dependents of such retirees who are entitled to health coverage under Section A8.428.

"Participating Employers" as used in this section and Sections A8.432-1, A8.510 and 12.204, shall include the Superior Court of California, County of San Francisco, San Francisco Unified School District and the San Francisco Community College District, following a resolution by these employers' respective governing boards to participate in the Retiree Health Care Trust Fund.

Notwithstanding Charter Section A8.433, the Board of Supervisors shall adopt, by a majority vote before January 1, 2009, such ordinances as are necessary to create and administer the Retiree Health Care Trust Fund, and all such other matters as may be necessary to establish and maintain the purpose described in this section and Section 12.204. (Amended by Proposition B, 6/3/2008; Amended by Proposition D, Approved 6/8/2010)

A8.440 ANNUAL VACATIONS OF EMPLOYEES

(a) Every person employed in the City and County service shall be allowed a vacation with pay annually, as long as he continues in his employment, as follows:

(1) After one year's continuous service, 10 working days.

(2) After five years' continuous service, 15 working days.

(3) After 15 years' continuous service, 20 working days.

(b) Employees may elect not to take their entire vacation in any one year and in such event may accumulate the days allowable and not taken for use at some future time, provided, however, that no employee may accumulate unused vacation allowance in excess of 30 working days regardless of length of service.

(c) In computing vacation pay, no employee shall be considered to work more than five days each week. Vacation pay for employees working less than a five-day week shall be computed proportionately.

(d) If a holiday occurs during such employee's vacation, and the employee would as a matter of law have been entitled to said day as a regular day off, such holiday shall not be considered a day of vacation chargeable to the employee's vacation allowance.

(e) The time when vacations are to be taken shall be at the convenience of the principal executive, with due regard for seniority.

(f) An employee with one year or more of service who ceases to be employed by the City and County and who has neither received nor waived his current annual vacation allowance shall receive a pro-rata payment for all service performed since January 1 of the calendar year in which he ceases to be employed, together with an amount equivalent to any accumulated vacation allowances due him.

(g) The Board of Supervisors shall enact any and all ordinances necessary to administer, interpret and regulate the provisions of Subsections (a) through (f) of this section.

(h) Every employee of the City and County of San Francisco whose rate of compensation is fixed pursuant to the provisions of Sections 8.403 and 8.404 of this Charter shall be entitled to receive an annual vacation at the time, with the pay and of the duration specified in this section and no section of the Charter nor any provision of any collective bargaining agreement nor any street railway or bus wage schedule shall be construed in any manner or for any purpose to increase, reduce or otherwise affect the time or duration of, or pay for,

vacations provided by this section nor shall any employee be deemed to have any vacation rights other than or in excess of the vacation rights specified in this section.

(i) The vacation rights granted by this section, or contained in any collective bargaining agreements, or in any street railway or bus wage schedules, as any of said terms are referred to in Sections 8.403 and 8.404 of this Charter, shall in no way increase, reduce or otherwise affect or be deemed to affect the wage or pay rate or schedule determinations made pursuant to the provisions of said Sections 8.403 and 8.404.

A8.441 AUTHORIZATION TO TRANSFER VACATION CREDITS

(a) Employees of the City and County of San Francisco may transfer their vested vacation allowance credits to other employees of the City and County of San Francisco who have been determined to be catastrophically ill by the employee's head of department, in accord with the definition of catastrophic illness to be provided by the Health Commission, and who have exhausted their vacation allowance, sick leave and compensatory time off, provided that such transfer may be made only in compliance with the terms and conditions established by the Board of Supervisors.

By ordinance, the Board of Supervisors may extend such vacation credit transfer rights to City employees for use as family leave to care for catastrophically-ill spouses, domestic partners or other dependents as defined in the Internal Revenue Code (26 U.S.C. sec. 152), as amended from time to time.

(b) The Board of Supervisors is hereby empowered to enact any and all ordinances necessary to administer, interpret and regulate the provisions of this section. (Amended November 1999)

A8.450 MUNICIPAL RAILWAY

Persons employed as platform men or bus operators in the operating department of the municipal railway system shall be subject to the following conditions of employment: The basic hours of labor shall be eight hours, to be completed within 10 consecutive hours, and there shall be two days off, consecutive where practicable, in each week. All labor performed in excess of eight hours in any one day, or after a spread of 10 consecutive hours in any one day, or five days in any one week, shall be paid for at the rate of time and one-half.

Conductors and motormen may be assigned to duty as bus operators and while assigned to such duty they shall receive the compensation fixed for such service. Such assignment shall be governed by seniority of service, subject to a qualifying test by the railroad management as to competency and to state laws as to qualifications and licensing.

A8.451 POLICE DEPARTMENT

(a) The word "member" or "members" as used in this section shall mean the members in the police department set forth in Section 3.531 of this Charter.

(b) The basic week of service for each member shall be 40 hours and the annual compensation set forth in Section 3.531 of this Charter shall be based upon said basic week of service.

(c) Each member shall be entitled to at least two days off during each week, except as hereinafter provided.

(d) Whenever in the judgment of the chief of police public interest or necessity requires the services of any member to serve in excess of the basic week of service during any week, the chief of police may permit said service, and said member shall be compensated therefor or

shall receive equivalent time credited to him in lieu thereof in accordance with this subsection. For service performed in excess of the basic week, member shall, as requested by the member, be compensated on the basis of time and one-half in accordance with the ratio which said excess service bears to the basic week of service and the annual compensation provided therefor in Section 3.531 or in lieu thereof equivalent time off duty with pay at the rate of time and one-half.

(e) Nothing contained in this section shall be deemed to interfere with a vacation, as provided for in Section 8.440 of this Charter, or the normal days off per week; provided, however, that when in the judgment of the chief of police public interest or necessity requires the services of any member to serve on his vacation, or part thereof, or normal days off, the chief of police may permit said member to serve during said vacation, or part thereof, or normal days off and he shall receive additional compensation for the period so served. Said additional compensation shall be computed on the basis of time and one-half in accordance with the ratio which said extra service performed bears to the basic week of service and the annual compensation provided therefor in Section 3.351.

(f) Nothing in this section shall abridge or limit in any way the provisions of Section 301, Part 1, of the San Francisco Municipal Code, approving Rule 32 of the civil service commission, insofar as sick leave and disability leaves for members are concerned.

(g) Whenever in the judgment of the police commission the efficient performance of police duty requires that one or more members of the police department should report for roll call, orders, and assignment, prior to going on duty, the said commission may designate a period not to exceed 15 minutes in any one day for said reporting, and the said periods of 15 minutes need not be compensated for in money or in time off with pay.

(h) Notwithstanding the provisions of any of the foregoing subsections, the members of the police department shall be entitled to the days declared to be holidays for employees whose compensations are fixed on a monthly basis in the schedules of compensations adopted by the Board of Supervisors pursuant to the provisions of Section 8.401 of the Charter as additional days off with pay. Members shall be compensated on the basis of time and one-half as herein computed or shall be granted equivalent time off duty with pay at the rate of time and one-half as requested by the member.

(i) The provisions of this section changing compensation for service in excess of the basic week of service from straight time compensation and equivalent time off duty with pay to time and one-half for compensation and for time off duty with pay shall be effective on and after July 1, 1983.

(j) Any member who actually performs services between the hours of 5:00 p.m. and 7:00 a.m. shall be entitled to an additional 6.25 percent of the compensation otherwise payable for base pay therefor for all such hours worked; provided, however, that such additional compensation shall not be included for purposes of retirement benefit calculation or contributions provided elsewhere in this Charter.

The provisions of this subsection shall become effective in the manner provided by law, but in no event prior to July 1, 1984.

A8.452 FIRE DEPARTMENT

The chief of department shall recommend and the fire commission shall provide by rule for work schedules or tours of duty for the officers and members occupying the several ranks of the fire department; provided, however, that the normal work week determined on an annual basis for such officers and members shall not exceed 48.7 hours. All tours of duty established for officers and members assigned to the fire fighting companies and fire fighting

units excepting the arson investigation unit, shall start at eight o'clock A.M. No such officer or member shall be required to work more than twenty-four consecutive hours except in a case of conflagration, disaster, or sudden and unexpected emergency of a temporary nature requiring the services of more than the available on-duty officers and members of the uniformed force of the department. Officers and members may exchange watches with permission of the chief of department and time worked on such exchange of watches shall not be construed as time in violation of the limitation of 48.7 hours in any normal work week nor 24 consecutive hours. Each such officer and each such member shall be entitled to at least one (1) day off duty during each week.

When, in the judgment of the chief of department, it is in the public interest that any such officer or member shall work on his day off and said officer or member consents to so work, he may at the direction of the chief of department work on said day off, and in addition to the regular compensation provided for said officer or member as set forth in the Charter, said officer or member shall, as requested by the officer or member, be entitled to be compensated at the rate of time and one-half his regular rate of pay as provided for herein for said extra time served, or he shall be allowed the equivalent time off at the rate of time and one-half.

In any computation in the administration of the San Francisco City and County Employees' Retirement System in which the compensation, as defined in any provisions relating to the Retirement System, is a factor, compensation for overtime provided for in this section shall be excluded, and no such overtime compensation shall be deemed as compensation for any purpose relating to such retirement provisions. Officers and members of the uniformed force shall be entitled to the days declared to be holidays for employees whose compensation are fixed on a monthly basis in the schedule of compensation adopted by the Board of Supervisors, pursuant to the provisions of Section 8.401 of the Charter, as additional days off with pay. Officers or members shall be compensated for said days on the basis of time and one-half as herein computed or shall be granted equivalent time off duty with pay at the rate of time and one-half, as requested by the officer or member.

For payroll purposes, that portion of each tour of duty which falls within each calendar day shall constitute a single tour of duty. The rate of compensation or equivalent time off as provided for in this section, shall be calculated by dividing the annual rates of pay for each fiscal year by two-thirds ($\frac{2}{3}$) number of single tours of duty as scheduled for the several ranks in the fire fighting companies in said fiscal year.

A8.500 RETIREMENT SYSTEM FOR OFFICERS AND EMPLOYEES

In order to continue in force provisions already existing for retirement and death benefits for officers and employees of the City and County, the San Francisco City and County Employees' Retirement System, hereinafter referred to as the Retirement System or the system, is hereby continued. The enactment of Sections 3.670, 3.672 and Sections 8.500 to 8.581, inclusive, of this Charter is not intended to, and shall not in any way, alter or modify the rights, benefits, or obligations of any member or beneficiary of the Retirement System or of the City and County with respect to that system as they exist at the time this Charter becomes effective.

Ordinance provisions already existing with respect to the Retirement System shall continue in force until amended or revoked by the Board of Supervisors as provided in this section. The Board of Supervisors is hereby empowered to enact, by a vote of three-fourths of its members, any and all ordinances necessary to carry into effect the provisions of

Sections 3.670, 3.672 and Sections 8.500 through 8.588-15, of this Charter; provided that the Board of Supervisors shall secure, through the retirement board, an actuarial report of the cost and effect of any proposed change in the benefits under the Retirement System, before enacting an ordinance or before voting to submit any proposed Charter amendment providing for such change.

Subject to the vested rights rule, the Board of Supervisors is further empowered to enact, by a vote of three-fourths of its members, ordinances to conform the provisions of the Retirement System to any changes in the tax laws of the United States to the extent necessary to maintain the qualified tax status of the Retirement System provided that the Board of Supervisors shall first secure, from the retirement board, an actuarial report of the cost and effect of any such change and the recommendation from the retirement board that such an ordinance is necessary.

The Board of Supervisors is further empowered to enact, by a vote of three-fourths of its members, ordinances to allow Internal Revenue Code section 414(h)(2) tax treatment of members' contributions to the Retirement System provided that the Board of Supervisors shall first secure from the retirement board an actuarial report which certifies that such ordinances will not increase costs, other than administrative costs, for the City and County.

A8.500-1 RECIPROCAL PENSION BENEFITS WITHIN THE RETIREMENT SYSTEM AND WITH OTHER PUBLIC PENSION PLANS

Subject to the provisions of Section 8.500, the Board of Supervisors shall have the power to enact ordinances to establish reciprocal agreements with the Public Employees' Retirement System and other public agencies maintaining independent Retirement Systems for the purpose of extending reciprocal benefits to members of such systems as provided by state law. The Board of Supervisors and the retirement board shall have the power to perform all acts necessary to carry out the terms and purposes of such agreements.

Subject to the provisions of Section 8.500, the Board of Supervisors is further empowered to enact ordinances necessary to extend reciprocal rights to members who transfer between retirement plans established by this Charter provided that service under any plan for miscellaneous members shall be used for qualification purposes only and not to calculate benefits under any retirement plan for members of the police or fire departments. With the exception of those members who transferred pursuant to Charter Sections 8.559-14 and 8.585-14, no ordinance enacted under this section shall extend reciprocal rights to any member who transferred from Charter section 8.559 or 8.585 to Charter section 8.509, 8.584, 8.586 or 8.588, before April 1, 1993. No ordinance enacted under this section shall extend reciprocal rights to any person who terminated his or her membership in the Retirement System or retired before April 1, 1993. Subject to the above, reciprocal benefits under this paragraph shall be consistent with interpretations that have been made relative to the reciprocal benefit provisions of the Public Employees' Retirement System and 1937 County Employees' Retirement Act which this paragraph is intended to implement. The reciprocal benefits under this section will be limited by Section 415 of the Internal Revenue Code of 1986, as amended from time to time, and no reciprocal benefits will be effective if they have an adverse impact on the tax qualified status of the Retirement System under Section 401 of the Internal Revenue Code of 1986, as amended from time to time. (Amended November 1999; November 2002)

A8.500-2 DOMESTIC PARTNER QUALIFIED SURVIVOR BENEFITS

With respect to the Retirement System, domestic partnerships shall be treated exactly the same as marriages, domestic partners shall be treated exactly the same as spouses, termination of a domestic partnership shall be treated exactly the same as a dissolution of marriage and qualified surviving domestic partners shall be treated exactly the same as qualified surviving spouses, respectively.

(a) As used in the retirement plans established by this Charter, the phrase "surviving wife" shall also mean and include a "surviving spouse." As used in these sections, the phrases "surviving wife" and "surviving spouse" shall also mean and include a surviving domestic partner, provided that:

(1) there is no surviving spouse, and

(2) the member has designated his or her domestic partner as beneficiary with the Retirement System, and

(3) the domestic partnership is established or recognized according to those provisions of Chapter 62 of the San Francisco Administrative Code, as amended from time to time.

Domestic partners who have formed their domestic partnership only by notarization of a declaration of Domestic Partnership as provided in Chapter 62 of the San Francisco Administrative Code shall not be recognized or treated as a domestic partnership for purposes under the Retirement System unless and until the domestic partnership is registered or certified. A certificate of such domestic partnership, civil union, or similar legal relationship issued by another jurisdiction in a form that is equivalent to the records that the Retirement System relies upon to verify marriages shall constitute sufficient proof of such legal relationship.

(b) Beginning March 5, 2002, the requirement of filing a Certificate of Domestic Partnership with the Retirement System shall not apply to members who were retired on or before November 8, 1995 and who had filed a signed Declaration of Domestic Partnership with the County Clerk at least one full year prior to the effective date of his or her retirement; and provided further that, as to any such member who was retired on or before November 8, 1995, no adjustment to a retirement allowance and no payments to a qualified surviving domestic partner shall begin before the effective date of this amendment or before the first day of the month in which an application is made to the Retirement System, which ever occurs later.

(c) A monthly allowance equal to what would other-wise be payable to a surviving spouse shall be paid to the said surviving domestic partner, until he or she dies, marries or establishes a new domestic partnership. Establishment of a domestic partnership by a surviving spouse shall be treated exactly the same as a remarriage for retirement purposes.

(d) Notwithstanding subsection (c), no additional continuation allowance shall be paid after March 2, 2004 to a surviving domestic partner who is receiving a continuation allowance as the surviving spouse of another member on or before March 2, 2004.

(e) No continuation allowance shall be payable under the provisions of this section approved by the electorate on March 2, 2004 to the survivor of any member or retired member who died on or before March 1, 2004. Any retirement allowance payable to a person who becomes a qualified surviving domestic partner pursuant to the provisions of this section approved by the electorate on March 2, 2004, shall not begin before April 15, 2004.

(f) The domestic partner benefits under this section will be limited by Section 415 of the Internal Revenue Code of 1986, as amended from time to time. No domestic partner benefits will be effective if they have an adverse impact on the tax qualified status of the Retirement

System under Section 401 of the Internal Revenue Code of 1986, as amended from time to time. (Amended March 2002; November 2002; March 2004)

A8.502 RETIREMENT OF ELECTIVE OFFICERS

Elective officers, including members of the Board of Supervisors in office on and after July 1, 2000, but excepting members of all other boards and commissions and any elective officers who are members of the Public Employees' Retirement System, shall be members of the San Francisco City and County Employees' Retirement System under the miscellaneous plan in effect on the date such officer assumes office. Time during which said members have rendered service as elective officers shall be included under Subsection (g) of Section A8.509, Section A8.584-7 or the miscellaneous plan in effect on the date such officer assumes office, in addition to other time now so included. Contributions required to provide benefits based on service rendered as an elective officer prior to the effective date of membership in the Retirement System, shall be paid to the Retirement System in a manner consistent with contributions required of miscellaneous members for temporary service as provided in this Charter and the administrative code. (Amended March 2000)

A8.506-2 MISCELLANEOUS SAFETY EMPLOYEES

Notwithstanding any other provisions of this Charter, the Board of Supervisors or the Community College Board shall have the power to contract with the Board of Administration of the Public Employees' Retirement System of the State of California to provide that the probation officers, airport police officers, district attorney and public defender investigators, medical examiner investigators, juvenile court counselors, institutional police, fire safety inspectors and fire protection engineers who are not members of the Section A8.588 plans, shall be members of the Public Employees' Retirement System, and the Board of Supervisors, the Community College Board and the Retirement Board shall have the power to perform all acts necessary to carry out the terms and purposes of such contract.

The Board of Supervisors shall have the power to amend such a contract to terminate the participation of certain airport police officers in the Public Employees' Retirement System and to transfer to the San Francisco Employees' Retirement System the accumulated assets and liabilities relating to the airport police officers that make such an election, and to exempt such a contract amendment from the cost-neutrality requirements of this Section A8.506-2, provided that the present value of any additional costs associated with said transfer and the related benefits under the San Francisco Employees' Retirement System does not exceed \$670,000 in the aggregate. All additional costs in the form of actuarial liability associated with said transfer and said benefits that exceed \$670,000 in the aggregate shall be paid by the airport police officers that elect to terminate their participation in the Public Employees' Retirement System and transfer the accumulated assets and liabilities relating to their service to the San Francisco Employees' Retirement System. The Board of Supervisors and the Retirement Board shall have the power to perform all acts necessary to carry out the amendment of such contract.

Except as provided in this Section A8.506-2, contracts and contract amendments shall be cost-neutral and employee bargaining units shall be permitted to trade salary or other employee paid benefits to achieve cost-neutrality. However, the employee contribution for persons who become employed by the City and County on and after July 1, 2010, and who become eligible for membership pursuant to this Section A8.506-2, shall be nine percent (9%). The nine percent (9%) employee contribution rate shall take effect immediately upon

expiration of the agreement that is operative on June 30, 2010, between the City and County and the recognized bargaining organization representing said employees.

All contracts and contract amendments with the Board of Administration of the Public Employees' Retirement System of the State of California for persons hired on and after July 1, 2010, shall provide, to the maximum extent permitted, that final compensation will be calculated based on a two-year formula.

The Board of Supervisors or the Community College Board is empowered to determine compliance under this Section. As provided in Section A8.409-5 of the City Charter, disputes under this paragraph shall not be subject to the dispute resolution procedures contained in Charter Section A8.409-4.

Any person who shall become a member of the Public Employees' Retirement System pursuant to such contract shall have the right to be a member of the health service system and the Health Service Board shall make provision for the participation in the benefits of the health service system by such persons. (Amended November 2003; Amended by Proposition F, Approved 11/6/2007; Amended by Proposition D, Approved 6/8/2010)

A8.506-5 DISTRICT ATTORNEYS, PUBLIC DEFENDERS AND PUBLIC DEFENDER INVESTIGATORS

(a) Notwithstanding any other provisions of this Charter, the Board of Supervisors shall have the power to contract with the Board of Administration of the Public Employees' Retirement System of the State of California to provide that local prosecutors, public defenders and public defender investigators, on or after January 1, 2002, shall be members of the Public Employees' Retirement System pursuant to Government Code § 20423.6 and the Board of Supervisors and the retirement board shall have the power to perform all acts necessary to carry out the terms and purposes of such contract. Any person who shall become a member of the Public Employees' Retirement System pursuant to such contract shall have the right to be a member of the health service system and the health service board shall make provision for the participation in the benefits of the health service system by such persons.

(b) For the purposes of the Retirement System and of this section, the terms "local prosecutor, public defender and public defender investigator" or "member," shall mean:

(1) "Local prosecutor" means any one of the following:

(A) An officer or employee of the City and County of San Francisco who meets all of the following criteria:

(i) He or she is employed in the Office of the District Attorney and

(ii) His or her job classification is district attorney, deputy district attorney, chief deputy district attorney, senior deputy district attorney, assistant district attorney, chief assistant district attorney, senior assistant district attorney, or any other similar classification or title.

(B) An officer or employee of the City and County of San Francisco who meets all of the following criteria:

(i) He or she was employed in the Office of the District Attorney prior to the date the local child support agency transitioned from the District Attorney to the San Francisco Office of Child Support Services;

(ii) His or her job classification was district attorney, deputy district attorney, chief deputy district attorney, senior deputy district attorney, assistant district attorney, chief assistant district attorney, senior assistant district attorney, or any other similar classification or title; and

(iii) He or she is an attorney in the San Francisco Office of Child Support Services, with no break in service between employment by the Office of the District Attorney and the San Francisco Office of Child Support Services.

(2) "Local public defender" means an officer or employee of the City and County of San Francisco who meets all of the following criteria:

(A) He or she is employed in the Office of the Public Defender and

(B) His or her job classification is public defender, deputy public defender, chief deputy public defender, senior deputy public defender, assistant public defender, chief assistant public defender, senior assistant public defender, or any other similar classification or title.

(3) "Local public defender investigator" means an officer or employee of the City and County of San Francisco who meets all of the following criteria:

(A) He or she is employed in the Office of the Public Defender;

(B) His or her job classification is inspector, investigator, detective, or any other similar classification or title; and

(C) His or her principal duties are to investigate crime and criminal cases.

(c) The power to enter into a contract under subsection (a), above, shall be limited to a contract that is cost-neutral to the City. Employee bargaining units shall be permitted to trade salary or other employer-paid benefits, including but not limited to social security benefits, to achieve cost-neutrality. As provided in Section A8.409-5 of the City Charter, disputes under this paragraph shall not be subject to the dispute resolution procedures contained in Charter Section A8.409-4. (Added March 2004)

A8.509 RETIREMENT--MISCELLANEOUS OFFICERS AND EMPLOYEES ON AND AFTER JULY 1, 1947

Miscellaneous officers and employees, as defined in this section, who are members of the Retirement System under this section of the Charter on February 1, 1969, and persons who become miscellaneous officers and employees after February 1, 1969, shall be members of the Retirement System, subject to the following provisions of this section, in addition to the provisions contained in Sections 12.100, 12.103, 8.500, 8.510 and 8.520 of this Charter notwithstanding the provisions of any other section of the Charter, provided that the Retirement System shall be applied to persons employed on a part-time, temporary or substitute basis only as the Board of Supervisors shall determine by ordinance enacted by three-fourths vote of all members of the board. Miscellaneous officers and employees of the said departments who are members of the Retirement System under Section 8.507 of the Charter on February 1, 1969 shall continue to be members of the system under Section 8.507 and shall not be subject to any of the provisions of this section, except as specifically provided in this section.

(a) The following words and phrases as used in this section, unless a different meaning is plainly required by the context, shall have the following meaning:

"Retirement allowance," or "allowance," shall mean equal monthly payments, beginning to accrue upon the date of retirement, and continuing for life unless a different term of payments is definitely provided by the context.

"Compensation," as distinguished from benefits under the workers' compensation laws of the State of California, shall mean all remuneration whether in cash or by other allowances made by the City and County, for service qualifying for credit under this section.

"Compensation earnable" shall mean the compensation as determined by the retirement board, which would have been earned by the member had he or she worked, throughout the period under consideration, the average number of days ordinarily worked by

persons in the same grade or class of positions as the positions held by him or her during such period and at the rate of pay attached to such positions, it being assumed that during any absence, he or she was in the position held by him or her at the beginning of the absence, and that prior to entering City-service he was in the position first held by him in City-service.

"Benefit" shall include "allowance," "retirement allowance," and "death benefit."

"Average final compensation" shall mean the average monthly compensation earned by a member during any five consecutive years of credited service in the Retirement System in which his or her average final compensation is the highest, unless the Board of Supervisors shall otherwise provide by ordinance enacted by three-fourths vote of all members of the board.

For the purposes of the Retirement System and of this section, the terms "miscellaneous officer or employee," or "member," as used in this section shall mean any officer or employee who is not a member of the fire or police department as defined in the Charter for the purpose of the Retirement System, under Section 8.507 of the Charter.

"Retirement system" or "system" shall mean San Francisco City and County Employees' Retirement System as created in Section 8.500 of the Charter.

"Retirement Board" shall mean "Retirement Board" as created in Section 12.100 of the Charter.

"Charter" shall mean the Charter of the City and County of San Francisco.

Words used in the masculine gender shall include the feminine and neuter genders, and singular numbers shall include the plural; and the plural the singular.

"Interest" shall mean interest at the rate adopted by the retirement board.

(b) Any member who completes at least 20 years of service in the aggregate credited in the Retirement System, and attains the age of 50 years, or at least 10 years of service in the aggregate credited in the Retirement System, and attains the age of 60 years, said service to be computed under Subsection (g) hereof, may retire from service at his option. Members may retire under this section on the first day of the month next following the attainment by them of the age of 65 years. A member retired after reaching the age of 62 years shall receive a service retirement allowance at the rate of two and three-tenths percent of said average final compensation for each year of service. The service retirement allowance of any member eligible to retire under this section shall be an allowance equal to the percentage of said average final compensation set forth opposite his age at retirement, taken to the preceding completed quarter year, for each year of service, computed under Subsection (g):

Age at Retirement	Percent for Each Year of Credited Service
50	1.0000
50 1/4	1.0250
50 1/2	1.0500
50 3/4	1.0750
51	1.1000
51 1/4	1.1250
51 1/2	1.1500

51 3/4	1.1750
52	1.2000
52 1/4	1.2250
52 1/2	1.2500
52 3/4	1.2750
53	1.3000
53 1/4	1.3250
53 1/2	1.3500
53 3/4	1.3750
54	1.4000
54 1/4	1.4250
54 1/2	1.4500
54 3/4	1.4750
55	1.5000
55 1/4	1.5250
55 1/2	1.5500
55 3/4	1.5750
56	1.6000
56 1/4	1.6250
56 1/2	1.6500
56 3/4	1.6750
57	1.7000
57 1/4	1.7250
57 1/2	1.7500
57 3/4	1.7750
58	1.8000
58 1/4	1.8250
58 1/2	1.8500
58 3/4	1.8750
59	1.9000
59 1/4	1.9250
59 1/2	1.9500
59 3/4	1.9750

60	2.100
60 1/4	2.1250
60 1/2	2.1500
60 3/4	2.1750
61	2.2000
61 1/4	2.2250
61 1/2	2.2500
61 3/4	2.2750
62	2.3000

In no event shall a member's retirement allowance exceed 75 percent of his average final compensation.

Before the first payment of a retirement allowance is made, a member retired under this subsection or Subsection (c) of this section, may elect to receive the actuarial equivalent of his or her allowance, partly in an allowance to be received by him or her throughout his life, and partly in other benefits payable after his or her death to another person or persons, provided that such election shall be subject to all the conditions prescribed by the Board of Supervisors to govern similar elections by other members of the Retirement System, including the character and amount, of such other benefits. In the calculations under this subsection of the retirement allowance of a member having credit for service in a position in the evening schools and service in any other position, separate retirement allowances shall be calculated in the manner prescribed for each class of service, the average final compensation in each case being that for the respective class of service; provided that the aggregate retirement allowance shall be taken into account in applying the provisions of this subsection providing for a minimum retirement allowance. Part-time service and compensation shall be reduced to full-time service and compensation in the manner prescribed by the Board of Supervisors, and when so reduced, shall be applied on full time service and compensation in the calculations of retirement allowances.

(c) Any member who becomes incapacitated for performance of duty because of disability determined by the retirement board to be of extended and uncertain duration, and who shall have completed at least 10 years of service credited in the Retirement System in the aggregate, computed as provided in Subsection (g) hereof, shall be retired upon an allowance of one and eight-tenths percent of the average final compensation of said member, as defined in Subsection (a) hereof for each year of credited service, if such retirement allowance exceeds 40 percent of his or her average final compensation; otherwise one and eight-tenths percent of his or her average final compensation multiplied by the number of years of City-service which would be credited to him or her were such City-service to continue until attainment by him or her of age 60, but such retirement allowance shall not exceed 40 percent of such average final compensation. In the calculation under this subsection of the retirement allowance of a member having credit for service in a position in the evening schools and service in any other position, separate retirement allowances shall be calculated, in the manner prescribed, for each class of service, the average final compensation in each case being that for the respective class of service; provided that the average final compensation upon which the minimum total retirement allowance is calculated in such case

shall be based on the compensation earnable by the member in the classes of service rendered by him or her during the one year immediately preceding his or her retirement. Part-time service and compensation shall be reduced to full-time service and compensation in the manner prescribed by the Board of Supervisors, and when so reduced, shall be applied as full-time service and compensation in the calculation of retirement allowances. An application for a disciplinary retirement may be brought before the retirement board on said board's own motion, by the Executive Director of the Retirement System, by recommendation of any department head, commission or board, or by said member or his guardian. If his or her disability shall cease, his or her retirement allowance shall cease, and he or she shall be restored to service in the position or classification he or she occupied at the time of his or her retirement.

(d) No modification of benefits provided in this section shall be made because of any amounts payable to or on account of any member under workers' compensation laws of the State of California.

(e) If a member shall die, before retirement, (1) If no benefit is payable under subdivision (2) of this subsection (e):

(A) Regardless of cause, a death benefit shall be paid to the member's estate or designated beneficiary consisting of the compensation earnable by the member during the six months immediately preceding death, plus the member's contributions and interest credited thereon.

(B) If a member sustains a traumatic bodily injury through external and violent means in the course and scope of employment and death results within 180 days of such injury, an additional insurance benefit of 12 months of compensation earnable shall be paid to the member's estate or designated beneficiary.

(2) If, at the date of his or her death, he or she was qualified for service retirement by reason of service and age under the provisions of Subsection (b) of this section, and he or she has designated as beneficiary his or her surviving spouse, who was married to him or her for at least one full year immediately prior to the date of his or her death, one-half of the retirement allowance to which the member would have been entitled if he or she had retired from service on the date of his or her death, shall be paid to such surviving spouse who was his or her designated-beneficiary at the date of his or her death, until such spouse's death or remarriage, or if there be no surviving spouse, to the unmarried child or children of such member under the age of 18 years, collectively, until every such child dies, marries or attains the age of 18 years, provided that no child shall receive any allowance after marrying or attaining the age of 18 years. If, at the death of such surviving spouse, who was receiving an allowance under this Subdivision (2), there be one or more unmarried children of such member under the age of 18 years, such allowance shall continue to such child or children, collectively, until every such child dies, marries or attains the age of 18 years, provided that no child shall receive any allowance after marrying or attaining the age of 18 years. If the total of the payments of allowance made pursuant to this Subdivision (2) is less than the benefit which was otherwise payable under Subdivision (1) of this subsection, the amount of said benefit payable under Subdivision (1) less an amount equal to the total of the payments of allowance made pursuant to this Subdivision (2) shall be paid in lump sum as follows:

(A) If the person last entitled to said allowance is the remarried surviving spouse of such member, to such spouse.

(B) Otherwise, to the surviving children of the member, share and share alike, or if there are no such children, to the estate of the person last entitled to said allowance.

The surviving spouse may elect, on a form provided by the Retirement System and filed in the office of the Retirement System before the first payment of the allowance

provided herein, to receive the benefit provided in Subdivision (1) of this subsection in lieu of the allowance which otherwise would be payable under the provisions of this subdivision. If a surviving spouse, who was entitled to make the election herein provided, shall die before or after making such election, but before receiving any payment pursuant to such election, then the legally appointed guardian of the unmarried children of the member under the age of 18 years, may make the election herein provided before benefit has been paid under this Subsection (e), for and on behalf of such children if, in his or her judgment it appears to be in their interest and advantage, and the election so made shall be binding and conclusive upon all parties in interest.

If any person other than such surviving spouse shall have and be paid a community property interest in any portion of any benefit provided under this Subsection (e), any allowance payable under this Subdivision (2) shall be reduced by the actuarial equivalent, at the date of the member's death, of the amount of benefits paid to such other person.

Upon the death of a member after retirement and regardless of the cause of death, a death benefit shall be paid to his or her estate or designated beneficiary in the manner and subject to the conditions prescribed by the Board of Supervisors for the payment of a similar death benefit upon the death of other retired members.

(f) Should any miscellaneous member cease to be employed as such a member, through any cause other than death or retirement, all of his or her contributions, with interest credited thereon, shall be refunded to him or her subject to the conditions prescribed by the Board of Supervisors to cover similar terminations of employment and reemployment with and without redeposit of withdrawn accumulated contributions of other members of the Retirement System, provided that if such member is entitled to be credited with at least 10 years of service or if his or her accumulated contributions exceed \$1,000, he or she shall have the right to elect, without right of revocation and within 90 days after said termination of service, or if the termination was by lay-off, 90 days after the retirement board determines the termination to be permanent, whether to allow his or her accumulated contributions to remain in the retirement fund and to receive benefits only as provided in this paragraph. Failure to make such election shall be deemed an irrevocable election to withdraw his or her accumulated contributions. A person who elects to allow his or her accumulated contributions to remain in the retirement fund shall be subject to the same age requirements as apply to other members under this section for service retirement, but he or she shall not be subject to a minimum service requirement. Upon the qualification of such member for retirement by reason of age, he or she shall be entitled to receive a retirement allowance which shall be the actuarial equivalent of his or his accumulated contributions and an equal amount of the contributions of the City and County, plus 1 2/3 percent of his average final compensation for each year of service credited to him or her as rendered prior to his first membership in the Retirement System. Upon the death of such member prior to retirement, his or her contributions with interest credited thereon shall be paid to his or her estate or designated beneficiary.

(g) The following time and service shall be included in the computation of the service to be credited to a member for the purpose of determining whether such member qualifies for retirement and calculating benefits:

(1) Time during which said member is a member of the Retirement System and during and for which said member is entitled to receive compensation because of services as a miscellaneous officer or employee.

(2) Service in the fire and police departments which is not credited as service of a member under this section shall count under this section upon transfer of a member of either of such

departments to employment entitling him or her to membership in the Retirement System under this section, provided that the accumulated contribution standing to the credit of such member shall be adjusted by refund to the member or by payment of the member, to bring the account at the time of such transfer to the amount which would have been credited to it had the member been a miscellaneous employee throughout the period of his or her service in either such departments at the compensation he or she received in such departments.

(3) Time during which said member is absent from a status included in paragraphs (1) or (2) next preceding which is not deemed absence from service under the provisions of Section 8.520 of the Charter and for which such member is entitled to receive credit as service for the City and County by virtue of contributions made in accordance with the provisions of such section.

(4) Prior service determined and credited as prescribed by the Board of Supervisors for persons who are members under Section 8.507.

(5) The Board of Supervisors, by ordinance enacted by a three-fourths vote of its members, may provide for the crediting as service under the Retirement System of service, other than military service, rendered as an employee of the federal government and service rendered as an employee of the State of California or any public entity or public agency in the State of California. Said ordinance shall provide that all contributions required as the result of the crediting of such service shall be made by the member and that no contributions therefor shall be required of the City and County.

(6) Time during which said member was on Unpaid Parental Leave pursuant to Charter Section A8.523, and for which said member has purchased service credit in the Retirement System.

(h) All payments provided under this section shall be made from funds derived from the following sources, plus interest earned on said funds:

(1) There shall be deducted from each payment of compensation paid to a member under Section 8.509 a sum equal to 7 1/2 percent of such payment of compensation. The sum so deducted shall be paid forthwith to the Retirement System. Said contribution shall be credited to the individual account of the member from whose salary it was deducted, and the total of said contributions, together with interest credited thereon in the same manner as is prescribed by the board of supervisors for crediting interest to contributions of other members of the Retirement System, shall be applied to provide part of the retirement allowance granted to, or allowance granted on account of said member under Section 8.509, or shall be paid to said member or his estate or beneficiary as provided in Sections 8.509(e) and 8.509(f). The individual accounted of members who purchased service credit for Unpaid Parental Leave shall also include the amount paid by the member for said purchase, plus interest.

(2) Contributions based on time included in paragraphs (1) and (3) of Subsection (g), and deducted prior to July 1, 1947, from compensation of persons who become members under this section, and standing with interest thereon, to the credit of such members on the records of the Retirement System on said date, shall continue to be credited to the individual accounts of said members, and shall be combined with and administered in the same manner as the contributions deducted after said date.

(3) The total contributions, with interest thereon, made by or charged against the City and County and standing to its credit, on July 1, 1948, in the accounts of the Retirement System, on account of persons who become members under this section, shall be applied to provide the benefits under this section.

(4) The City and County shall contribute to the Retirement System such amounts as may be necessary, when added to the contributions referred to in the preceding paragraphs of this

Subsection (h), to provide the benefits payable under this section. Such contributions of the City and County to provide the portion of the benefits hereunder, which shall be based on service rendered by each member prior to the date upon which his or her rate of contribution is determined in paragraph (1), Subsection (h), shall not be less during any fiscal year than the amount of such benefits paid during said year. Such contributions of the City and County to provide the portion of the benefits hereunder, which shall be based on service rendered by respective members on and after the date stated in the next preceding sentence, shall be made in annual installments, and the installment to be paid in any year shall be determined by the application of a percentage to the total salaries paid during said year, to persons who are members under this section, said percentage to be the ratio of the value of the effective date hereof, or at the later date of a periodical actuarial valuation and investigation into the experience under the system, of the benefits thereafter to be paid under this section, from contributions of the City and County, less the amount of such contributions, and plus accumulated interest thereon, then held by said system to provide said benefits on account of service rendered by respective member after the date stated in the sentence next preceding, to the value at said respective dates of salaries thereafter payable to said members. Said values shall be determined by the actuary, who shall take into account the interest which shall be earned on said contributions, the compensation experience of members, and the probabilities of separation by all causes, of members from service before retirement, and of death after retirement. Said percentage shall be changed only on the basis of said periodical actuarial valuation and investigation into the experience under the system. Said actuarial valuation shall be made every even-numbered year, and said investigation into the experience under the system shall be made every odd-numbered year.

Notwithstanding the provisions of this Subdivision (4), any additional liabilities created by the amendments of this Section 8.509 contained in the proposition therefor submitted to the electorate on November 6, 1973, shall be amortized over a period of 30 years.

(5) To promote the stability of the Retirement System through a joint participation in the result of variations in the experience under mortality, investment and other contingencies, the contributions of both members and the City and County, held by the system to provide the benefits under this section, shall be a part of the fund in which all other assets of said system are included. Nothing in the section shall affect the obligations of the City and County to pay to the Retirement System any amounts which may or shall become due under the provisions of the Charter prior to the effective date hereof, and which are represented on July 1, 1947, in the accounts of said system by debits against the City and County.

(i) Upon the completion of the years of service set forth in Subsection (b) of this section as requisite to retirement, a member shall be entitled to retire at any time thereafter in accordance with the provisions of said Subsection (b), and nothing shall deprive said member of said right.

(j) Except as otherwise provided in section 8.511 of this Charter, no person retired under this section, for service or disability and entitled to receive a retirement allowance under the Retirement System, shall serve in any elective or appointive position in the City and County service, including membership on boards and commissions, nor shall such persons receive any payment for service rendered to the City and County after retirement, provided that service as an election officer or juror shall not be affected by this section.

(k) Any section or part of any section in this Charter, insofar as it should conflict with this section, or with any part thereof, shall be superseded by the contents of this section. In the

event that any word, phrase, clause or subsection of this section shall be adjudged unconstitutional, the remainder thereof shall remain in full force and effect.

(l) Notwithstanding the provisions of Subsections (b), (c), (f), and (i) of this section, any member convicted of a crime involving moral turpitude, committed in connection with his or her duties as an officer or employee of the City and County of San Francisco, shall, upon his or her removal from office or employment pursuant to the provisions of this Charter, forfeit all rights to any benefits under the Retirement System except refund of his or her accumulated contributions; provided, however, that if such member is qualified for service retirement by reason of service and age under the provisions of Subsection (b) of this section, he or she shall have the right to elect, without right of revocation and within 90 days after his or her removal from office or employment, whether to withdraw all of his or her accumulated contributions or to receive as his or her sole benefit under the Retirement System, an annuity which shall be the actuarial equivalent of his or her accumulated contributions at the time of such removal from office or employment.

(m) The amendments of this section contained in the proposition submitted to the electorate on November 6, 1984 are hereby declared to be prospective and shall not give any person a claim against the City and County relating to a death prior to ratification of this amendment by the State Legislature.

(n) The amendments to Section A8.509 contained in the proposition submitted to the electorate on June 3, 2008 shall apply only to miscellaneous officers and employees under this Section A8.509 who were not retired on January 10, 2009, and whose accumulated contributions were in the retirement fund on January 10, 2009, and who were not retired on that date. (Amended by Proposition B, 6/3/2008; Amended by Proposition G, 11/4/2008)

A8.511(c) PENSIONS OF RETIRED PERSONS

(c) Limited employment in positions requiring special skills or knowledge:

- (1) A retired person, who is a certificated employee, may enter into a consultancy contract with the San Francisco Unified School District or the San Francisco Community College District to the extent authorized by state law. Notwithstanding any other provisions of this Charter to the contrary, a certificated employee who enters into such a consultancy contract shall not be reinstated as a member of the Retirement System. No deduction shall be made from his or her compensation as contributions to the Retirement System, and his or her retirement allowance shall not be terminated or suspended.
- (2) A retired person may be employed in a position other than a certificated position, requiring special skills or knowledge, for not to exceed 120 working days or 960 hours, whichever is greater, in any one fiscal year and may be paid for that employment. That employment shall not operate to reinstate the person as a member of the Retirement System or to terminate or suspend the member's retirement allowance, and no deductions shall be made from his or her salary as contributions to the Retirement System. Furthermore, this employment shall not replace a permanent civil service employee.

A8.522-1 EARLY RETIREMENT BENEFITS

Under this section, certain employees may become eligible to receive early retirement benefits. These early retirement benefits shall only apply to members who are certified under section A8.401 and who retire with an effective date of retirement within the time limit established by the notice in Section A8.401-6. As used in this section, the term "early

retirement benefits" means increasing an eligible employee's age and credited service for both qualification and benefit computation purposes by three (3) years but shall not apply to the disability or vesting benefit provisions or computations under Charter Sections A8.509(c), A8.509(f), A8.587-3 and A8.587-6. Early retirement benefits are available to members under Charter Sections A8.509 and A8.587, subject to any limitations in those sections, and also subject to the limits in Section A8.401 and herein but, are not available to members covered by Charter sections A8.559, A8.585, A8.586, A8.588, A8.595, A8.596, A8.597 or A8.598 or other Charter sections. (Added November 2003)

A8.522-2 RECALCULATION/EFFECTIVE DATE OF RETIREMENT

Any employee who separated from employment due to layoff between March 1, 2003 and June 30, 2005, and is later determined to be eligible for early retirement benefits, may have his or her retirement allowance recalculated as of his or her date of retirement. Any employee who separated from employment due to layoff between March 1, 2003 and June 30, 2005, but did not retire, and who is later determined to be eligible for early retirement benefits, may retire after notice in Section A8.401-6 but no earlier than the first day of the month in which he or she applies for retirement. Any such employee who withdrew his or her accumulated contributions shall redeposit in the retirement fund the amount, plus interest, refunded to him or her. (Added November 2003)

A8.522-3 RETURN TO SERVICE

Any employee who retires under any early retirement program and later reenters City and County service as a member of the Retirement System shall forfeit any service or age credit received under the early retirement program. (Added November 2003)

A8.522-5 COMPLIANCE WITH TAX LAWS

The early retirement benefits under this section will be limited by Section 415 of the Internal Revenue Code of 1986, as amended from time to time, and no early retirement benefits under this section will be effective if they have an adverse effect on the tax qualified status of the Retirement System under Section 401 of the Internal Revenue Code of 1986, as amended from time to time. (Added November 2003)

A8.523 RETIREMENT SYSTEM CREDIT FOR UNPAID PARENTAL LEAVE

Notwithstanding any other provision of this Charter, any member of the Retirement System under Sections A8.509, A8.559, A8.585, A8.586, A8.587, A8.588, A8.595, A8.596, A8.597 or A8.598 who has taken Unpaid Parental Leave as defined herein shall have the right to purchase service credit with the Retirement System for all or any part of the time he or she was on Unpaid Parental Leave prior to July 1, 2003, subject to the terms of this section, provided that he or she returned to work for the City for at least six months immediately after the expiration of his or her. Unpaid Parental Leave.

The Board of Supervisors is hereby empowered to enact, by a three-fourths vote of its members, any and all ordinances necessary to carry into effect the provisions of this section.

Nothing in this section shall be construed to expand, reduce or otherwise affect the total amount of leave time available to members under federal, state, or local law, Civil Service Commission rules, or applicable memoranda of understanding between the City and County of San Francisco and employee organizations. (Added by Proposition G, 11/4/2008)

A8.523-1 DEFINITIONS

The following words and phrases as used in this section, unless a different meaning is plainly required by the context, shall have the following meaning:

"Paid Leave" shall have the same meaning as in Charter section A8.365-1.

"Parental Leave" shall have the same meaning as in Charter section A8.365-1.

"Unpaid Parental Leave" shall mean a period of Parental Leave taken prior to July 1, 2003, while the member was employed by the City and County, and during which time the member was not on Paid Leave. (Added by Proposition G, 11/4/2008)

A8.523-2 ELIGIBILITY

The Department of Human Resources shall certify to the Retirement System that a member is eligible to purchase service credit pursuant to eligibility criteria set forth in Charter Section A8.365-2. Provided, however, that the Department of Human Resources shall only certify a member as eligible to purchase service credit with the Retirement System if he or she took Unpaid Parental Leave prior to July 1, 2003, and if he or she returned to work for the City for at least six months immediately after the expiration of his or her Unpaid Parental Leave. The Retirement System shall rely on the certification from the Department of Human Resources to determine eligibility to purchase service credit for Unpaid Parental Leave. (Added by Proposition G, 11/4/2008)

A8.523-3. ELECTION TO PURCHASE SERVICE CREDIT FOR UNPAID PARENTAL LEAVE.

A member electing to purchase service credit with the Retirement System for a period of Unpaid Parental Leave must so elect in writing on a form provided by the Retirement System. This election must be made before the date he or she files the application to retire or the effective date of his or her retirement, whichever is later.

This election must be for a minimum period of two months of Unpaid Parental Leave or all of his or her Unpaid Parental leave where such total period is less than two months. This election is limited to a maximum period of four months for each period of Unpaid Parental Leave.

A member may only elect to purchase service credit for a period of Unpaid Parental Leave taken prior to July 1, 2003. (Added by Proposition G, 11/4/2008)

A8.523-4 COST NEUTRALITY

All costs to purchase the service shall be paid by the member. There shall be no cost to the City and County. The Retirement System shall determine the cost to purchase the service. No service credit will be allowed unless and until all such costs are received by the Retirement System.

The retirement board shall have the authority to establish procedures to determine costs to purchase service credit for periods of Unpaid Parental Leave in accordance with this Section. (Added by Proposition G, 11/4/2008)

A8.523-5 CREDIT IN RETIREMENT SYSTEM FOR UNPAID PARENTAL LEAVE

Upon completion of the payment in the amount specified by the Retirement Board, the member shall be credited with City and County service for the period of Unpaid Parental Leave for which he or she has elected to receive credit as City and County service pursuant to this Section. (Added by Proposition G, 11/4/2008)

A8.523-6 NON-VESTED BENEFIT

This Charter section creates no vested benefits. The voters expressly reserve the right to review the benefits provided in this section and may alter or repeal such benefits for any or no reason. (Added by Proposition G, 11/4/2008)

A8.523-7 APPLICABILITY

This section shall not apply to Retirement System members or their successors in interest who retired or separated prior to the effective date of this section. (Added by Proposition G, 11/4/2008)

A8.526-1 SUPPLEMENTAL COST OF LIVING BENEFIT

Starting on July 1, 1997, the Retirement Board shall establish in the Retirement Fund a Reserve Account. Funds in this Reserve Account shall be used to provide supplemental cost of living benefit adjustments to retirement allowances in addition to cost of living adjustments now provided for in the Charter. Funds placed in this Reserve Account shall consist of all earnings of the Retirement Fund in the previous fiscal year which are in excess of the expected earnings on the actuarial value of the assets. The expected earnings are the earnings projected by the actuarial assumption for return on assets that was in place for that fiscal year. The maximum amount of funds to be placed in this Reserve Account shall not exceed the amount of funds projected to be necessary to fund benefits provided pursuant to this section for that fiscal year and the following two fiscal years.

The funds in this Reserve Account shall be used solely to provide supplemental cost of living benefit adjustments as follows:

- (a) On July 1, 1997 and July 1 of each succeeding year, if there are sufficient funds in this Reserve Account, each retirement allowance or death allowance payable on account of a member who died, including retirement allowances subject to change when the salary rate of a member is changed, shall be increased by an amount equal to three percent (3%) of the allowance, less the amount of any cost of living adjustment provided pursuant to Section 8.526 and less the amount of any cost of living adjustment, payable in that fiscal year, which is the result of a change in the salary of the member.
- (b) On July 1, 1997, if there are sufficient funds in this Reserve Account, each retirement allowance payable to or account of a member who was retired on or before December 31, 1979 as a member under Sections 8.507 or 8.509 or 8.584 shall be increased by a monthly amount equal to \$3 for each complete year of retirement. In computing years of retirement, the Retirement System shall count completed fiscal years between the member's effective date of retirement and June 30, 1997.
- (c) On and after June 30, 2003, any supplemental cost of living benefit adjustment, once paid to a member, shall not be reduced thereafter.
- (d) On and after June 30, 2003, the Reserve Account set forth in this section shall be used to finance only the increase in the supplemental cost of living benefit adjustments for the next ensuing fiscal year as set forth in section (a). If there are insufficient funds in the Reserve Account to pay the increase in the supplemental cost of living benefit adjustments for the next ensuing fiscal year, then the increase in the supplemental cost of living benefit adjustments for that fiscal year shall not be paid. However, any excess earnings as defined in this section shall be accumulated until an amount sufficient to make one

fiscal year's increase in the supplemental cost of living benefit adjustments is reached. (Added November 1996; amended March 2002)

A8.526-2 COST OF LIVING ADJUSTMENT IN ALLOWANCES ON AND AFTER JANUARY 10, 2009

(a) Notwithstanding the provisions of Section A8.526 or any other provision of the Charter to the contrary, effective January 10, 2009, each retirement allowance payable which is not subject to change when the salary rate of any member is changed shall be adjusted according to the provisions of this Section A8.526-2 and not Section A8.526.

(b) (1) Funds necessary for the payment of any increase in allowances pursuant to this Section A8.526-2 that are payable to, or on account of, members who retired or died, shall be provided from the City's accumulated contributions held by the system on account of such members. The City's contributions shall be determined on the basis of a normal contribution rate which shall be computed as a level percentage of compensation which, when applied to the future compensation of the average new member entering the system, together with the required member contribution, will be sufficient to provide for the payment of all prospective benefits of such member.

(b) (2) Any increase in allowances payable which are not funded by the City's accumulated contributions held by the system shall be funded by contributions of members entitled to said allowances, which shall be at rates which are in addition to the rates of contribution otherwise provided by Charter or ordinance, provided that a member's rate of contribution shall not exceed one-half of one percent of his or her monthly compensation. The contributions made under this section by any member shall be credited together with regular interest thereon to his or her individual account and shall be subject to the same Charter and ordinance provisions relating to accumulated contributions of the member, including withdrawal and death benefits other than death allowances, provided, however, that upon his or her retirement or death, such accumulated contributions and interest shall not be applied to provide a part of the retirement benefits payable to him or her on the death allowance benefits payable on account of his or her death otherwise provided by Charter or ordinance, but instead shall be held, together with the accumulated contributions made by the City pursuant to this Subsection (b)(3), with interest thereon, to provide the benefits under this Section A8.526-2.

(b) (3) The rates of contribution of members and the City, as provided herein, shall be fixed by the retirement board from time to time as it determines necessary.

(c) (1) The retirement board shall determine, prior to April 1 of each year, the percentage of increase or decrease in the cost of living during the preceding calendar year, as shown by the then current Consumer Price Index. All Items, San Francisco (1957-59=100), issued by the U.S. Bureau of Labor Statistics and published in the Monthly Labor Review or a successor publication. The cost of living adjustments as hereinafter provided shall be based on the percentage of such increase or decrease.

(c) (2) Notwithstanding any other Charter or ordinance provision governing the Retirement System, effective January 10, 2009, every retirement or death allowance payable to, or on account of any member who retires or dies as a member of the system or who has retired or died as such a member, except allowances subject to change when the salary rate of any member is changed, shall be increased or decreased as of July 1, 2009, and on July 1, of each succeeding year by an amount equal to the percentage, as determined in Subsection (c)(1) multiplied by the monthly allowance payable on June 30 of that calendar year.

(c) (3) The percentage of increase or decrease in each such allowance shall be the percentage which is determined by the retirement board to approximate to the nearest one percent increase or decrease in the cost of living during the preceding calendar year.

(c) (4) No such adjustment in any year shall exceed two percent of said allowance: provided, however, that no allowance shall be reduced below the amount being received by the member or the member's beneficiary on July 1, 1968, or on the effective date the member began to receive the allowance, whichever is later.

(d) (1) Commencing with the effective date of this Section A8.526-2, if the percentage of increase or decrease in the cost of living in any calendar year, as determined to the nearest one percent by the retirement board, were to exceed two percent as compared with the cost of living in the next preceding calendar year, the percentage of increase or decrease in the cost of living in excess of two percent, shall be accumulated to provide increases or decreases in the cost of living in each succeeding calendar year.

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

A8.526-3 SUPPLEMENTAL COST OF LIVING BENEFIT ON AND AFTER JANUARY 10, 2009

(a) Notwithstanding the provisions of Section A8.526-1 or any other provision of this Charter to the contrary, effective January 10, 2009, all supplemental cost of living benefits adjustments payable, including retirement allowances subject to change when the salary rate of a member is changed, shall be determined pursuant to the provisions of Section A8.526-3 and not Section A8.526-1.

(b) (1) On July 1, 2009 and July 1 of each succeeding year, the retirement board shall determine whether, in the previous fiscal year, there are earnings in excess of the expected earnings on the actuarial value of the assets. In those years when the previous year's earnings exceed the expected earnings on the actuarial value of the assets, then on July 1 each retirement allowance or death allowance payable on account of a member who died, including retirement allowances subject to change when the salary rate of a member is changed, shall be increased by an amount equal to three and one-half percent (3.5%) of the allowance as of June 30, less the amount of any cost of living adjustment provided pursuant to Section A8.526-2 and less the amount of any cost of living adjustment, payable in that fiscal year, which is the result of a change in the salary of the member.

(b) (2) If on July 1, 2009 and July 1 of each succeeding year, the previous fiscal year's earnings exceed the expected earnings on the actuarial value of the assets, but they are insufficient to increase said allowances by three and one-half percent (3.5%) as provided in Subsection (b)(1), then to the extent of excess earning, said allowances shall be increased in increments of one-half percent (.5%) up to the maximum three and one-half percent (3.5%) of the allowance as of June 30, less the amount of any cost of living adjustment provided pursuant to Section A8.526-2 and less the amount of any cost of living adjustment, payable in that fiscal year, which is the result of a change in the salary of the member.

(c) When the previous fiscal year's earnings exceed the expected earnings on the actuarial value of the assets but are not sufficient to fund any supplemental cost of living benefit adjustment pursuant to either Subsection (b)(1) or (b)(2), the retirement board shall reserve the excess earnings for that year. Said reserved earnings shall accumulate only until such time that said reserved earnings, plus the next year's earnings in excess of the expected earnings on the actuarial value of the assets, are sufficient to fund one fiscal year's increase in the supplemental cost of living benefit adjustment, at which time the earnings in reserve shall

be withdrawn and used to fund a supplemental cost of living benefit adjustment as provided in either Subsection (b)(1) or (b)(2).

(d) Any supplemental cost of living benefit adjustment, once paid to a member, shall not be reduced thereafter. (Added by Proposition B, 6/3/2008)

A8.559-1 DEFINITIONS

The following words and phrases as used in this section, Section 8.559 and Sections 8.559-2 through 8.559-13, unless a different meaning is plainly required by the context, shall have the following meanings:

"Retirement allowance," "death allowance" or "allowance," shall mean equal monthly payments, beginning to accrue upon the date of retirement, or upon the day following the date of death, as the case may be, and continuing for life unless a different term of payment is definitely provided by the context.

"Compensation," as distinguished from benefits under the Workers' Compensation Insurance and Safety Act of the State of California, shall mean the remuneration payable in cash, by the City and County, without deduction except for absence from duty, for time during which the individual receiving such remuneration is a member of the police department, but excluding remuneration paid for overtime.

For retirement purposes, any increase in compensation attached to a rank which is based solely upon the possession of a POST certificate, compared to the equivalent rank without a POST certificate, shall be subject to the following limitations:

- (a) for possession of the intermediate POST certificate, no more than 4% shall be included in compensation,
- (b) for possession of the advanced POST certificate, no more than an additional 2% over the maximum provided in subsection (a), above, shall be included in compensation,

These limits shall apply to any pay increments which are solely attributable to the possession of a POST certificate, including but not limited to premiums or special ranks which may be established in the future and which are solely attributable to the possession of a POST certificate.

"Compensation earnable" shall mean the compensation which would have been earned had the member received compensation without interruption throughout the period under consideration and at the rates of remuneration attached at that time to the ranks or positions held by him or her during such period, it being assumed that during any absence, he or she was in the rank or position held by him or her at the beginning of the absence, and that prior to becoming a member of the police department, he or she was in the rank or position first held by him or her in such department.

"Benefit" shall include "allowance," "retirement allowance," "death allowance" and "death benefit."

"Final compensation" shall mean the monthly compensation earnable by a member at the time of his or her retirement, or death before retirement, as the case may be, at the rate of remuneration attached at that time to the rank or position which said member held, provided that said member has held said rank or position for at least one year immediately prior to said retirement or death; and provided, further, that if said member has not held said rank or position for at least one year immediately prior to said retirement or death, "final compensation," as to such member, shall mean the monthly compensation earnable by such member in the rank or position next lower to the rank or position which he or she held at the time of retirement or death at the rate of remuneration attached at the time of said retirement

or death to said next lower rank or position; provided, however, that in the case of a member's death before retirement as the result of a violent traumatic injury received in the performance of his or her duty, "final compensation," as to such member shall mean the monthly compensation earnable by such member at the rate of remuneration attached on the date he receives such injury to the rank or position held by such member on that date.

For purposes of calculation of final compensation, any increase in pay solely attributable to possession of a POST certificate shall be included only if the member possesses the qualifying POST certificate for a period of not less than four (4) years prior to his or her retirement date; provided, however, that should a member possess the qualifying POST certificate for a period of time less than four (4) years prior to retirement, final compensation shall be calculated based upon the monthly compensation in the next lower rank not requiring possession of the qualifying POST certificate.

For the purpose of Sections 8.559 through 8.559-13, the terms "member of the police department," "member of the department," or "member" shall mean any officer or employee of the police department, excluding such officers and employees as are members of the Retirement System under Section 8.565 or Section 8.568 of the Charter, who was or shall be subject to the Charter provisions governing entrance requirements of members of the uniformed force of said department, and said terms further shall mean, from the effective date of their employment in said department, persons employed on July 1, 1975, regardless of age, or employed after said date at an age not greater than the maximum age then prescribed for entrance into employment in said uniformed force, to perform the duties now performed under the titles of criminologist, photographer, police patrol driver, police motor boat operator, woman protective officer, police woman or jail matron.

Any police service performed by such members of the police department outside the limits of the City and County and under orders of a superior officer or any such member, shall be considered as City and County service, and any disability or death incurred therein shall be covered under the provisions of the Retirement System.

"Retirement system" or "system" shall mean San Francisco City and County Employees' Retirement System as created in Section 8.500 of the Charter.

"Retirement board" shall mean "retirement board" as created in Section 3.670 of the Charter.

"Charter" shall mean the Charter of the City and County of San Francisco.

Words used in the masculine gender shall include the feminine and neuter gender, and singular numbers shall include the plural and the plural the singular.

"Interest" shall mean interest at the rate adopted by the retirement board. (Amended November 1998)

A8.559-14 RIGHT TO TRANSFER

Notwithstanding any provisions of this Charter to the contrary, any person who, on or after January 1, 1981, is a member of the Police Department, and is a member of the Retirement System under Charter Section 8.559, may become a member of the Retirement System under Charter Section 8.586 by filing in writing with the Retirement System no later than December 31, 1981, an executed waiver of all benefits which might inure to him under Charter Section 8.559. This waiver must be without right of revocation and on a form furnished by the Retirement System. The Retirement Board may require that this waiver be executed by additional persons before it becomes operative.

This transfer will be effective July 1, 1980. Those persons so electing to become members under Charter Section 8.586 shall receive service credit under Charter Section 8.586 equal to their service credit under Charter Section 8.559 as of June 30, 1980.

Those persons so electing to become members under Charter Section 8.586 shall not be subject to any of those provisions of Charter Section 8.559 as of July 1, 1980.

Notwithstanding the provisions of Charter Section 8.526, the cost of living adjustment in any given year prior to January 1, 2000 for those persons electing this transfer to Charter Section 8.586 shall not exceed the provisions of Charter Section 8.526 as they existed on July 1, 1980.

Those persons so electing to transfer membership from Charter Section 8.559 to Charter Section 8.586 shall receive a monetary consideration not to exceed \$40,000 calculated at the rate of \$2,500 for each year of said service credit up to ten years and then at the rate of \$1000 for each additional year of said service credit. This monetary consideration shall be paid from said member's contribution account including any interest thereon. When said member's contribution account is depleted, the balance shall be paid from the City and County contributions held by the Retirement System.

This consideration shall be payable January 1, 1982. Alternatively, an employee may elect to receive payments according to a schedule established by the Retirement Board.

Notwithstanding any other Charter or ordinance provisions, a member transferring pursuant to this section shall be eligible to receive any benefits payable because of an increase in benefits approved by the voters for other members under Charter Section 8.586, provided, however, that said member repays with interest the monetary consideration he or she received in making this transfer, offset by the amount of said member's own account in the Retirement System under Charter Section 8.559. Interest on the repayment amount shall be charged at the rate credited to member accounts from January 1, 1981 until repayment or effective date of retirement. Members shall have the option of making said repayment either through a lump-sum payment, payroll deduction or through an actuarial offset against any benefits payable because of an increase in benefits subsequent to July 1, 1980.

The amendments to this section contained in the proposition submitted to the electorate on November 2, 1999 shall apply only to active and retired members on November 2, 1999 and constitute a prospective increase in benefits to such members subject to repayment in accordance with the provisions of the preceding paragraph. Upon repayment, retirees shall have their benefits recalculated under Charter Section 8.586 as in force at the date of their retirement. These recalculated benefits shall be first payable on and after November 2, 1999. No retired member shall become eligible under said amendments for any retroactive payments. Notwithstanding the preceding sentences, the provisions in Charter Section 8.586-3 for recalculation on the date upon which said member would have qualified for service retirement ("QSR") shall use the provisions of Charter Section 8.586 at QSR. (Amended November 1999)

A8.584-3 RETIREMENT FOR INCAPACITY

Any member who becomes incapacitated for performance of duty because of disability determined by the retirement board to be of extended and uncertain duration, and who shall have completed at least 10 years of service credited in the aggregate, computed as provided in Section 8.584-7, shall be retired upon an allowance of 1 1/2 percent of the average final compensation of said member, as defined in Section 8.584-1 for each year of credited service, if such retirement allowance exceeds one-third of his average final compensation; otherwise 1 1/2 percent of his average final compensation multiplied by the

number of years of City service which would be credited to him were such City service to continue until attainment by him of age 60, but such retirement allowance shall not exceed one-third of such average final compensation. In the calculation under this section of the retirement allowance of a member having credit for service in a position in the evening schools and service in any other position, separate retirement allowances shall be calculated, in the manner prescribed, for each class of service, the average final compensation in each case being that for the respective class of service; provided that the average final compensation upon which the minimum total retirement allowance is calculated in such case shall be based on the compensation earnable by the member in the classes of service rendered by him during the three years immediately preceding his retirement. Part-time service and compensation shall be reduced to full-time service and compensation in the manner prescribed by the Board of Supervisors, and when so reduced shall be applied as full-time service and compensation in the calculation of retirement allowances. The question of retiring a member under this subsection may be brought before the retirement board on said board's own motion, by recommendation of any commission or board, or by said member or his guardian. If his disability shall cease, his retirement allowance shall cease, and he shall be restored to service in the position or classification he occupied at the time of his retirement.

A8.584-13 FORFEITURE FOR CRIMES INVOLVING MORAL TURPITUDE

Any member convicted of a crime involving moral turpitude committed in connection with his or her duties as an officer or employee of the City and County, the school district, the college district, or the Superior Court of California, County of San Francisco, shall forfeit all rights to any benefits under the Retirement System except refund of his or her accumulated contributions: provided, however, that if such member is qualified for service retirement by reason of service and age under the provisions of Section 8.584-2, he or she shall have the right to elect, without right of revocation and within 90 days after his or her removal from office or employment, to receive as his or her sole benefit under the Retirement System, an annuity which shall be the actuarial equivalent of his or her accumulated contributions at the time of such removal from office or employment.

Any member, after retirement for service or disability or while receiving a vesting allowance, who is convicted of a crime involving moral turpitude in connection with his or her duties as an officer or employee of the City and County, the school district, the college district, or the Superior Court of California, County of San Francisco, shall forfeit all rights to any further benefit from the Retirement System and the Retirement System shall immediately cease all future payments to such member; provided however, that if, at the time of the conviction, said member has remaining accumulated contributions, then such member shall have the right to elect, without right of revocation and within 30 days after his or her conviction, to receive as his or her sole benefit under the Retirement System an annuity which shall be the actuarial equivalent of his or her accumulated contributions remaining at the time of the conviction. (Added by Proposition C, 6/3/2008)

A8.585-10 COMPUTATION OF SERVICE

The following time shall be included in the computation of the service to be credited to a member of the Fire Department for the purposes of determining whether such member qualified for retirement and calculating benefits, excluding, however, any time, the contributions for which were withdrawn by said member upon termination of his service while he was a member under any other Charter section, and not redeposited upon re-entry into service:

- (a) Time during and for which said member is entitled to receive compensation because of services as a member of the fire or police department.
- (b) Time during which said member is entitled to receive compensation while a member of the Retirement System, because of service rendered in other offices and departments prior to July 1, 1949, provided that accumulated contributions on account of such service previously refunded, are redeposited, with interest from date of refund to date of redeposit, at times and in the manner fixed by the retirement board; and solely for purpose of determining qualification for retirement under Section 8.585-3 for disability not resulting from injury received in, or illness caused by performance of duty, time during which said member serves, after July 1, 1949, and receives compensation because of services rendered in other offices and departments.
- (c) Time during which said member is absent from a status included in Subsections (a) and (b) next preceding, by reason of service in the Armed Forces of the United States of America, or by reason of any other service included in Section 8.520 of the Charter, during any war in which the United States was or shall be engaged or during other national emergency, and for which said member contributed or contributes to the Retirement System or for which the City and County contributed or contributes on his account.
- (d) Time during which said member was on Unpaid Parental Leave pursuant to Charter Section A8.523, and for which said member has purchased service credit in the Retirement System. (Amended by Proposition G, 11/4/2008)

A8.585-14 RIGHT TO TRANSFER

Notwithstanding any provisions of this Charter to the contrary, any person who, on or after January 1, 1981, is a member of the Fire Department, and is a member of the Retirement System under Charter Section 8.585, may become a member of the Retirement System under Charter Section 8.588 by filing in writing with the Retirement System no later than December 31, 1981, an executed waiver of all benefits which might inure to him under Charter Section 8.585. This waiver must be without right of revocation and on a form furnished by the Retirement System. The Retirement Board may require that this waiver be executed by additional parties before it becomes operative.

This transfer will be effective July 1, 1980. Those persons so electing to become members under Charter Section 8.588 shall receive service credit under Charter Section 8.588 equal to their service credit under Charter Section 8.585 as of June 30, 1980.

Those persons so electing to become members under Charter Section 8.588 shall not be subject to any of those provisions of Charter Section 8.585 as of July 1, 1980.

Notwithstanding the provisions of Charter Section 8.526, the cost of living adjustment in any given year prior to January 1, 2000 for those persons electing this transfer to Charter Section 8.588 shall not exceed the provisions of Charter Section 8.526 as they existed on July 1, 1980.

Those persons so electing to transfer membership from Charter Section 8.585 to Charter Section 8.588 shall receive a monetary consideration not to exceed \$40,000 calculated at the rate of \$2,500 for each year of said service credit up to 10 years and then at the rate of \$1,000 for each additional year of said service credit. This monetary consideration shall be paid from said member's contribution account including any interest thereon. When said member's contribution account is depleted, the balance shall be paid from the City and County contributions held by the Retirement System.

This consideration shall be payable January 1, 1982. Alternatively, an employee may elect to receive payments according to a schedule established by the Retirement Board.

Notwithstanding any other Charter or ordinance provisions, a member transferring pursuant to this section shall be eligible to receive any benefits payable because of an increase in benefits approved by the voters for other members under Charter Section 8.588, provided, however, that said member repays with interest the monetary consideration he or she received in making this transfer, offset by the amount of said member's own account in the Retirement System under Charter Section 8.585. Interest on the repayment amount shall be charged at the rate credited to member accounts from January 1, 1981 until repayment or effective date of retirement. Members shall have the option of making said repayment either through a lump-sum payment, payroll deduction or through an actuarial offset against any benefits payable because of any increase in benefits subsequent to July 1, 1980.

The amendments to this section contained in the proposition submitted to the electorate on November 2, 1999 shall apply only to active and retired members on November 2, 1999 and constitute a prospective increase in benefits to such members subject to repayment in accordance with the provisions of the preceding paragraph. Upon repayment, retirees shall have their benefits recalculated under Charter Section 8.588 as in force at the date of their retirement. These recalculated benefits shall be first payable on and after November 2, 1999. No retired member shall become eligible under said amendments for any retroactive payments. Notwithstanding the preceding sentences, the provisions in Charter Section 8.588-3 for recalculation on the date upon which said member would have qualified for service retirement ("QSR") shall use the provisions of Charter Section 8.588 at QSR. (Amended November 1999)

A8.586-1 DEFINITIONS

The following words and phrases as used in this section, Section 8.586 and Sections 8.586-2 through 8.586-14, unless a different meaning is plainly required by the context, shall have the following meanings:

"Retirement allowance," "death allowance" or "allowance," shall mean equal monthly payments, beginning to accrue upon the date of retirement, or upon the day following the date of death, as the case may be, and continuing for life unless a different term of payment is definitely provided by the context.

"Compensation," as distinguished from benefits under the Workers' Compensation Insurance and Safety Act of the State of California, shall mean the remuneration payable in cash, by the City and County, without deduction except for absence from duty, for time during which the individual receiving such remuneration is a member of the police department, but excluding remuneration paid for overtime.

Subject to the requirement that it be payable in cash and that overtime be excluded, "compensation" for pension purposes may be defined in a collective bargaining agreement. Provided, however, that for retirement purposes, any increase in compensation attached to a rank which is based solely upon the possession of a POST certificate, compared to the equivalent rank without a POST certificate, shall be subject to the following limitations:

- (a) for possession of the intermediate POST certificate, no more than 4% shall be included in compensation,
- (b) for possession of the advanced POST certificate, no more than an additional 2% over the maximum provided in subsection (a), above, shall be included in compensation,

These limits shall apply to any pay increments which are solely attributable to the possession of a POST certificate, including but not limited to premiums or special ranks

which may be established in the future and which are solely attributable to the possession of a POST certificate.

"Compensation earnable" shall mean the compensation which would have been earned had the member received compensation without interruption throughout the period under consideration and at the rates of remuneration attached at that time to the ranks or positions held by him or her during such period, it being assumed that during any absence, he or she was in the rank or position held by him or her at the beginning of the absence, and that prior to becoming a member of the police department, he or she was in the rank or position first held by him or her in such department.

"Benefit" shall include "allowance," "retirement allowance," "death allowance" and "death benefit."

"Final compensation" shall mean the average monthly compensation earnable by a member during any one year of credited service in which his or her average compensation is the highest.

For purposes of calculation of final compensation, any increase in pay solely attributable to possession of a POST certificate shall be included only if the member possesses the qualifying POST certificate for a period of not less than four (4) years prior to his or her retirement date; provided, however, that should a member possess the qualifying POST certificate for a period of time less than four (4) years prior to retirement, final compensation shall be calculated based upon the monthly compensation in the next lower rank not requiring possession of the qualifying POST certificate.

For the purpose of Sections 8.586 through 8.586-14, the terms "member of the police department," "member of the department," or "member" shall mean any officer or employee of the police department employed after November 1, 1976 who was or shall be subject to the Charter provisions governing entrance requirements of members of the uniformed force of said department and said terms shall further mean persons employed after November 1, 1976 at an age not greater than the maximum age then prescribed for entrance into employment in said uniformed force, to perform duties now performed under the titles of criminologist, photographer, police woman or jail matron; provided, however, that said terms shall not include any person who has not satisfactorily completed such course of training as may be required by the police department prior to assignment to active duty with said department.

"Retirement system" or "system" shall mean San Francisco City and County Employees' Retirement System as created in Section 8.500 of the Charter.

"Retirement board" shall mean "retirement board" as created in Section 3.670 of the Charter.

"Charter" shall mean the Charter of the City and County of San Francisco.

Words used in the masculine gender shall include the feminine and neuter gender, and singular numbers shall include the plural and the plural the singular.

"Interest" shall mean interest at the rate adopted by the retirement board. (Amended November 1998)

A8.586-2 SERVICE RETIREMENT

Any member of the police department who completes at least five years of service in the aggregate and attains the age of fifty (50) years, said service to be computed under Section 8.586-10, may retire for service at his or her option. A member retired after meeting the service and age requirements in the sentence next preceding, shall receive a retirement allowance equal to the larger of (a) two percent of final compensation for each of the first

twenty-five (25) years of service, then three percent of final compensation for each year of service rendered in excess of twenty-five (25) years or (b) the percent of final compensation (as defined in Section 8.586-1) set forth opposite his or her age at retirement, taken to the preceding completed quarter year, for each year of service, as computed under Section 8.586-10:

Retirement Age	Percent for Each Year of Credited Service
50	2.000
50.25	2.035
50.5	2.070
50.75	2.105
51	2.140
51.25	2.175
51.5	2.210
51.75	2.245
52	2.280
52.25	2.315
52.5	2.350
52.75	2.385
53	2.420
53.25	2.455
53.5	2.490
53.75	2.525
54	2.560
54.25	2.595
54.5	2.630
54.75	2.665
55	2.700

In no event, however, shall such a retirement allowance exceed seventy-five (75) percent of a member's final compensation. (Amended November 1998)

A8.586-3 RETIREMENT FOR INCAPACITY

Any member of the police department who becomes incapacitated for the performance of his or her duty by reason of any bodily injury received in, or illness caused by the performance of his or her duty, shall be retired. If he or she is not qualified for service retirement, he or she shall receive a retirement allowance in an amount which shall be equal

to the same percentage of the final compensation of said member, as defined in Section 8.586-1, as his percentage of disability is determined to be. The percentage of disability shall be as determined by the Workers' Compensation Appeals Board of the State of California upon referral from the retirement board for that purpose; provided that the retirement board may, by five affirmative votes, adjust the percentage of disability as determined by said appeals board; and provided, further, that such retirement allowance shall be in an amount not less than 50 percent nor more than 90 percent of the final compensation of said member, as defined in Section 8.586-1. Said allowance shall be paid to him or her until the date upon which said member would have completed at least twenty-five (25) years of service in the aggregate and attained the age of fifty (50) years had he or she lived and rendered service without interruption in the rank held by him or her at retirement, and after said date the allowance payable shall be equal to the retirement allowance said member would have received if retired for service on said date based on the final compensation, as defined in Section 8.586-1, he or she would have received immediately prior to said date, had he or she lived and rendered service as assumed, but such allowance shall not be less than 50 percent of such final compensation.

If, at the time of retirement because of disability, he or she is qualified as to age and service for retirement under Section 8.586-2, he or she shall receive an allowance equal to the retirement allowance which he or she would receive if retired under Section 8.586-2, but not less than 50 percent of said final compensation. Any member of the police department who becomes incapacitated for performance of his or her duty by reason of a cause not included under the provisions of the immediately preceding sentences, and who shall have completed at least 10 years of service in the aggregate, computed as provided in Section 8.586-10, shall be retired upon an allowance of 1 1/2 percent of the final compensation of said member as defined in Section 8.586-1 for each year of service, provided that said allowance shall not be less than 33 1/3 percent of said final compensation. The question of retiring a member under this section may be brought before the retirement board on said board's own motion, by recommendation of the police commission or by said member or his or her guardian. If his or her disability shall cease, his or her retirement allowance shall cease and he or she shall be restored to the service in the rank he or she occupied at the time of his or her retirement. (Amended November 1998)

A8.586-4 DEATH ALLOWANCE

If a member of the police department shall die before or after retirement by reason of an injury received in, or illness caused by the performance of his or her duty, a death allowance, in lieu of any allowance, payable under any other section of the Charter or by ordinance, on account of death resulting from injury received in or illness caused by the performance of duty, shall be paid, beginning on the date next following the date of death, to his or her surviving spouse throughout his or her life or until his or her remarriage. If the member, at the time of death, was qualified for service retirement, but he or she had not retired, the allowance payable shall be equal to the retirement allowance which the member would have received if he or she had been retired for service on the date of death, but such allowance shall not be less than 50 percent of the final compensation earnable by said member immediately preceding death. If death occurs prior to qualification for service retirement, the allowance payable shall be equal to the compensation of said member at the date of death, until the date upon which said member would have completed at least twenty-five (25) years of service in the aggregate and attained the age of fifty (50) years, had he or she lived and rendered service without interruption in the rank held by him or her at death,

and after said date the allowance payable shall be equal to the retirement allowance said member would have received if retired for service on said date, based on the final compensation he or she would have received prior to said date, had he or she lived and rendered service as assumed, but such allowance shall not be less than 50 percent of such final compensation. If he or she had retired prior to death, for service or for disability resulting from injury received in, or illness caused by the performance of duty, the allowance payable shall be equal to the retirement allowance of the member, except that if he or she was a member under Section 8.586 and retirement was for such disability, and if death occurred prior to qualification for the service retirement allowance, the allowance continued shall be adjusted upon the date at which said member would have completed at least twenty-five (25) years of service in the aggregate and attained the age of fifty (50) years, in the same manner as it would have been adjusted had the member not died.

If there be no surviving spouse entitled to an allowance hereunder, or if he or she dies or remarries before every child of such deceased member attains the age of 18 years, then the allowance which the surviving spouse would have received had he or she lived and not remarried shall be paid to his or her child or children under said age, collectively, until every such child dies or attains said age, provided that no child shall receive any allowance after marrying or attaining the age of 18 years. Should said member leave no surviving spouse and no children under the age of 18 years, but leave a parent or parents dependent upon him or her for support, the parents so dependent shall collectively receive a monthly allowance equal to that which a surviving spouse otherwise would have received, during such dependency. No allowance, however, shall be paid under this section to a surviving spouse following the death of a member unless he or she was married to the member prior to the date of the injury or onset of the illness which results in death.

The amendments to this Section A8.586-4, approved by the electorate on November 2, 2004 shall apply to any work-related death that occurs on or after November 2, 2004, and to any qualified survivor who, on November 2, 2004, is receiving a continuation allowance under this section due to the work-related death of a member on or after January 1, 1989. Any increase in the continuation allowance payable to such a qualified survivor by virtue of the amendments to this section approved by the electorate on November 2, 2004 shall be prospective only, beginning November 2, 2004. (Amended November 1998; November 2004)

A8.586-5 PAYMENT TO SURVIVING DEPENDENTS

Upon the death of a member of the police department resulting from any cause other than an injury received in, or illness caused by performance of duty,

(a) if the death occurred after qualification for service retirement under Section 8.586-2, or after retirement service or because of disability which result from any cause other than an injury received in, or illness caused by performance of duty one-half of the retirement allowance to which the member would have been entitled if he or she had retired for service at the date of death or one-half of the retirement allowance as it was at his or her death, as the case may be, shall be continued through out his or her life or until remarriage to his surviving wife, or

(b) if his or her death occurred after the completion of at least 25 years of service in the aggregate but prior to the attainment of the age of 50 years, one-half of the retirement allowance to which he or she would have been entitled under Section 8.586-2 if he or she had attained the age of 50 years on the date of his or her death shall be continued throughout life or until remarriage to his surviving wife, or

(c) if his or her death occurred after retirement for disability by reason of injury received in or illness caused by performance of duty, three-fourths of his or her retirement allowance as it was at his or her death shall be continued throughout life or until remarriage to his surviving wife, except that, if death occurred prior to qualification for service retirement allowance, the allowance continued shall be adjusted upon the date on which said member would have completed at least twenty-five (25) years of service in the aggregate and attained the age of fifty (50) years, in the same manner as it would have been adjusted had the member not died, or

(d) if his or her death occurred after completion of at least 10 years of service in the aggregate, computed as provided in Section 8.586-10, an allowance in an amount equal to the retirement allowance to which the member would have been entitled pursuant to Section 8.586-3 if he or she had retired on the date of death because of incapacity for performance of duty shall be paid throughout life or until remarriage to his surviving wife. If there be no surviving wife entitled to an allowance hereunder, or if she dies or remarries before every child of such deceased member attains the age of 18 years, then the allowance which the surviving wife would have received had she lived and not remarried shall be paid to his child or children under said age, collectively, to continue until every such child dies or attains said age, provided that no child shall receive any allowance after marrying or attaining the age of 18 years. Should said member leave no surviving wife and no children, under age of 18 years, but leave a child or children, regardless of age, dependent upon him or her for support because partially or totally disabled and unable to earn a livelihood or a parent or parents dependent upon him or her for support, the child or children and the parents so dependent shall collectively receive a monthly allowance equal to that which a surviving wife otherwise would have received, during such dependency. No allowance, however shall be paid under this section to a surviving wife unless she was married to the member prior to the date of the injury or onset of the illness which results in death if he or she had not retired, or unless she was married to the member at least one year prior to his or her retirement if he or she had retired.

As used in this section and Section 8.556-4 "surviving wife" shall mean and include a surviving spouse, and shall also mean and include a spouse who has remarried since the death of the member, but whose remarriage has been terminated by death, divorce or annulment within five years after the date of such remarriage and who has not thereafter again remarried.

The surviving wife, in the event of death of the member after qualification for, but before service retirement, may elect before the first payment of the allowance, to receive the benefit provided in Section 8.586-8, in lieu of the allowance which otherwise would be continued to her under this section. If there be no surviving wife, the guardian of the eligible child or children may make such election, and if there be no such children, the dependent parent or parents may make such election. "Qualified for service retirement," "qualification for service retirement" or "qualified as to age and service for retirement," as used in this section and other sections to which persons who are members under Section 8.586 are subject, shall mean completion of 25 years of service and attainment of age 50, said service to be computed under Section 8.586-10. (Amended November 1998)

A8.586-6 ADJUSTMENT OF ALLOWANCES

Every retirement or death allowance payable to or on account of any member under Section 8.586 shall be adjusted in accordance with the provisions of Subsection (b) of Section 8.526 of this Charter. (Amended November 1998)

A8.586-7 ADJUSTMENT FOR COMPENSATION PAYMENTS

That portion of any allowance payable because of the death or retirement of any member of the police department which is provided by contributions of the City and County, shall be reduced in the manner fixed by the Board of Supervisors, by the amount of any benefits other than medical benefits, payable by the City and County to or on account of such person, under any workers' compensation law or any other general law and because of the injury or illness resulting in said death or retirement. Such portion which is paid because of death or retirement which resulted from injury received in, or illness caused by performance of duty, shall be considered as in lieu of all benefits, other than medical benefits, payable to or on account of such person under such law and shall be in satisfaction and discharge of the obligation of the City and County to pay such benefits. (Amended November 1998)

A8.586-8 DEATH BENEFIT

If a member of the police department shall die, before retirement from causes other than an injury received in, or illness caused by the performance of duty, or regardless of cause if no allowance shall be payable under Section 8.586-4 or 8.586-5 preceding, a death benefit shall be paid to his or her estate or designated beneficiary, the amount of which and the conditions for the payment of which shall be determined in the manner prescribed by the Board of Supervisors for the death benefit of other members of the Retirement System. Upon the death of a member after retirement and regardless of the cause of death, a death benefit shall be paid to his or her estate or designated beneficiary the amount of which and the conditions for the payment of which shall be determined in the manner prescribed by the Board of Supervisors for the death benefit of other members of the Retirement System. (Amended November 1998)

A8.586-9 REFUNDS AND REDEPOSITS

Should any member of the police department cease to be employed as such a member, through any cause other than death or retirement or transfer to another office or department, all of his or her contributions, with interest credited thereon, shall be refunded to him or her subject to the conditions prescribed by the Board of Supervisors to govern similar terminations of employment of other members of the Retirement System. If he or she shall again become a member of the department, he or she shall redeposit in the retirement fund the amount refunded to him or her. Should a member of the police department become an employee of any other office or department, his or her accumulated contribution account shall be adjusted by payments to or from him or her as the case may be to make the accumulated contributions credited to him or her at the time of change equal to the amount which would have been credited to him or her if he or she had been employed in said other office or department at the rate of compensation received by him or her in the police department and he or she shall receive credit for service for which said contributions were made, according to the Charter section under which his or her membership in the Retirement System continues. (Amended November 1998)

A8.586-10 COMPUTATION OF SERVICE

The following time shall be included in the computation of the service to be credited to a member of the Police Department for the purposes of determining whether such member qualified for retirement and calculating benefits, excluding, however, any time, the contributions for which were withdrawn by said member upon termination of his or her

service while he or she was a member under any other Charter section, and not redeposited upon re-entry into service:

(a) Time during and for which said member is entitled to receive compensation because of services as a member of the police or fire department under Section 8.586 or 8.588, respectively.

(b) Time prior to November 2, 1976, during which said member was entitled to receive compensation while a member of the Police or Fire Department under any other section of the Charter, provided that accumulated contributions on account of such service previously refunded are redeposited with interest from the date of refund to the date of redeposit, at times and in the manner fixed by the retirement board; and solely for the purpose of determining qualification for retirement under Section 8.586-3 for disability not resulting from injury received in or illness caused by performance of duty, time during which said member serves and receives compensation because of services rendered in other offices and departments.

(c) Time during which said member is absent from a status included in Subsection (a) next preceding, by reason of service in the Armed Forces of the United States of America, or by reason of any other service included in Section 8.520 of the Charter, during any war in which the United States was or shall be engaged or during other national emergency, and for which said member contributed or contributes to the Retirement System or for which the City and County contributed or contributes on his or her account.

(d) Time during which said member was on Unpaid Parental Leave pursuant to Charter Section A8.523, and for which said member has purchased service credit in the Retirement System. (Amended November 1998; Amended by Proposition G, 11/4/2008)

A8.586-11 SOURCES OF FUNDS

All payments provided for members under Section 8.586 shall be made from funds derived from the following sources, plus interest earned on said funds:

(a) There shall be deducted from each payment of compensation made to a member under Section 8.586 a sum equal to seven percent of such payment of compensation. The sum so deducted shall be paid forthwith to the Retirement System. Said contribution shall be credited to the individual account of the member from whose salary it was deducted, and the total of said contributions, together with interest credited thereon in the same manner as is prescribed by the Board of Supervisors for crediting interest to contributions of other members of the Retirement System, shall be applied to provide part of the retirement allowance granted to, or allowance granted on account of said member, or shall be paid to said member or his or her estate or beneficiary as provided in Sections 8.586-8, 8.586-9 and 8.586-10. The individual accounts of members who purchased service credit for Unpaid Parental Leave shall also include the amount paid by the member for said purchase, plus interest.

(b) The City and County shall contribute to the Retirement System such amounts as may be necessary, when added to the contributions referred to in Subsection (a) of this Section 8.586-11, to provide the benefits payable to members under Section 8.586. Such contributions of the City and County to provide the portion of the benefits hereunder shall be made in annual installments, and the installment to be paid in any year shall be determined by the application of a percentage to the total compensation paid during said year to persons who are members under Section 8.586, said percentage to the ratio of the value on November 2, 1976, or at the later date of a periodical actuarial valuation and investigation into the experience under the system, of the benefits thereafter to be paid to or on account of members under Section 8.586 from contributions of the City and County, less the amount of

such contributions plus accumulated interest thereon, then held by said system to provide said benefits on account of service rendered by respective members after said date, to the value on said respective dates of salaries thereafter payable to said members. Said values shall be determined by the actuary, who shall take into account the interest which shall be earned on said contributions, the compensation experience of members, and the probabilities of separation by all causes, of members from service before retirement and of death after retirement. Said percentage shall be changed only on the basis of said periodical actuarial valuation and investigation into the experience under the system. Said actuarial valuation shall be made every even-numbered year and said investigation into the experience under the system shall be made every odd-numbered year.

(c) To promote the stability of the Retirement System through a joint participation in the result of variations in the experience under mortality, investment and other contingencies, the contributions of both members and the City and County held by the system to provide benefits for members under Section 8.586, shall be a part of the fund in which all other assets of said system are included. (Amended November 1998; Amended by Proposition G, 11/4/2008)

A8.586-12 RIGHT TO RETIRE

Upon the completion of the years of service set forth in Section 8.586-2 as requisite to retirement, a member of the Police Department shall be entitled to retire at any time thereafter in accordance with the provisions of said Section 8.586-2, and, except as provided in Section 8.586-16, nothing shall deprive said member of said right.

(Amended November 1998; Amended by Proposition C, 6/3/2008)

A8.586-13 LIMITATION ON EMPLOYMENT DURING RETIREMENT

(a) Except as provided in Section 8.511 of this Charter and in Subsection (b) of this section, no person retired as a member under Section 8.586 for service or disability and entitled to receive a retirement allowance under the Retirement System shall be employed in any capacity by the City and County, nor shall such person receive any payment for services rendered to the City and County after retirement.

(b) (1) Service as an election officer or juror, or in the preparation for, or giving testimony as an expert witness for or on behalf of the City and County before any court or legislative body shall be affected by the provisions of Subsection (a) of this section.

(2) The provisions of Subsection (a) shall not prevent such retired person from serving on any board or commission of the City and County and receiving the compensation for such office, provided said compensation does not exceed \$100 per month.

(3) If such retired person is elected or appointed to a position or office which subjects him or her to membership in the Retirement System under Section 8.586, he or she shall re-enter membership under Section 8.586 and his or her retirement allowance shall be cancelled immediately upon his/her re-entry. The provisions of Subsection (a) of this section shall not prevent such person from receiving the compensation for such position or office. The rate of contributions of such member shall be the same as that for other members under Section 8.586. Such member's individual account shall be credited with an amount which is the actuarial equivalent of his or her annuity at the time of his or her re-entry, but the amount thereof shall not exceed the amount of his or her accumulated contributions at the time of his or her retirement. Such member shall also receive credit for his or her service as it was at the time of his or her retirement.

(c) Notwithstanding any provision of this Charter to the contrary, should any person retired for disability engage in a gainful occupation prior to attaining the age of 55 years, the retirement board shall reduce that part of his or her monthly retirement allowance which is provided by contributions of the City and County to an amount which, when added to the amount of the compensation earnable, at the time he or she engages in the gainful occupation, by such person if he or she held the position which he or she held at the time of his or her retirement, or, if that position has been abolished, the compensation earnable by the member if he or she held the position from which he or she was retired immediately prior to its abolishment. (Amended November 1998)

A8.586-14 CONFLICTING CHARTER PROVISIONS

Any section or part of any section in this Charter, insofar as it should conflict with the provisions of Sections 8.586 through 8.586-13 or with any part thereof, shall be superseded by the contents of said sections. In the event that any word, phrase, clause or section of said sections shall be adjudged unconstitutional, the remainder thereof shall remain in full force and effect. (Amended November 1998)

A8.586-15 VESTING

Notwithstanding any provisions of this Charter to the contrary, should any member of the police department who is a member of the Retirement System under Charter Section 8.586 with five years of credited service, cease to be so employed, through any cause other than death or retirement, he or she shall have the right to elect, without right of revocation and within 90 days after termination of said service, to allow his or her accumulated contributions including interest to remain in the retirement fund and to receive a retirement benefit, calculated at termination, defined as that proportion of the normal service retirement benefit that his or her accrued service credit bears to 25 years, payable beginning at age 50. (Amended November 1998)

A8.586-16 FORFEITURE FOR CRIMES INVOLVING MORAL TURPITUDE

Any member convicted of a crime involving moral turpitude committed in connection with his or her duties as an officer or employee of the City and County shall forfeit all rights to any benefits under the Retirement System except refund of his or her accumulated contributions; provided, however, that if such member is qualified for service retirement by reason of service and age under the provisions of Section 8.586-2, he or she shall have the right to elect, without right of revocation and within 90 days after his or her removal from office or employment to receive as his or her sole benefit under the Retirement System an annuity which shall be the actuarial equivalent of his or her accumulated contributions at the time of such removal from office or employment.

Any member, after retirement for service or disability or while receiving a vesting allowance, who is convicted of a crime involving moral turpitude in connection with his or her duties as an officer or employee of the City and County shall forfeit all rights to any further benefit from the Retirement System and the Retirement System shall immediately cease all future payments to such member; provided however, that if at the time of the conviction, said member has remaining accumulated contributions, then such member shall have the right to elect, without right of revocation and within 30 days after his or her conviction, to receive as his or her sole benefit under the Retirement System an annuity which shall be the actuarial equivalent of his or her accumulated contributions remaining at the time of the conviction. (Added by Proposition C, 6/3/2008)

A8.587 RETIREMENT--MISCELLANEOUS OFFICERS AND EMPLOYEES ON AND AFTER NOVEMBER 7, 2000

Miscellaneous officers and employees on November 7, 2000 who were members of the Retirement System under Section A8.584, miscellaneous officers and employees under Section A8.584 whose accumulated contributions were in the retirement fund on November 7, 2000 and who were not retired on that date, and miscellaneous officers and employees who become members of the Retirement System on and after November 7, 2000 shall be members of the Retirement System subject to the provisions of Sections A8.587 through A8.587-13, in addition to such other applicable provisions including, but not limited to, A8.500 of this Charter; provided that persons who become members under the Public Employees' Retirement System of the State of California or members of the State Teachers' Retirement System of the State of California shall not be members of the San Francisco City and County Employees' Retirement System and provided, further, that the Retirement System shall be applied to persons employed on a part-time or temporary basis only as the Board of Supervisors shall determine by ordinance enacted by three-fourths vote of all members of the board. (Added November 2000)

A8.587-1 DEFINITIONS

The following words and phrases as used in this section, unless a different meaning is plainly required by the context, shall have the following meaning:

"Retirement allowance," or "allowance," shall mean equal monthly payments, beginning to accrue upon the date of retirement, and continuing for life unless a different term of payment is definitely provided by the context.

"Compensation," as distinguished from benefits under the workers' compensation laws of the State of California shall mean all remuneration whether in cash or by other allowances made by the City and County, for service qualifying for credit under this section, but excluding remuneration for overtime and such other forms of compensation excluded by the Board of Supervisors pursuant to Section A8.500 of the Charter.

"Compensation earnable" shall mean the compensation as determined by the retirement board, which would have been earned by the member had he or she worked, throughout the period under consideration, the average number of days ordinarily worked by persons in the same grade or class of positions as the positions held by him or her during such period and at the rate of pay attached to such positions, it being assumed that during any absence, he or she was in the position held by him or her at the beginning of the absence, and that prior to entering City service, he or she was in the position first held by him or her in City service.

"Benefit" shall include "allowance," "retirement allowance," and "death benefit."

"Average final compensation" shall mean the average monthly compensation earned by a member during any one year of credited service in the Retirement System in which his or her average final compensation is the highest.

For the purposes of the Retirement System and of this section, Section A8.587 and Sections A8.587-2 through A8.587-13, the terms "miscellaneous officer or employee," or "member," shall mean any officer or employee employed on November 7, 2000 who was a member of the Retirement System under Section A8.584, any member of the Retirement System under Section A8.584 whose accumulated contributions were in the retirement fund on November 7, 2000 and who was not retired on that date, and any officer or employee employed on or after November 7, 2000 who is not a member of the police or fire departments as defined in the Charter for the purposes of the Retirement System. Said terms

shall not include those persons who become members under the Public Employees' Retirement System or members of the State Teachers' Retirement System.

"Retirement system" or "system" shall mean San Francisco City and County Employees' Retirement System as created in Section A8.500 of the Charter.

"Retirement board" shall mean "retirement board" as created in Section 12.100 of the Charter.

"Charter" shall mean the Charter of the City and County of San Francisco.

Words used in the masculine gender shall include the feminine and neuter genders, and singular numbers shall include the plural and the plural the singular.

"Interest" shall mean interest at the rate adopted by the retirement board. (Added November 2000)

A8.587-2 SERVICE RETIREMENT

Any member who completes at least 20 years of service in the aggregate credited in the Retirement System and attains the age of 50 years, or at least 10 years of service in the aggregate credited in the Retirement System, and attains the age of 60 years, said service to be computed under Section A8.587-7 may retire for service at his or her option. Members may retire under this section or under the provisions of A8.587-6, on the first day of the month next following the attainment by them of the age of 65 years. A member retired after reaching the age of 62 years shall receive a service retirement allowance at the rate of 2.3 percent of said average final compensation for each year of service. The service retirement allowance of any member retiring prior to attaining the age of 60 years, and after rendering 20 years or more of such service, computed under Section A8.587-7, and having attained the age of 50 years, b) attaining the age of 60 years, and after rendering 10 years or more of such service, computed under Section A8.587-7, shall be an allowance equal to the percentage of said average final compensation set forth opposite his or her age at retirement, taken to the preceding completed quarter year, for each year of service, computed under Section A8.587-7:

Retirement Age	Percent for Each Year of Credited Service
50	1.000
50 1/4	1.0250
50 1/2	1.0500
50 3/4	1.0750
51	1.1000
51 1/4	1.1250
51 1/2	1.1500
51 3/4	1.1750
52	1.2000
52 1/4	1.2250
52 1/2	1.2500

52 3/4	1.2750
53	1.3000
53 1/4	1.3250
53 1/2	1.3500
53 3/4	1.3750
54	1.4000
54 1/4	1.4250
54 1/2	1.4500
54 3/4	1.4750
55	1.5000
55 1/4	1.5250
55 1/2	1.5500
55 3/4	1.5750
56	1.6000
56 1/4	1.6250
56 1/2	1.6500
56 3/4	1.6750
57	1.7000
57 1/4	1.7250
57 1/2	1.7500
57 3/4	1.7750
58	1.8000
58 1/4	1.8250
58 1/2	1.8500
58 3/4	1.8750
59	1.9000
59 1/4	1.9250
59 1/2	1.9500
59 3/4	1.9750
60	2.1000
60 1/4	2.1250
60 1/2	2.1500
60 3/4	2.1750

61	2.2000
61 1/4	2.2250
61 1/2	2.2500
61 3/4	2.2750
62	2.3000

In no event shall a member's retirement allowance exceed seventy-five percent of his or her average final compensation.

Before the first payment of a retirement allowance is made, a member, retired under this section or Section A8.587-3, may elect to receive the actuarial equivalent of his or her allowance, partly in an allowance to be received by him or her throughout his or her life, and partly in other benefits payable after his or her death to another person or persons, provided that such election shall be subject to all the conditions prescribed by the Board of Supervisors to govern similar elections by other members of the Retirement System, including the character and amount, of such other benefits. In the calculations under this section of the retirement allowance of a member having credit for service in a position in the evening schools and service in any other position, separate retirement allowances shall be calculated, in the manner prescribed for each class of service, the average final compensation in each case being that for the respective class of service, provided that the aggregate retirement allowance shall be taken into account in applying the provisions of this section providing for a minimum retirement allowance. Part-time service and compensation shall be converted to full-time service and compensation in the manner prescribed by the Board of Supervisors, and when so converted shall be applied on full-time service and compensation in the calculation of retirement allowances. (Added November 2000; Amended by Proposition B, 6/3/2008)

A8.587-7 COMPUTATION OF SERVICE

The following time and service shall be included in the computation of the service to be credited to a member for the purpose of determining whether such member qualifies for retirement and calculating benefits:

- (a) For miscellaneous officers and employees on November 7, 2000 who were members of the Retirement System under Section A8.584, time during which said officers and employees were members under Section A8.584.
- (b) Time during which said member is a member of the Retirement System under Section A8.587 and during and for which said member is entitled to receive compensation because of services as a miscellaneous officer or employee.
- (c) Service in the fire and police departments which is not credited as service as a member under Section A8.587 shall count under this section upon transfer of a member of either of such departments to employment entitling him or her to membership in the Retirement System under Section A8.587, provided that the accumulated contributions standing to the credit of such member shall be adjusted by refund to the member or by payment by the member to bring the account at the time of such transfer to the amount which would have been credited to it had the member been a miscellaneous member throughout the period of his or her service in either of such departments at the compensation he or she received in such departments.

(d) Prior service, during which said member was entitled to receive compensation while a miscellaneous member under any other section of the Charter, provided that accumulated contributions on account of such service previously refunded are redeposited with interest from the date of refund to the date of redeposit, at times and in the manner fixed by the retirement board.

(e) Prior service determined and credited as prescribed by the Board of Supervisors.

(f) The Board of Supervisors, by ordinance enacted by a three-fourths vote of its members, may provide for the crediting as service, rendered as an employee of the federal government and service rendered as an employee of the State of California or any public entity or public agency in the State of California. Said ordinance shall provide that all contributions required as the result of the crediting of such service shall be made by the member and that no contributions therefor shall be required of the City and County.

(g) Time during which said member is absent from a status included in Subsections (a), (b) or (c) and for which such member is entitled to receive credit as service for the City and County by virtue of contributions made in accordance with the provisions of Section A8.520 or Section A8.521 of the Charter.

(h) Time during which said member was on Unpaid Parental Leave pursuant to Charter Section A8.523, and for which said member has purchased service credit in the Retirement System. (Added November 2000; Amended by Proposition G, 11/4/2008)

A8.587-9 RIGHT TO RETIRE

Upon the completion of the years of service set forth in Section A8.587-2 as requisite to retirement, a member shall be entitled to retire at any time thereafter in accordance with the provisions of said Section A8.587-2, and, except as provided in Section 8.587-14, nothing shall deprive said member of said right. (Added November 2000; Amended by Proposition C, 6/3/2008)

A8.587-14 FORFEITURE FOR CRIMES INVOLVING MORAL TURPITUDE

Any member convicted of a crime involving moral turpitude committed in connection with his or her duties as an officer or employee of the City and County, the school district, the college district, or the Superior Court of California, County of San Francisco, shall forfeit all rights to any benefits under the Retirement System except refund of his or her accumulated contributions: provided, however, that if such member is qualified for service retirement by reason of service and age under the provisions of Section 8.587-2, he or she shall have the right to elect, without right of revocation and within 90 days after his or her removal from office or employment to receive as his or her sole benefit under the Retirement System an annuity which shall be the actuarial equivalent of his or her accumulated, contributions at the time of such removal from office or employment.

Any member, after retirement for service or disability or while receiving a vesting allowance, who is convicted of a crime involving moral turpitude in connection with his or her duties as an officer or employee of the City and County, the school district, the college district, or the Superior Court of California, County of San Francisco, shall forfeit all rights to any further benefit from the Retirement System and the Retirement System shall immediately cease all future payments to such member; provided however, that if at the time of the conviction, said member has remaining accumulated contributions, then such member shall have the right to elect, without right of revocation and within 30 days after his or her conviction, to receive as his or her sole benefit under the Retirement System an annuity

which shall be the actuarial equivalent of his or her accumulated contributions remaining at the time of the conviction. (Added by Proposition C, 6/3/2008)

A8.588-10 COMPUTATION OF SERVICE

The following time shall be included in the computation of the service to be credited to a member of the fire department for the purposes of determining whether such member qualified for retirement and calculating benefits, excluding, however, any time, the contributions for which were withdrawn by said member upon termination of his or her service while he or she was a member under any other Charter section, and not redeposited upon re-entry into service:

- (a) Time during and for which said member is entitled to receive compensation because of services as a member of the police or fire department under Section 8.586 or 8.588, respectively.
- (b) Time prior to November 2, 1976, during which said member was entitled to receive compensation while a member of the police or fire department under any other section of the Charter, provided that accumulated contributions on account of such service previously refunded are redeposited with interest from the date of refund to the date of redeposit, at times and in the manner fixed by the retirement board; and solely for the purpose of determining qualification for retirement under Section 8.588-3 for disability not resulting from injury received in or illness caused by performance of duty, time during which said member serves and receives compensation because of services rendered in other offices and departments.
- (c) Time during which said member earned compensation as a paramedic with the department of public health, provided that the accumulated contributions on account of such service are transferred to his or her 8.588 account or, if previously refunded, are redeposited with interest from the date of refund to the date of redeposit, at times and in the manner fixed by the retirement board. The retirement board shall require that a waiver be executed by said member so that any paramedic service covered by Section 8.588 is not also covered by other pension provisions in this Charter.
- (d) Time during which said member is absent from a status included in Subsection (a) next preceding, by reason of service in the armed forces of the United States of America, or by reason of any other service included in Section 8.520 of the Charter, during any war in which the United States was or shall be engaged or during other national emergency, and for which said member contributed or contributes to the Retirement System or for which the City and County contributed or contributes on his or her account.
- (e) Time during which said member was on Unpaid Parental Leave pursuant to Charter Section A8.523, and for which said member has purchased service credit in the Retirement System. (Amended November 1998; Amended by Proposition G, 11/4/2008)

A8.588-16 FORFEITURE FOR CRIMES INVOLVING MORAL TURPITUDE

Any member convicted of a crime involving moral turpitude committed in connection with his or her duties as an officer or employee of the City and County shall forfeit all rights to any benefits under the Retirement System except refund of his or her accumulated contributions: provided, however that if such member is qualified for service retirement by reason of service and age under the provisions of Section 8.588-2, he or she shall have the right to elect, without right of revocation and within 90 days after his or her removal from office or employment to receive as his or her sole benefit under the Retirement System an

annuity which shall be the actuarial equivalent of his or her accumulated contributions at the time of such removal from office or employment.

Any member, after retirement for service or disability or while receiving a vesting allowance, who is convicted of a crime involving moral turpitude in connection with his or her duties as an officer or employee of the City and County shall forfeit all rights to any further benefit from the Retirement System and the Retirement System shall immediately cease all future payments to such member; provided however, that if at the time of the conviction, said member has remaining accumulated contributions, then such member shall have the right to elect, without right of revocation and within 30 days after his or her conviction, to receive as his or her sole benefit under the Retirement System an annuity which shall be the actuarial equivalent of his or her accumulated contributions remaining at the time of the conviction. (Added by Proposition C, 6/3/2008)

A8.590-1 DECLARATION OF POLICY

It is hereby declared to be the policy of the City and County of San Francisco that strikes by firefighters, police officers and deputy sheriffs are not legally permissible, and that 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 in the event the procedures herein adopted are invoked by the City and County of San Francisco or by a recognized employee organization representing firefighters, police officers or deputy sheriffs, that they shall supersede and displace all other formulas, 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. (Amended March 2004)

A8.590-2 EMPLOYEES COVERED

These sections A8.590-1 through A8.590-7, inclusive, shall apply to the several ranks of the fire department and police department as provided for in Sections 4.128 and 4.127 of this Charter, respectively, and to all of the classifications of a deputy sheriffs, jointly referred to in these sections as "firefighters," "police officers" and "deputy sheriffs." (Amended March 2004)

A8.590-3 PROHIBITION AGAINST STRIKES

If any firefighter, police officer or deputy sheriff employed by the City and County of San Francisco 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 A8.345 and A8.346. (Amended March 2004)

A8.590-4 OBLIGATION TO NEGOTIATE IN GOOD FAITH

Notwithstanding any other provisions of this Charter, or of the 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 firefighters, police officers and deputy sheriffs shall have the mutual obligation to negotiate in good faith on all matters within the scope of representation as defined by Government Code Sections 3500, et seq., relating to the wages, hours, benefits and 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 negotiated agreement. Unless and until agreement is reached through negotiations between authorized representatives of the City and County of San Francisco and the recognized employee organization for the classifications of fire department, police department and deputy sheriffs, or a determination is made through the impartial arbitration procedure hereinafter provided, no existing benefit, term or condition of employment for said fire department, police department or deputy sheriffs shall be altered, eliminated or changed. Agreements reached by the duly authorized representatives for the City and County of San Francisco, its departments, boards and commissions and the recognized employee organizations pursuant to this Section shall be binding on the City and County of San Francisco, and on its departments, boards, commissions, officers and employees once adopted by the Board of Supervisors. Said agreements shall supersede any and all other conflicting procedures, provisions and formulas contained in this Charter relating to wages, hours, benefits or terms and conditions of employment. (Amended March 2004)

A8.590-5 IMPASSE RESOLUTION PROCEDURES

- (a) Subject to Section A8.590-5(g), disputes or controversies pertaining to wages, hours, benefits or terms and conditions of employment which remain unresolved after good faith negotiations between the City and County of San Francisco, its departments, boards and commissions and a recognized employee organization representing Firefighters, Police Officers or Deputy Sheriffs shall be submitted to a three-member Board of Arbitrators upon the declaration of an impasse either by the authorized representative of the City and County of San Francisco or by the recognized employee organization involved in the dispute.
- (b) No 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 the dispute shall each select and appoint one arbitrator to the Board of Arbitrators. The third member of the Arbitration Board shall be selected by agreement between the City and County of San Francisco and the employee organization, and shall serve as the neutral arbitrator and Chairperson of the Board. In the event that the City and County of San Francisco and the recognized employee organization involved in the dispute cannot agree upon the selection of the neutral arbitrator within ten (10) days from the date that either party has notified the other that it has declared an impasse, either party may then request the State Mediation and Conciliation Service of the State of California Department of Industrial Relations to provide a list of seven (7) persons who are qualified and experienced as labor arbitrators. If the City and County and the employee organization cannot agree within three (3) days after receipt of such list on one of seven (7) persons to act as the neutral arbitrator, they shall alternately strike names from the list of nominees until one name remains and that person shall then become the neutral arbitrator and Chairperson of the Arbitration Board.
- (c) Any arbitration proceeding convened pursuant to this article shall be conducted in conformance with, subject to, and governed by Title 9 of Part 3 of the California Code of Civil Procedure. The Arbitration Board shall hold public hearings, receive evidence from the parties and cause a transcript of the proceedings to be prepared. The Arbitration Board, in the exercise of its discretion, may meet privately with the parties, mediate or arbitrate the issues in dispute. The Arbitration Board may also adopt such other procedures that are designed to encourage an agreement between the

- parties, expedite the arbitration hearing process, or reduce the costs of the arbitration process.
- (d) In the event no agreement is reached prior to the conclusion of the arbitration hearings, the Arbitration Board shall direct each of the parties to submit, within such time limit as the Arbitration Board may establish, a last offer of settlement on each of the remaining issues in dispute. The Arbitration Board shall decide each issue by majority vote by selecting whichever last offer of settlement on that issue it finds 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 other employees in the City and County of San Francisco; and the formulas provided for in this Charter for the establishment and maintenance of wages, hours, benefits and terms and conditions of employment. The impartial Arbitration Board shall also consider the financial condition of the City and County of San Francisco and its ability to meet the costs of the decision of the Arbitration Board.
 - (e) After reaching a decision, the Arbitration Board shall mail or otherwise deliver a true copy of its decision to the parties. The decision of the Arbitration Board shall not be publicly disclosed and shall not be binding 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 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 of the Arbitration Board, as it may be modified or amended by the parties, shall be publicly disclosed. Except as limited by Section A8.590-7, the arbitration decision, as it may be modified or amended by the parties, shall supersede any and all other relevant formulas, 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, including the City and County of San Francisco, its commissions, departments, officers and employees. No other actions or procedural steps to confirm or approve the decision of the Arbitration Board shall be permitted or required; provided, however, that 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 that is necessary to carry out and effectuate the decision of the Arbitration Board.
 - (f) The expenses of any arbitration proceedings convened pursuant to these Charter sections, including the fee for the services of the chairperson of the Arbitration 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 Arbitration 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 A8.590-5 shall not apply to:
 - 1. any dispute or controversy concerning the San Francisco Police Department's crowd control policies;

2. any procedures or practices relating to the processing and disposition of complaints handled by the Office of Citizens' Complaints; or matters relating to disciplinary procedures that apply to disciplinary actions involving members of the San Francisco Police Department and Fire Department covered by these sections; or matters covered by Charter section A8.343; and
3. 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 anti-discrimination 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 anti-discrimination laws, ordinances or regulations, and the affected employee organization disputes said determination, that determination or action shall not be subject to arbitration.

- (h) 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 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 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)

A8.590-6 RETIREE BENEFIT ADJUSTMENTS

No agreement reached by the parties and no decision of the arbitration board shall reduce the vested retirement benefits of retirees or employees of the fire department, police department or of the sheriff department. Retirement and death allowances shall continue to be set and adjusted pursuant to Chapter Five of this Article, except that the amount to which said allowances are set and adjusted for uniformed employees of the police department and fire department shall not be less than the amount said allowances would be if the salaries of the uniformed forces in the police and fire departments continued to be set pursuant to Charter Section 8.405. Any agreement or decision of the arbitration board altering vested retirement benefits shall be subject to the written approval of the individual beneficiaries thereof. (Amended March 2004)

A8.590-7 PRESERVATION OF TAX BENEFITS

(a) Sections A8.590-1 through A8.590-7, in their entirety, shall be subject to and limited by Charter section A8.500 and any ordinances enacted pursuant thereto. Sections A8.590-1 through A8.590-7 shall be effective only to the extent that benefits authorized by or authorized pursuant to those sections do not have an adverse consequence on the tax treatment of benefits provided to any employee of the City and County.

(b) Any agreement reached by the parties or any decision of the arbitration board which authorizes a modification of any aspect of the Retirement System or of any aspect of the provision for or delivery of retirement benefits shall not become effective until the following occur:

(1) The retirement board, acting in its fiduciary capacity, forwards to the Board of Supervisors certification that implementation of the modifications presents no risk to the tax-qualified status of the Retirement System. Such certification shall be based upon the advice of the general manager, the actuary of the Retirement System, and any outside consultants that they may in their discretion retain; and,

(2) After having received the certification referred to in the previous paragraph and after having made its own independent finding based on clear and convincing evidence that implementation of the modifications presents no risk to the tax-qualified status of the Retirement System and will not increase the taxes of City and County employees, the Board of Supervisors, by a three-quarters vote, enacts an ordinance making the modifications effective.

(c) Costs of any outside consultants retained by the City and County pursuant to this section shall be borne equally by the City and County and by the bargaining units concerned.

(Amended March 2004)

A8.590-8 RETIREE HEALTH CARE TRUST FUND

Notwithstanding any other provision of Charter Sections A8.590-1 through A8.590-7, 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, A8.432, and A8.433, and shall not be subject to the dispute resolution procedure's contained in Charter Section A8.590-5. (Added by Proposition B, 6/3/2008; Amended by Proposition A, Approved 11/5/2009)

A8.595 MEMBERS OF THE POLICE DEPARTMENT ON JANUARY 1, 2003 WHO ARE MEMBERS OF THE RETIREMENT SYSTEM UNDER CHARTER SECTION A8.559

Members of the police department on January 1, 2003 who are members of the Retirement System under Section A8.559 may elect to be members of the Retirement System under Section A8.595 instead of Section A8.559. Any such election must be exercised in writing, on a form furnished by the Retirement System, and filed at the office of said system not later than the close of business on December 31, 2002.

Those persons who elect to be members under Section A8.595 as provided in the preceding paragraph, shall be members of the system subject to provisions of Sections A8.595 through Section A8.595-14 (which shall apply only to members under Section A8.595) in addition to the provisions contained in Sections 12.100 to 12.103 and Sections A8.500, A8.510 and A8.520 of this Charter, notwithstanding the provisions of any other section of this Charter, and shall not be subject to any of the provisions of Section A8.559 of this Charter.

The provisions of section A8.595 shall not apply to any member of the Retirement System under section A8.559 who separated from service, retired or died before January 1, 2003, or to his or her continuant; provided, however, that the provisions of section A8.595-2 shall apply to the adjustment required in Sections A8.559-3, A8.559-4 and A8.559-5 for a retired member or his or her surviving spouse or continuant when the retired member would not have completed at least twenty-five (25) years of service in the aggregate and attained the age of fifty (50) years until after January 1, 2003. (Added November 2002)

A8.595-1 DEFINITIONS

The following words and phrases as used in this section A8.595 and Sections A8.595-2 through A8.595-14, unless a different meaning is plainly required by the context, shall have the following meanings:

"Retirement allowance," "death allowance" or "allowance," shall mean equal monthly payments, beginning to accrue upon the date of retirement, or upon the day following the date of death, as the case may be, and continuing for life unless a different term of payment is definitely provided by the context.

"Compensation," as distinguished from benefits under the Workers' Compensation Insurance and Safety Act of the State of California, shall mean the remuneration payable in cash, by the City and County, without deduction except for absence from duty, for time during which the individual receiving such remuneration is a member of the police department, but excluding remuneration paid for overtime.

For retirement purposes, any increase in compensation attached to a rank which is based solely upon the possession of a POST certificate, compared to the equivalent rank without a POST certificate, shall be subject to the following limitations:

- (a) for possession of the intermediate POST certificate, no more than 4% shall be included in compensation,
- (b) for possession of the advanced POST certificate, no more than an additional 2% over the maximum provided in subsection (a), above, shall be included in compensation,

These limits shall apply to any pay increments which are solely attributable to the possession of a POST certificate, including but not limited to premiums or special ranks which may be established in the future and which are solely attributable to the possession of a POST certificate.

"Compensation earnable" shall mean the compensation which would have been earned had the member received compensation without interruption throughout the period under consideration and at the rates of remuneration attached at that time to the ranks or positions held by him or her during such period, it being assumed that during any absence, he or she was in the rank or position held by him or her at the beginning of the absence, and that prior to becoming a member of the police department, he or she was in the rank or position first held by him or her in such department.

"Benefit" shall include "allowance," "retirement allowance," "death allowance" and "death benefit."

"Final compensation" shall mean the monthly compensation earnable by a member at the time of his or her retirement, or death before retirement, as the case may be, at the rate of remuneration attached at that time to the rank or position which said member held, provided that said member has held said rank or position for at least one year immediately prior to said retirement or death; and provided, further, that if said member has not held said rank or position for at least one year immediately prior to said retirement or death, "final compensation," as to such member, shall mean the monthly compensation earnable by such

member in the rank or position next lower to the rank or position which he or she held at the time of retirement or death at the rate of remuneration attached at the time of said retirement or death to said next lower rank or position; provided, however, that in the case of a member's death before retirement as the result of a violent traumatic injury received in the performance of his or her duty, "final compensation," as to such member shall mean the monthly compensation earnable by such member at the rate of remuneration attached on the date he or she receives such injury to the rank or position held by such member on that date.

For purposes of calculation of final compensation, any increase in pay solely attributable to possession of a POST certificate shall be included only if the member possesses the qualifying POST certificate for a period of not less than four (4) years prior to his or her retirement date; provided, however, that should a member possess the qualifying POST certificate for a period of time less than four (4) years prior to retirement, final compensation shall be calculated based upon the monthly compensation in the next lower rank not requiring possession of the qualifying POST certificate.

For the purpose of Sections A8.595 through A8.595-14, the terms "member of the police department," "member of the department," or "member" shall mean any officer or employee of the police department, who was a member of the police department on January 1, 2003 and a member of the Retirement System under Section A8.559 and who elected to be a member of Section A8.595 as provided in Section A8.595.

Any police service performed by such members of the police department outside the limits of the City and County and under orders of a superior officer of any such member, shall be considered as City and County service, and any disability or death incurred therein shall be covered under the provisions of the Retirement System.

"Retirement system" or "system" shall mean San Francisco City and County Employees' Retirement System as created in Section A8.500 of the Charter.

"Retirement board" shall mean "retirement board" as created in Section 12.100 of the Charter.

"Charter" shall mean the Charter of the City and County of San Francisco.

Words used in the masculine gender shall include the feminine and neuter gender, words used in the feminine gender shall include the masculine and neuter gender, and singular numbers shall include the plural and the plural the singular.

"Interest" shall mean interest at the rate adopted by the retirement board. (Added November 2002)

A8.595-2 SERVICE RETIREMENT

Any member of the police department who completes at least twenty-five (25) years of service in the aggregate and attains the age of fifty (50) years, said service to be computed under Section A8.595-10, may retire for service at his or her option. A member retired after meeting the service and age requirements in the preceding sentence, shall receive a retirement allowance equal to the percent of the final compensation of said member, as defined in Section A8.595-1, set forth below opposite his or her age at retirement, taken to the preceding quarter year, for each year of service, as computed under Section A8.595-10:

Age at Retirement	Percent for Each Year of Credited Service
50	2.400
50.25	2.430
50.5	2.460
50.75	2.490
51	2.520
51.25	2.550
51.5	2.580
51.75	2.610
52	2.640
52.25	2.670
52.5	2.700
52.75	2.730
53	2.760
53.25	2.790
53.5	2.820
53.75	2.850
54	2.880
54.25	2.910
54.5	2.940
54.75	2.970
55+	3.000

In no event, however, shall such a retirement allowance exceed ninety (90) percent of a member's final compensation.

If, at the date of retirement for service, or retirement for disability resulting from an injury received in the performance of duty, said member has no spouse, children or dependent parents, who would qualify for the continuance of the allowance after the death of said member, or with respect to the portion of the allowance which would not be continued regardless of dependents, or upon retirement for disability resulting from other causes, with respect to all of the allowance and regardless of dependents at retirement, a member retired under this section, or Section A8.595-3, may elect before the first payment of the retirement allowance is made, to receive the actuarial equivalent of his or her allowance or the portion which would not be continued regardless of dependents, as the case may be, partly in a lesser allowance to be received by him or her throughout his or her life, and partly in other benefits payable after his or her death to another person or persons, provided that such election shall be subject to all the conditions prescribed by the Board of Supervisors to govern similar election by other members of the Retirement System, including the character and amount of such other benefits. (Added November 2002)

A8.595-3 RETIREMENT FOR INCAPACITY

Any member of the police department who becomes incapacitated for the performance of his or her duty by reason of any bodily injury received in, or illness caused by the performance of his or her duty, shall be retired. If he or she is not qualified for service retirement, he or she shall receive a retirement allowance in an amount which shall be equal to the same percentage of the final compensation of said member, as defined in Section A8.595-1, as his or her percentage of disability is determined to be. The percentage of disability shall be as determined by the Workers' Compensation Appeals Board of the State of California upon referral from the retirement board for that purpose; provided that the retirement board may, by five affirmative votes, adjust the percentage of disability as determined by said appeals board; and provided, further, that such retirement allowance shall be in an amount not less than 50 percent nor more than 90 percent of the final compensation of said member, as defined in Section A8.595-1. Said allowance shall be paid to said member until the date upon which said member would have qualified for service retirement had he or she lived and rendered service without interruption in the rank held by the member at retirement, and after said date the allowance payable shall be equal to the retirement allowance said member would have received if retired for service on said date based on the final compensation, as defined in Section A8.595-1, he or she would have received immediately prior to said date, had he or she lived and rendered service as assumed, but such allowance shall not be less than 55 percent of such final compensation.

If, at the time of retirement because of disability, he or she is qualified as to age and service for retirement under Section A8.595-2, he or she shall receive an allowance equal to the retirement allowance which he or she would receive if retired under Section A8.595-2, but not less than 55 percent of said final compensation. Any member of the police department who becomes incapacitated for performance of his or her duty, by reason of a cause not included under the provisions of the immediately preceding sentences, and who shall have completed at least 10 years of service in the aggregate, computed as provided in Section A8.595-10, shall be retired upon an allowance of one and one-half percent of the final compensation of said member as defined in Section A8.595-1 for each year of service, provided that said allowance shall not be less than 33 1/3 percent of said final compensation; provided, however, that if such member has completed at least 25 years of service in the aggregate, computed as provided in Section A8.595-10, but has not yet attained the age of 50 years, he or she shall receive an allowance equal to the retirement allowance he or she would have received if he or she had attained the age of 50 years and retired under Section A8.595-2 as of the date of retirement for such incapacity. The question of retiring a member under this section may be brought before the retirement board on said board's own motion, by recommendation of the police commission, or by said member or his or her guardian. If his or her disability shall cease, his or her retirement allowance shall cease, and he or she shall be restored to the service in the rank he or she occupied at the time of his or her retirement. (Added November 2002)

A8.595-4 DEATH ALLOWANCE

If a member of the police department shall die before or after retirement by reason of an injury received in, or illness caused by the performance of his or her duty, a death allowance, in lieu of any allowance payable under any other section of the Charter or by ordinance, on account of death resulting from injury received in or illness caused by the performance of duty, shall be paid, beginning on the date next following the date of death, to his or her surviving spouse throughout his or her life or until his or her remarriage. If the

member, at the time of death, was qualified for service retirement, but had not retired, the allowance payable shall be equal to the retirement allowance which the member would have received if he or she had been retired for service on the day of death, but such allowance shall not be less than 55 percent of the final compensation earnable by said member immediately preceding death. If death occurs prior to qualification for service retirement, the allowance payable shall be equal to the final compensation of said member at the date of death, until the date upon which said member would have qualified for service retirement, had he or she lived and rendered service without interruption in the rank held by the member at death, and after said date the allowance payable shall be equal to the retirement allowance said member would have received if retired for service on said date, based on the final compensation he or she would have received immediately prior to said date, had he or she lived and rendered service as assumed, but such allowance shall not be less than 55 percent of such monthly final compensation. If he or she had retired prior to death, for service or for disability resulting from injury received in, or illness caused by the performance of duty, the allowance payable shall be equal to the retirement allowance of the member, except that if he or she was a member under Section 5.595 and retirement was for such disability, and if death occurred prior to qualification for the service retirement allowance, the allowance continued shall be reduced upon the date at which said member would have qualified for service retirement, in the same manner as it would have been reduced had the member not died. If there is no surviving spouse entitled to an allowance hereunder, or if he or she dies or remarries before every child of such deceased member attains the age of 18 years, then the allowance which the surviving spouse would have received had he or she lived and not remarried shall be paid to his or her child or children under said age, collectively, to continue until every such child dies or attains said age, provided that no child shall receive any allowance after marrying or attaining the age of 18 years. Should said member leave no surviving spouse and no children under the age of 18 years, but leave a child or children, regardless of age, dependent upon him or her for support because partially or totally disabled and unable to earn a livelihood or a parent or parents dependent upon him or her for support, the child or children and the parents so dependent shall collectively receive a monthly allowance equal to that which a surviving spouse otherwise would have received, during such dependency. No allowance, however, shall be paid under this section to a surviving spouse following the death of a member unless he or she was married to the member prior to the date of the injury or onset of the illness which results in death. (Added November 2002)

A8.595-5 PAYMENT TO SURVIVING DEPENDENTS

Upon the death of a member of the police department resulting from any cause, other than an injury received in, or illness caused by performance of duty;

- (a) if his or her death occurred after qualification for service retirement, under Section A8.595-2 or after retirement for service or because of disability which resulted from any cause other than an injury received in, or illness caused by performance of duty, three-fourths of his or her retirement allowance to which the member would have been entitled if he or she had retired for service at the time of death or three-fourths of the retirement allowance as it was at his or her death, as the case may be, shall be continued throughout life or until remarriage to his or her surviving spouse; or
- (b) if his or her death occurred after the completion of at least 25 years of service in the aggregate but prior to the attainment of the age of 50 years, three-fourths of the retirement allowance to which he or she would have been entitled under Section A8.595-2 if he or she

had attained the age of 50 years on the date of his or her death shall be continued throughout life or until remarriage to his or her surviving spouse; or

(c) if his or her death occurred after retirement for disability by reason of injury received in, or illness caused by performance of duty, his or her retirement allowance as it was at his or her death shall be continued throughout life or until remarriage, to his or her surviving spouse, except that, if death occurred prior to qualification for service retirement allowance, the allowance continued shall be adjusted upon the date of which said member would have qualified for service retirement, in the same manner as it would have been adjusted had the member not died; or

(d) if his or her death occurred after completion of at least 10 years of service in the aggregate, computed as provided in Section A8.595-10, an allowance in an amount equal to the retirement allowance to which the member would have been entitled pursuant to Section A8.595-3 if he or she had retired on the date of death because of incapacity for performance of duty resulting from a cause other than bodily injury received in, or illness caused by performance of duty shall be paid throughout life or until remarriage to his or her surviving spouse.

If there is no surviving spouse entitled to an allowance hereunder, or if he or she dies or remarries before every child of such deceased member attains the age of 18 years, then the allowance which the surviving spouse would have received had he or she lived and not remarried shall be paid to his or her child or children under said age, collectively, to continue until every such child dies or attains said age, provided that no child shall receive any allowance after marrying or attaining the age of 18 years. Should said member leave no surviving spouse and no children under age of 18 years, but leave a child or children, regardless of age, dependent upon him or her for support because partially or totally disabled and unable to earn a livelihood or a parent or parents dependent upon him or her for support, the child or children and the parents so dependent shall collectively receive a monthly allowance equal to that which a surviving spouse otherwise would have received, during such dependency. No allowance, however, shall be paid under this section to a surviving spouse unless he or she was married to the member prior to the date of the injury or onset of the illness which results in death if he or she had not retired, or unless he or she was married to the member at least one year prior to his or her death if he or she had retired.

As used in this section and Section A8.595-4, "surviving spouse" shall mean and include a surviving spouse, and shall also mean and include a spouse who has remarried since the death of the member, but whose remarriage has been terminated by death, divorce or annulment within five years after the date of such remarriage and who has not thereafter again remarried.

The surviving spouse, in the event of death of the member after qualification for but before service retirement, may elect before the first payment of the allowance, to receive the benefit provided in Section A8.595-A8, in lieu of the allowance which otherwise would be continued to him or her under this section. If there is no surviving spouse, the guardian of the eligible child or children may make such election, and if there are no such children, the dependent parent or parents may make such election. "Qualified for service retirement," "Qualification for service retirement" or "Qualified as to age and service for retirement," as used in this section and other sections to which persons who are members under Section A8.595 are subject, shall mean completion of 25 years of service and attainment of age 50, said service to be computed under Section A8.595-10. (Added November 2002)

A8.595-6 ADJUSTMENT OF ALLOWANCES

Every retirement or death allowance payable to or on account of any member under Section A8.595 shall be increased or decreased as of January 1, 2003, and thereafter on the effective date of any legislation fixing the rates of compensation for police officers under section A8.590-1 et seq. of this Charter by an amount equal to 50 percent of any increase or decrease, respectively, in the rate of remuneration attached to the rank or position upon which such retirement or death allowance was based; provided, however, that no allowance shall be reduced below the amount being received by a member or his or her beneficiary on January 1, 2003, or on the date such member or beneficiary began to receive the allowance, whichever is later. (Added November 2002)

A8.595-7 ADJUSTMENT FOR COMPENSATION PAYMENTS

That portion of any allowance payable because of the death or retirement of any member of the police department which is provided by contributions of the City and County, shall be reduced, by the amount of any benefits other than medical benefits, payable by the City and County to or on account of such person, under any workers' compensation law or any other general law and because of the injury or illness resulting in said death or retirement. Such portion which is paid because of death or retirement which resulted from injury received in or illness caused by performance of duty, shall be considered as in lieu of all benefits, other than medical benefits, payable to or on account of such person under such law and shall be in satisfaction and discharge of the obligation of the City and County to pay such benefits. (Added November 2002)

A8.595-8 DEATH BENEFIT

If a member of the police department shall die, before retirement from causes other than an injury received in or illness caused by the performance of duty, or regardless of cause, if no allowance shall be payable under Section 8.595-4 or 8.595-5 preceding, a death benefit shall be paid to his or her estate or designated beneficiary, the amount of which and the conditions for the payment of which shall be determined in the manner prescribed by the Board of Supervisors for the death benefit of other members of the Retirement System. Upon the death of a member after retirement and regardless of the cause of death, a death benefit shall be paid to his or her estate or designated beneficiary the amount of which and the conditions for the payment of which shall be determined in the manner prescribed by the Board of Supervisors for the death benefit of other members of the Retirement System. (Added November 2002)

A8.595-9 REFUNDS AND REDEPOSITS

Should any member of the police department cease to be employed as such a member, through any cause other than death or retirement or transfer to another office or department, all of his or her contributions, with interest credited thereon, shall be refunded to him or her subject to the conditions prescribed by the Board of Supervisors to govern similar terminations of employment of other members of the Retirement System. If he or she shall again become a member of the department, he or she shall redeposit in the retirement fund, the amount refunded to him or her. Should a member of the police department become an employee of any other office or department, his or her accumulated contribution account shall be adjusted by payments to or from him or her as the case may be to make the accumulated contributions credited to him or her at the time of change, equal to the amount which would have been credited to him or her if he or she had been employed in said other office or department at the rate of compensation received by him or her in the police

department and he or she shall receive credit for service for which said contributions were made, according to the Charter section under which his or her membership in the Retirement System continues. (Added November 2002)

A8.595-10 COMPUTATION OF SERVICE

The following time shall be included in the computation of the service to be credited to a member of the police department for the purposes of determining whether such member qualified for retirement and calculating benefits, excluding, however, any time, the contributions for which were withdrawn by said member upon termination of his or her service while he or she was a member under any other Charter section, and not redeposited upon reentry into service:

- (a) Time during and for which said member is entitled to receive compensation because of services as a member of the fire or police department.
- (b) Time during which said member served and received compensation as a jail matron in the office of the sheriff.
- (c) Time during which said member is absent from a status included in Subsections (a) or (b) next preceding, by reason of service in the armed forces of the United States of America, or by reason of any other service included in Sections A8.520 and A8.521 of the Charter, during any war in which the United States was or shall be engaged or during other national emergency, and for which said member contributed or contributes to the Retirement System or for which the City and County contributed or contributes on his or her account.
- (d) Time during which said member was on Unpaid Parental Leave pursuant to Charter Section A8.523, and for which said member has purchased service credit in the Retirement System. (Added November 2002; Amended by Proposition G, 11/4/2008)

A8.595-11 SOURCES OF FUNDS

All payments provided for members under Section A8.595 shall be made from funds derived from the following sources, plus interest earned on said funds:

- (a) There shall be deducted from each payment of compensation made to a member under Section A8.595 a sum equal to seven percent of such payment of compensation. The sum so deducted shall be paid forthwith to the Retirement System. Said contribution shall be credited to the individual account of the member from whose salary it was deducted, and the total of said contributions, together with interest credited thereon in the same manner as is prescribed by the board of supervisors for crediting interest to contributions of other members of the Retirement System. shall be applied to provide part of the retirement allowance granted to, or allowance granted on account of said member, or shall be paid to said member or his or her estate or beneficiary as provided in Section A8.595-8, A8.595-9 and A8.595-10. A members individual account under Section A8.595 shall include all monies previously credited to the member's account under Section A8.559. The individual accounts of members who purchased service credit for Unpaid Parental Leave shall also include the amount paid by the member for said purchase, plus interest.
- (b) The dependent contributions of each member under this section which shall be required of each member throughout his or her membership in addition to the normal contributions, and in the same manner as normal contributions, shall be such as, on the average for such member, will provide, assuming service without interruption under Section A8.595-2, and upon he or she first qualifying as to age and service for retirement under that section, one-third of the portion of his or her allowance, which is to be continued under Section A8.595-5 after his or her death and throughout the life of a surviving spouse whose age at said death is

three years less than the age of said member. If, at the date of retirement for service or retirement for disability resulting from injury received in the performance of duty, said member has no spouse who would qualify for the continuance of the allowance to him or her after the death of said member, or upon retirement for disability resulting from other causes, regardless of his or her marital conditions, the dependent contributions with accumulated interest thereon, shall be paid to him or her forthwith. The dependent rate of contribution, however, shall not exceed the difference between seven percent and the member's normal rate of contribution, and said dependent rate may be taken as a flat percentage of the member's normal rate, regardless of the age of qualification for service retirement.

(c) The City and County shall contribute to the Retirement System such amounts as may be necessary, when added to the contributions referred to in Subsection (a) of this Section A8.595-11, to provide the benefits payable to members under Section A8.595. Such contributions of the City and County to provide the portion of the benefits hereunder shall be made in annual installments, and the installment to be paid in any year shall be determined by the application of a percentage to the total compensation paid during said year to persons who are members under Section A8.595 in accordance with the provisions of Section A8.510.

(d) To promote the stability of the Retirement System through a joint participation in the result of variations in the experience under mortality, investment and other contingencies, the contributions of both members and the City and County held by the system to provide benefits for members under Section A8.595, shall be a part of the fund in which all other assets of said system are included.

(e) Any year in which, based upon the Retirement System's annual actuarial valuation, the employer contribution rate exceeds 0%, the employee organizations representing safety members shall jointly meet and confer with City representatives to implement a cost sharing arrangement between the City and employee organizations. Such arrangement will effect a material reduction of the cost impact of employer contributions on the City's general fund.

The dollar value of the cost sharing arrangement shall not exceed the total annual cost to the Retirement System of improving the police and fire safety retirement plans to the 3% @ 55 benefit level or the total employer contribution required by the Retirement System, whichever is lesser. Such cost sharing arrangement shall not require an employee contribution in excess of the limits set elsewhere in this Charter.

The meet and confer process, including all impasse procedures under Section A8.590-1 et seq., shall be concluded not later than April 1st except by mutual agreement of the parties. The cost sharing arrangement must be finalized to permit implementation effective July 1.

The retirement board's authority under Charter Section 12.100 and in Section A8.510 concerning the annual setting of the rates of contribution are not subject to the meet and confer process, including all impasse procedures under Section A8.590-1 et seq. (Added November 2002; Amended by Proposition G, 11/4/2008)

A8.595-12 RIGHT TO RETIRE

Upon the completion of the years of service set forth in Section A8.595-2 as requisite to retirement, a member of the police department shall be entitled to retire at any time thereafter in accordance with the provisions of said Section A8.595-2, and nothing shall deprive said member of said right. (Added November 2002)

A8.595-13 LIMITATION IN EMPLOYMENT DURING RETIREMENT

Except as otherwise provided in Section A8.511 of this Charter, no person retired as a member under Section A8.595 for service or disability and entitled to receive a retirement allowance under the Retirement System shall serve in any elective or appointive position in the City and County service, including membership on boards and commissions, nor shall such person receive any payment for service rendered to the City and County after retirement, provided that service as an election officer or juror, or in the preparation for, or the giving of, testimony as an expert witness for or on behalf of the City and County of San Francisco before any court or legislative body shall not be affected by this section. (Added November 2002)

A8.595-14 VESTING

Notwithstanding any provisions of this Charter to the contrary, should any member of the police department who is a member of the Retirement System under Charter Section A8.595 with five years of credited service, cease to be so employed, through any cause other than death or retirement, he or she shall have the right to elect, without right of revocation and within 90 days after termination of said service, to allow his or her accumulated contributions including interest to remain in the retirement fund and to receive a retirement allowance equal to the percent set forth in Section A8.595-2 opposite his or her age at retirement, for each year of service multiplied against the final compensation of said member, calculated at termination, payable beginning no earlier than age 50. The provisions of Section A8.595-14 shall not apply to any members of the Retirement System under Section A8.559 who terminated before January 1, 2003 or their continuants. No vesting retirement allowance under this section shall exceed ninety (90%) percent of the member's final compensation.

Any member of the police department convicted of a crime involving moral turpitude committed in connection with his or her duties as a member of the Police Department shall, upon termination of his or her employment pursuant to the provisions of this Charter, forfeit all right to any benefits under this section except refund of his or her accumulated contributions.

Every retirement or death allowance payable to or on account of any member under Section A 8.595-14 shall be adjusted in accordance with the provisions of Section A 8.595-6 provided that if the member's accrued service credit is less than 25 years the Section A 8.595-6 adjustment will be multiplied by a fraction where the denominator is 25 and the numerator is equal to the member's accrued service credit at the date of termination. (Added November 2002)

A8.596 MEMBERS OF THE FIRE DEPARTMENT ON JANUARY 1, 2003 WHO ARE MEMBERS OF THE RETIREMENT SYSTEM UNDER CHARTER SECTION A8.585

Members of the fire department on January 1, 2003 who are members of the Retirement System under Section A8.585 may elect to be members of the Retirement System under Section A8.596 instead of Section A8.585. Any such election must be exercised in writing, on a form furnished by the Retirement System, and filed at the office of said system not later than the close of business on December 31, 2002.

Those persons who elect to be members under Section A8.596 as provided in the preceding paragraph, shall be members of the system subject to provisions of Section A8.596 through Section A8.596-14 (which shall apply only to members under Section A8.596) in

addition to the provisions contained in Sections 12.100 to 12.103 and Sections A8.500, A8.510 and A8.520 of this Charter, notwithstanding the provisions of any other section of this Charter, and shall not be subject to any of the provisions of Section A8.585 of this Charter.

The provisions of section A8.596 shall not apply to any member of the Retirement System under section A8.585 who separated from service, retired or died before January 1, 2003, or to his or her continuant; provided, however, that the provisions of section A8.596-2 shall apply to the adjustment required in Sections A8.585-3, A8-585-4 and A8.585-5 for a retired member or his or her surviving spouse or continuant when the retired member would not have completed at least twenty-five (25) years of service in the aggregate and attained the age of fifty (50) years until after January 1, 2003. (Added November 2002)

A8.596-1 DEFINITIONS

The following words and phrases as used in this section A8.596 and Sections A8.596-2 through A8.596-14, unless a different meaning is plainly required by the context, shall have the following meanings:

"Retirement allowance," "death allowance" or "allowance," shall mean equal monthly payments, beginning to accrue upon the date of retirement, or upon the day following the date of death, as the case may be, and continuing for life unless a different term of payment is definitely provided by the context.

"Compensation," as distinguished from benefits under the Workers' Compensation Insurance and Safety Act of the State of California, shall mean the remuneration payable in cash, by the City and County, without deduction except for absence from duty, for time during which the individual receiving such remuneration is a member of the fire department, but excluding remuneration paid for overtime.

"Compensation earnable" shall mean the compensation which would have been earned had the member received compensation without interruption throughout the period under consideration and at the rates of remuneration attached at that time to the ranks or positions held by him or her during such period, it being assumed that during any absence, he or she was in the rank or position held by him or her at the beginning of the absence, and that prior to becoming a member of the fire department, he or she was in the rank or position first held by him or her in such department.

"Benefit" shall include "allowance," "retirement allowance," "death allowance" and "death benefit."

"Final compensation" shall mean the monthly compensation earnable by a member at the time of his or her retirement, or death before retirement, as the case may be, at the rate of remuneration attached at that time to the rank or position which said member held, provided that said member has held said rank or position for at least one year immediately prior to said retirement or death; and provided, further, that if said member has not held said rank or position for at least one year immediately prior to said retirement or death, "final compensation," as to such member, shall mean the monthly compensation earnable by such member in the rank or position next lower to the rank or position which he or she held at the time of retirement or death at the rate of remuneration attached at the time of said retirement or death to said next lower rank or position; provided, however, that in the case of a member's death before retirement as the result of a violent traumatic injury received in the performance of his or her duty, "final compensation," as to such member shall mean the monthly compensation earnable by such member at the rate of remuneration attached on the date he or she receives such injury to the rank or position held by such member on that date.

For the purpose of Sections A8.596 through A8.596-14, the terms "member of the fire department," "member of the department," or "member" shall mean any officer or employee of the fire department, who was a member of the fire department on January 1, 2003 and a member of the Retirement System under Section A8.585 and who elected to be a member of Section A8.596 as provided in Section A8.596.

Any fire service performed by such members of the fire department outside the limits of the City and County and under orders of a superior officer of any such member, shall be considered as City and County service, and any disability or death incurred therein shall be covered under the provisions of the Retirement System.

"Retirement system" or "system" shall mean San Francisco City and County Employees' Retirement System as created in Section A8.500 of the Charter.

"Retirement board" shall mean "retirement board" as created in Section 12.100 of the Charter.

"Charter" shall mean the Charter of the City and County of San Francisco.

Words used in the masculine gender shall include the feminine and neuter gender, words used in the feminine gender shall include the masculine and neuter gender, and singular numbers shall include the plural and the plural the singular.

"Interest" shall mean interest at the rate adopted by the retirement board. (Added November 2002)

A8.596-2 SERVICE RETIREMENT

Any member of the fire department who completes at least twenty-five (25) years of service in the aggregate and attains the age of fifty (50) years, said service to be computed under Section A8.596-10, may retire for service at his or her option. A member retired after meeting the service and age requirements in the preceding sentence, shall receive a retirement allowance equal to the percent of the final compensation of said member, as defined in Section A8.596-1, set forth below opposite his or her age at retirement, taken to the preceding quarter year, for each year of service, as computed under Section A8.596-10:

Retirement Age	Percent for Each Year of Credited Service
50	2.400
50.25	2.430
50.5	2.460
50.75	2.490
51	2.520
51.25	2.550
51.5	2.580
51.75	2.610
52	2.640
52.25	2.670
52.5	2.700
52.75	2.730
53	2.760
53.25	2.790
53.5	2.820

53.75	2.850
54	2.880
54.25	2.910
54.5	2.940
54.75	2.970
55+	3.000

In no event, however, shall such a retirement allowance exceed ninety (90) percent of a member's final compensation.

If, at the date of retirement for service, or retirement for disability resulting from an injury received in the performance of duty, said member has no spouse, children or dependent parents, who would qualify for the continuance of the allowance after the death of said member, or with respect to the portion of the allowance which would not be continued regardless of dependents, or upon retirement for disability resulting from other causes, with respect to all of the allowance and regardless of dependents at retirement, a member retired under this section, or Section A8.596-3, may elect before the first payment of the retirement allowance is made, to receive the actuarial equivalent of his or her allowance or the portion which would not be continued regardless of dependents, as the case may be, partly in a lesser allowance to be received by him or her throughout his or her life, and partly in other benefits payable after his or her death to another person or persons, provided that such election shall be subject to all the conditions prescribed by the Board of Supervisors to govern similar election by other members of the Retirement System, including the character and amount of such other benefits. (Added November 2002)

A8.596-3 RETIREMENT FOR INCAPACITY

Any member of the fire department who becomes incapacitated for the performance of his or her duty by reason of any bodily injury received in, or illness caused by the performance of his or her duty, shall be retired. If he or she is not qualified for service retirement, he or she shall receive a retirement allowance in an amount which shall be equal to the same percentage of the final compensation of said member, as defined in Section A8.596-1, as his or her percentage of disability is determined to be. The percentage of disability shall be as determined by the Workers' Compensation Appeals Board of the State of California upon referral from the retirement board for that purpose; provided that the retirement board may, by five affirmative votes, adjust the percentage of disability as determined by said appeals board; and provided, further, that such retirement allowance shall be in an amount not less than 50 percent nor more than 90 percent of the final compensation of said member, as defined in Section A8.596-1. Said allowance shall be paid to said member until the date upon which said member would have qualified for service retirement had he or she lived and rendered service without interruption in the rank held by the member at retirement, and after said date the allowance payable shall be equal to the retirement allowance said member would have received if retired for service on said date based on the final compensation, as defined in Section A8.596-1, he or she would have received immediately prior to said date, had he or she lived and rendered service as assumed, but such allowance shall not be less than 55 percent of such final compensation.

If, at the time of retirement because of disability, he or she is qualified as to age and service for retirement under Section A8.596-2, he or she shall receive an allowance equal to the retirement allowance which he or she would receive if retired under Section A8.596-2,

but not less than 55 percent of said final compensation. Any member of the fire department who becomes incapacitated for performance of his or her duty, by reason of a cause not included under the provisions of the immediately preceding sentences, and who shall have completed at least 10 years of service in the aggregate, computed as provided in Section A8.596-10, shall be retired upon an allowance of one and one-half percent of the final compensation of said member as defined in Section A8.596-1 for each year of service, provided that said allowance shall not be less than 33 1/3 percent of said final compensation; provided, however, that if such member has completed at least 25 years of service in the aggregate, computed as provided in Section A8.596-10, but has not yet attained the age of 50 years, he or she shall receive an allowance equal to the retirement allowance he or she would have received if he or she had attained the age of 50 years and retired under Section A8.596-2 as of the date of retirement for such incapacity. The question of retiring a member under this section may be brought before the retirement board on said board's own motion, by recommendation of the fire commission, or by said member or his or her guardian. If his or her disability shall cease, his or her retirement allowance shall cease, and he or she shall be restored to the service in the rank he or she occupied at the time of his or her retirement. (Added November 2002)

A8.596-4 DEATH ALLOWANCE

If a member of the fire department shall die before or after retirement by reason of an injury received in, or illness caused by the performance of his or her duty, a death allowance, in lieu of any allowance payable under any other section of the Charter or by ordinance, on account of death resulting from injury received in or illness caused by the performance of duty, shall be paid, beginning on the date next following the date of death, to his or her surviving spouse throughout his or her life or until his or her remarriage. If the member, at the time of death, was qualified for service retirement, but had not retired, the allowance payable shall be equal to the retirement allowance which the member would have received if he or she had been retired for service on the day of death, but such allowance shall not be less than 55 percent of the final compensation earnable by said member immediately preceding death. If death occurs prior to qualification for service retirement, the allowance payable shall be equal to the final compensation of said member at the date of death, until the date upon which said member would have qualified for service retirement, had he or she lived and rendered service without interruption in the rank held by the member at death, and after said date the allowance payable shall be equal to the retirement allowance said member would have received if retired for service on said date, based on the final compensation he or she would have received immediately prior to said date, had he or she lived and rendered service as assumed, but such allowance shall not be less than 55 percent of such monthly final compensation. If he or she had retired prior to death, for service or for disability resulting from injury received in, or illness caused by the performance of duty, the allowance payable shall be equal to the retirement allowance of the member, except that if he or she was a member under Section 5.596 and retirement was for such disability, and if death occurred prior to qualification for the service retirement allowance, the allowance continued shall be reduced upon the date at which said member would have qualified for service retirement, in the same manner as it would have been reduced had the member not died. If there is no surviving spouse entitled to an allowance hereunder, or if he or she dies or remarries before every child of such deceased member attains the age of 18 years, then the allowance which the surviving spouse would have received had he or she lived and not remarried shall be paid to his or her child or children under said age, collectively, to continue until every such child

dies or attains said age, provided that no child shall receive any allowance after marrying or attaining the age of 18 years. Should said member leave no surviving spouse and no children under the age of 18 years, but leave a child or children, regardless of age, dependent upon him or her for support because partially or totally disabled and unable to earn a livelihood or a parent or parents dependent upon him or her for support, the child or children and the parents so dependent shall collectively receive a monthly allowance equal to that which a surviving spouse otherwise would have received, during such dependency. No allowance, however, shall be paid under this section to a surviving spouse following the death of a member unless he or she was married to the member prior to the date of the injury or onset of the illness which results in death. (Added November 2002)

A8.596-5 PAYMENT TO SURVIVING DEPENDENTS

Upon the death of a member of the fire department resulting from any cause, other than an injury received in, or illness caused by performance of duty;

- (a) if his or her death occurred after qualification for service retirement, under Section A8.596-2 or after retirement for service or because of disability which resulted from any cause other than an injury received in, or illness caused by performance of duty, three-fourths of his or her retirement allowance to which the member would have been entitled if he or she had retired for service at the time of death or three-fourths of the retirement allowance as it was at his or her death, as the case may be, shall be continued throughout life or until remarriage to his or her surviving spouse; or
- (b) if his or her death occurred after the completion of at least 25 years of service in the aggregate but prior to the attainment of the age of 50 years, three-fourths of the retirement allowance to which he or she would have been entitled under Section A8.596-2 if he or she had attained the age of 50 years on the date of his or her death shall be continued throughout life or until remarriage to his or her surviving spouse; or
- (c) if his or her death occurred after retirement for disability by reason of injury received in, or illness caused by performance of duty, his or her retirement allowance as it was at his or her death shall be continued throughout life or until remarriage, to his or her surviving spouse, except that, if death occurred prior to qualification for service retirement allowance, the allowance continued shall be adjusted upon the date of which said member would have qualified for service retirement, in the same manner as it would have been adjusted had the member not died; or
- (d) if his or her death occurred after completion of at least 10 years of service in the aggregate, computed as provided in Section A8.596-10, an allowance in an amount equal to the retirement allowance to which the member would have been entitled pursuant to Section A8.596-3 if he or she had retired on the date of death because of incapacity for performance of duty resulting from a cause other than bodily injury received in, or illness caused by performance of duty shall be paid throughout life or until remarriage to his or her surviving spouse.

If there is no surviving spouse entitled to an allowance hereunder, or if he or she dies or remarries before every child of such deceased member attains the age of 18 years, then the allowance which the surviving spouse would have received had he or she lived and not remarried shall be paid to his or her child or children under said age, collectively, to continue until every such child dies or attains said age, provided that no child shall receive any allowance after marrying or attaining the age of 18 years. Should said member leave no surviving spouse and no children under age of 18 years, but leave a child or children, regardless of age, dependent upon him or her for support because partially or totally disabled

and unable to earn a livelihood or a parent or parents dependent upon him or her for support, the child or children and the parents so dependent shall collectively receive a monthly allowance equal to that which a surviving spouse otherwise would have received, during such dependency. No allowance, however, shall be paid under this section to a surviving spouse unless he or she was married to the member prior to the date of the injury or onset of the illness which results in death if he or she had not retired, or unless he or she was married to the member at least one year prior to his or her death if he or she had retired.

As used in this section and Section A8.596-4, "surviving spouse" shall mean and include a surviving spouse, and shall also mean and include a spouse who has remarried since the death of the member, but whose remarriage has been terminated by death, divorce or annulment within five years after the date of such remarriage and who has not thereafter again remarried.

The surviving spouse, in the event of death of the member after qualification for but before service retirement, may elect before the first payment of the allowance, to receive the benefit provided in Section A8.596-8, in lieu of the allowance which otherwise would be continued to him or her under this section. If there is no surviving spouse, the guardian of the eligible child or children may make such election, and if there are no such children, the dependent parent or parents may make such election. "Qualified for service retirement," "Qualification for service retirement" or "Qualified as to age and service for retirement," as used in this section and other sections to which persons who are members under Section A8.596 are subject, shall mean completion of 25 years of service and attainment of age 50, said service to be computed under Section A8.596-10. (Added November 2002)

A8.596-6 ADJUSTMENT OF ALLOWANCES

Every retirement or death allowance payable to or on account of any member under Section A8.596 shall be increased or decreased as of January 1, 2003, and thereafter on the effective date of any legislation fixing the rates of compensation for firefighters under section A8.590-1 et seq. of this Charter by an amount equal to 50 percent of any increase or decrease, respectively, in the rate of remuneration attached to the rank or position upon which such retirement or death allowance was based; provided, however, that no allowance shall be reduced below the amount being received by a member or his or her beneficiary on January 1, 2003, or on the date such member or beneficiary began to receive the allowance, whichever is later. (Added November 2002)

A8.596-7 ADJUSTMENT FOR COMPENSATION PAYMENTS

That portion of any allowance payable because of the death or retirement of any member of the fire department which is provided by contributions of the City and County, shall be reduced, by the amount of any benefits other than medical benefits, payable by the City and County to or on account of such person, under any workers' compensation law or any other general law and because of the injury or illness resulting in said death or retirement. Such portion which is paid because of death or retirement which resulted from injury received in or illness caused by performance of duty, shall be considered as in lieu of all benefits, other than medical benefits, payable to or on account of such person under such law and shall be in satisfaction and discharge of the obligation of the City and County to pay such benefits. (Added November 2002)

A8.596-8 DEATH BENEFIT

If a member of the fire department shall die, before retirement from causes other than an injury received in or illness caused by the performance of duty, or regardless of cause, if no allowance shall be payable under Section A8.596-4 or A8.596-5 preceding, a death benefit shall be paid to his or her estate or designated beneficiary, the amount of which and the conditions for the payment of which shall be determined in the manner prescribed by the Board of Supervisors for the death benefit of other members of the Retirement System. Upon the death of a member after retirement and regardless of the cause of death, a death benefit shall be paid to his or her estate or designated beneficiary the amount of which and the conditions for the payment of which shall be determined in the manner prescribed by the Board of Supervisors for the death benefit of other members of the Retirement System. (Added November 2002)

A8.596-9 REFUNDS AND REDEPOSITS

Should any member of the fire department cease to be employed as such a member, through any cause other than death or retirement or transfer to another office or department, all of his or her contributions, with interest credited thereon, shall be refunded to him or her subject to the conditions prescribed by the Board of Supervisors to govern similar terminations of employment of other members of the Retirement System. If he or she shall again become a member of the department, he or she shall redeposit in the retirement fund, the amount refunded to him or her. Should a member of the fire department become an employee of any other office or department, his or her accumulated contribution account shall be adjusted by payments to or from him or her as the case may be to make the accumulated contributions credited to him or her at the time of change, equal to the amount which would have been credited to him or her if he or she had been employed in said other office or department at the rate of compensation received by him or her in the fire department and he or she shall receive credit for service for which said contributions were made, according to the Charter section under which his or her membership in the Retirement System continues. (Added November 2002)

A8.596-10 COMPUTATION OF SERVICE

The following time shall be included in the computation of the service to be credited to a member of the fire department for the purposes of determining whether such member qualified for retirement and calculating benefits, excluding, however, any time, the contributions for which were withdrawn by said member upon termination of his or her service while he or she was a member under any other Charter section, and not redeposited upon reentry into service:

- (a) Time during and for which said member is entitled to receive compensation because of services as a member of the police or fire department.
- (b) Time during which said member is absent from a status included in Subsection (a) next preceding, by reason of service in the armed forces of the United States of America, or by reason of any other service included in Sections A8.520 and A8.521 of the Charter, during any war in which the United States was or shall be engaged or during other national emergency, and for which said member contributed or contributes to the Retirement System or for which the City and County contributed or contributes on his or her account.
- (c) Time during which said member was on Unpaid Parental Leave pursuant to Charter Section A8.523, and for which said member has purchased service credit in the Retirement System. (Added November 2002; Amended by Proposition G, 11/4/2008)

A8.596-11 SOURCES OF FUNDS

All payments provided for members under Section A8.596 shall be made from funds derived from the following sources, plus interest earned on said funds:

(a) There shall be deducted from each payment of compensation made to a member under Section A8.596 a sum equal to seven percent of such payment of compensation. The sum so deducted shall be paid forthwith to the Retirement System. Said contribution shall be credited to the individual account of the member from whose salary it was deducted, and the total of said contributions, together with interest credited thereon in the same manner as is prescribed by the board of supervisors for crediting interest to contributions of other members of the Retirement System, shall be applied to provide part of the retirement allowance granted to, or allowance granted on account of said member, or shall be paid to said member or his or her estate or beneficiary as provided in Section A8.596-8, A8.596-9 and A8.596-10. A member's individual account under Section A8.596 shall include all monies previously credited to the member's account under Section A8.585. The individual accounts of members who purchased service credit for Unpaid Parental Leave shall also include the amount paid by the member for said purchase, plus interest.

(b) The dependent contributions of each member under this section which shall be required of each member throughout his or her membership in addition to the normal contributions, and in the same manner as normal contributions, shall be such as, on the average for such member, will provide, assuming service without interruption under Section A8.596-2, and upon he or she first qualifying as to age and service for retirement under that section, one-third of the portion of his or her allowance, which is to be continued under Section A8.596-5 after his or her death and throughout the life of a surviving spouse whose age at said death is three years less than the age of said member. If, at the date of retirement for service or retirement for disability resulting from injury received in the performance of duty, said member has no spouse who would qualify for the continuance of the allowance to him or her after the death of said member, or upon retirement for disability resulting from other causes, regardless of his or her marital conditions, the dependent contributions with accumulated interest thereon, shall be paid to him or her forthwith. The dependent rate of contribution, however, shall not exceed the difference between seven percent and the member's normal rate of contribution, and said dependent rate may be taken as a flat percentage of the member's normal rate, regardless of the age of qualification for service retirement.

(c) The City and County shall contribute to the Retirement System such amounts as may be necessary, when added to the contributions referred to in Subsection (a) of this Section A8.596-11, to provide the benefits payable to members under Section A8.596. Such contributions of the City and County to provide the portion of the benefits hereunder shall be made in annual installments, and the installment to be paid in any year shall be determined by the application of a percentage to the total compensation paid during said year to persons who are members under Section A8.596 in accordance with the provisions of Section A8.510.

(d) To promote the stability of the Retirement System through a joint participation in the result of variations in the experience under mortality, investment and other contingencies, the contributions of both members and the City and County held by the system to provide benefits for members under Section A8.596, shall be a part of the fund in which all other assets of said system are included.

(e) Any year in which, based upon the Retirement System's annual actuarial valuation, the employer contribution rate exceeds 0%, the employee organizations representing safety members shall jointly meet and confer with City representatives to implement a cost sharing

arrangement between the City and employee organizations. Such arrangement will effect a material reduction of the cost impact of employer contributions on the City's general fund.

The dollar value of the cost sharing arrangement shall not exceed the total annual cost to the Retirement System of improving the police and fire safety retirement plans to the 3% @ 55 benefit level or the total employer contribution required by the Retirement System, whichever is lesser. Such cost sharing arrangement shall not require an employee contribution in excess of the limits set elsewhere in this Charter.

The meet and confer process, including all impasse procedures under section A8.590-1 et seq., shall be concluded not later than April 1st except by mutual agreement of the parties. The cost sharing arrangement must be finalized to permit implementation effective July 1.

The retirement board's authority under Charter section 12.100 and in section A8.510 concerning the annual setting of the rates of contribution are not subject to the meet and confer process, including all impasse procedures under section A8.590-1 et seq. (Added November 2002; Amended by Proposition G, 11/4/2008)

A8.596-12 RIGHT TO RETIRE

Upon the completion of the years of service set forth in Section A8.596-2 as requisite to retirement, a member of the fire department shall be entitled to retire at any time thereafter in accordance with the provisions of said Section A8.596-2, and nothing shall deprive said member of said right. (Added November 2002)

A8.596-13 LIMITATION IN EMPLOYMENT DURING RETIREMENT

Except as otherwise provided in Section A 8.511 of this Charter, no person retired as a member under Section A8.596 for service or disability and entitled to receive a retirement allowance under the Retirement System shall serve in any elective or appointive position in the City and County service, including membership on boards and commissions, nor shall such person receive any payment for service rendered to the City and County after retirement, provided that service as an election officer or juror, or in the preparation for, or the giving of, testimony as an expert witness for or on behalf of the City and County of San Francisco before any court or legislative body shall not be affected by this section. (Added November 2002)

A8.596-14 VESTING

Notwithstanding any provisions of this Charter to the contrary, should any member of the fire department who is a member of the Retirement System under Charter Section A8.596 with five years of credited service, cease to be so employed, through any cause other than death or retirement, he or she shall have the right to elect, without right of revocation and within 90 days after termination of said service, to allow his or her accumulated contributions including interest to remain in the retirement fund and to receive a retirement allowance equal to the percent set forth in Section A8.596-2 opposite his or her age at retirement, for each year of service multiplied against the final compensation of said member, calculated at termination, payable beginning no earlier than age 50. The provisions of Section A8.596-14 shall not apply to any members of the Retirement System under Section A8.585 who terminated before January 1, 2003 or their continuants. No vesting retirement allowance under this section shall exceed ninety (90%) percent of the member's final compensation.

Any member of the fire department convicted of a crime involving moral turpitude committed in connection with his or her duties as a member of the fire department shall,

upon termination of his or her employment pursuant to the provisions of this Charter, forfeit all right to any benefits under this section except refund of his or her accumulated contributions.

Every retirement or death allowance payable to or on account of any member under Section A8.596-14 shall be adjusted in accordance with the provisions of Section A8.596-6 provided that if the member's accrued service credit is less than 25 years the Section A8.596-6 adjustment will be multiplied by a fraction where the denominator is 25 and the numerator is equal to the member's accrued service credit at the date of termination. (Added November 2002)

A8.597 MEMBERS OF THE POLICE DEPARTMENT ON JANUARY 1, 2003 WHO ARE MEMBERS OF THE RETIREMENT SYSTEM UNDER CHARTER SECTION A8.586, AND MEMBERS OF THE POLICE DEPARTMENT AFTER JANUARY 1, 2003

Members of the police department on January 1, 2003 who are members of the Retirement System under Section A8.586, and persons who become members of the police department, as defined in Section A8.597-1, after January 1, 2003, shall be members of the Retirement System subject to the provisions of Sections A8.597 through A8.597-15 (which shall apply only to members under Section A8.597) in addition to the provisions contained in Sections 12.100 to 12.103 and Sections 8.500, 8.510, 8.520 and 8.526 of this Charter, notwithstanding the provisions of any other section of this Charter, and shall not be subject to any of the provisions of Sections A8.586 of this Charter.

The provisions of section A8.597 shall not apply to any member of the Retirement System under section A8.586 who separated from service, retired or died before January 1, 2003, or to his or her continuant; provided, however, that the provisions of section A8.597-2 shall apply to the adjustment required in Sections A8.586-3, A8.586-4 and A8.586-5 for a retired member or his or her surviving spouse or continuant when the retired member would not have completed at least twenty-five (25) years of service in the aggregate and attained the age of fifty (50) years until after January 1, 2003. (Added November 2002)

A8.597-1 DEFINITIONS

The following words and phrases as used in this Section, Section A8.597 and Section A8.597-2 through A8.597-14, unless a different meaning is plainly required by the context, shall have the following meanings:

"Retirement allowance," "death allowance" or "allowance," shall mean equal monthly payments, beginning to accrue upon the date of retirement, or upon the day following the date of death, as the case may be, and continuing for life unless a different term of payment is definitely provided by the context.

"Compensation," as distinguished from benefits under the Workers' Compensation Insurance and Safety Act of the State of California, shall mean the remuneration payable in cash, by the City and County, without deduction except for absence from duty, for time during which the individual receiving such remuneration is a member of the police department, but excluding remuneration paid for overtime.

Subject to the requirement that it be payable in cash and that overtime be excluded, "compensation" for pension purposes may be defined in a collective bargaining agreement. Provided, however, that for retirement purposes, any increase in compensation attached to a rank which is based solely upon the possession of a POST certificate, compared to the equivalent rank without a POST certificate, shall be subject to the following limitations:

- (a) for possession of the intermediate POST certificate, no more than 4% shall be included in compensation,
- (b) for possession of the advanced POST certificate, no more than an additional 2% over the maximum provided in subsection (a), above, shall be included in compensation. These limits shall apply to any pay increments which are solely attributable to the possession of a POST certificate, including but not limited to premiums or special ranks which may be established in the future and which are solely attributable to the possession of a POST certificate.

"Compensation earnable" shall mean the compensation which would have been earned had the member received compensation without interruption throughout the period under consideration and at the rates of remuneration attached at that time to the ranks or positions held by him or her during such period, it being assumed that during any absence, he or she was in the rank or position held by him or her at the beginning of the absence, and that prior to becoming a member of the police department, he or she was in the rank or position first held by him or her in such department.

"Benefit" shall include "allowance," "retirement allowance," "death allowance" and "death benefit."

"Final compensation" shall mean the average monthly compensation earnable by a member during any one year of credited service in which his or her average compensation is the highest.

For purposes of calculation of final compensation, any increase in pay solely attributable to possession of a POST certificate shall be included only if the member possesses the qualifying POST certificate for a period of not less than four (4) years prior to his or her retirement date; provided, however, that should a member possess the qualifying POST certificate for a period of time less than four (4) years prior to retirement, final compensation shall be calculated based upon the monthly compensation in the next lower rank not requiring possession of the qualifying POST certificate.

For the purpose of Section A8.597 through A8.597-14, the terms "member of the police department," "member of the department," or "member" shall mean any member of the police department on January 1, 2003 who was an active member of the Retirement System under Section A8.586, and any officer or employee of the police department employed after January 1, 2003 who was or shall be subject to the Charter provisions governing entrance requirements of members of the uniformed force of said department and said terms shall further mean persons employed after January 1, 2003 at an age not greater than the maximum age then prescribed for entrance into employment in said uniformed force, to perform duties now performed under the titles of criminologist, photographer, police woman or jail matron; provided, however, that said terms shall not include any person who has not satisfactorily completed such course of training as may be required by the police department prior to assignment to active duty with said department.

"Retirement system" or "system" shall mean San Francisco City and County Employees' Retirement System as created in Section A8.500 of the Charter.

"Retirement board" shall mean "retirement board" as created in Section 3.670 of the Charter.

"Charter" shall mean the Charter of the City and County of San Francisco.

Words used in the masculine gender shall include the feminine and neuter gender, words used in the feminine gender shall include the masculine and neuter gender, and singular numbers shall include the plural and the plural the singular.

"Interest" shall mean interest at the rate adopted by the retirement board. (Added November 2002)

A8.597-2 SERVICE RETIREMENT

Any member of the police department who completes at least five years of service in the aggregate and attains the age of fifty (50) years, said service to be computed under Section A8.597-10, may retire for service at his or her option. A member retired after meeting the service and age requirements in the preceding sentence, shall receive a retirement allowance equal to the percent of final compensation (as defined in Section A8.597-1) set forth below opposite his or her age at retirement, taken to the preceding completed quarter year, for each year of service, as computed under Section A8.597-10:

Retirement Age	Percent for Each Year of Credited Service
50	2.400
50.25	2.430
50.5	2.460
50.75	2.490
51	2.520
51.25	2.550
51.5	2.580
51.75	2.610
52	2.640
52.25	2.670
52.5	2.700
52.75	2.730
53	2.760
53.25	2.790
53.5	2.820
53.75	2.850
54	2.880
54.25	2.910
54.5	2.940
54.75	2.970
55+	3.000

In no event, however, shall such a retirement allowance exceed ninety (90) percent of a member's final compensation. (Added November 2002)

A8.597-3 RETIREMENT FOR INCAPACITY

Any member of the police department who becomes incapacitated for the performance of his or her duty by reason of any bodily injury received in, or illness caused by the performance of his or her duty, shall be retired. If he or she is not qualified for service retirement, he or she shall receive a retirement allowance in an amount which shall be equal to the same percentage of the final compensation of said member, as defined in Section A8.597-1, as his or her percentage of disability is determined to be. The percentage of disability shall be as determined by the Workers' Compensation Appeals Board of the State of California upon referral from the retirement board for that purpose; provided that the retirement board may, by five affirmative votes, adjust the percentage of disability as determined by said appeals board; and provided, further, that such retirement allowance shall be in an amount not less than 50 percent nor more than 90 percent of the final compensation of said member, as defined in Section A8.597-1. Said allowance shall be paid to him or her until the date upon which said member would have completed at least twenty-five (25) years of service in the aggregate and attained the age of fifty (50) years had he or she lived and rendered service without interruption in the rank held by him or her at retirement, and after said date the allowance payable shall be equal to the retirement allowance said member would have received if retired for service on said date based on the final compensation, as defined in Section A8.597-1, he or she would have received immediately prior to said date, had he or she lived and rendered service as assumed, but such allowance shall not be less than 50 percent of such final compensation.

If, at the time of retirement because of disability, he or she is qualified as to age and service for retirement under Section A8.597-2, he or she shall receive an allowance equal to the retirement allowance which he or she would receive if retired under Section A8.597-2, but not less than 50 percent of said final compensation. Any member of the police department who becomes incapacitated for performance of his or her duty by reason of a cause not included under the provisions of the immediately preceding sentences, and who shall have completed at least 10 years of service in the aggregate, computed as provided in Section A8.597-10, shall be retired upon an allowance of 1 1/2 percent of the final compensation of said member as defined in Section A8.597-1 for each year of service, provided that said allowance shall not be less than 33 1/3 percent of said final compensation. The question of retiring a member under this section may be brought before the retirement board on said board's own motion, by recommendation of the police commission or by said member or his or her guardian. If his or her disability shall cease, his or her retirement allowance shall cease and he or she shall be restored to the service in the rank he or she occupied at the time of his or her retirement. (Added November 2002)

A8.597-4 DEATH ALLOWANCE

If a member of the police department shall die before or after retirement by reason of an injury received in, or illness caused by the performance of his or her duty, a death allowance, in lieu of any allowance, payable under any other section of the Charter or by ordinance, on account of death resulting from injury received in or illness caused by the performance of duty, shall be paid, beginning on the date next following the date of death, to his or her surviving spouse throughout his or her life or until his or her remarriage. If the member, at the time of death, was qualified for service retirement, but he or she had not retired, the allowance payable shall be equal to the retirement allowance which the member would have received if he or she had been retired for service on the date of death, but such allowance shall not be less than 50 percent of the final compensation earnable by said member immediately preceding death. If death occurs prior to qualification for service

retirement, the allowance payable shall be equal to the compensation of said member at the date of death, until the date upon which said member would have completed at least twenty-five (25) years of service in the aggregate and attained the age of fifty (50) years, had he or she lived and rendered service without interruption in the rank held by him or her at death, and after said date the allowance payable shall be equal to the retirement allowance said member would have received if retired for service on said date, based on the final compensation he or she would have received prior to said date, had he or she lived and rendered service as assumed, but such allowance shall not be less than 50 percent of such final compensation. If he or she had retired prior to death, for service or for disability resulting from injury received in, or illness caused by the performance of duty, the allowance payable shall be equal to the retirement allowance of the member, except that if he or she was a member under Section A8.597 and retirement was for such disability, and if death occurred prior to qualification for the service retirement allowance, the allowance continued shall be adjusted upon the date at which said member would have completed at least twenty-five (25) years of service in the aggregate and attained the age of fifty (50) years, in the same manner as it would have been adjusted had the member not died.

If there is no surviving spouse entitled to an allowance hereunder, or if he or she dies or remarries before every child of such deceased member attains the age of 18 years, then the allowance which the surviving spouse would have received had he or she lived and not remarried shall be paid to his or her child or children under said age, collectively, until every such child dies or attains said age, provided that no child shall receive any allowance after marrying or attaining the age of 18 years. Should said member leave no surviving spouse and no children under the age of 18 years, but leave a child or children, regardless of age, dependent upon him or her for support because partially or totally disabled and unable to earn a livelihood or a parent or parents dependent upon him or her for support, the child or children and the parents so dependent shall collectively receive a monthly allowance equal to that which a surviving spouse otherwise would have received, during such dependency. No allowance, however, shall be paid under this section to a surviving spouse following the death of a member unless he or she was married to the member prior to the date of the injury or onset of the illness which results in death.

The amendments to this Section A8.597-4, approved by the electorate on November 2, 2004 shall apply to any work-related death that occurs on or after November 2, 2004, and to any qualified survivor who, on November 2, 2004, is receiving a continuation allowance under this section due to the work-related death of a member on or after January 1, 1989. Any increase in the continuation allowance payable to such a qualified survivor by virtue of the amendments to this section approved by the electorate on November 2, 2004 shall be prospective only, beginning November 2, 2004. (Added November 2002; amended November 2004)

A8.597-5 PAYMENT TO SURVIVING DEPENDENTS

Upon the death of a member of the police department resulting from any cause other than an injury received in, or illness caused by performance of duty,

- (a) if the death occurred after qualification for service retirement under Section A8.597-2, or after retirement service or because of disability which result from any cause other than an injury received in, or illness caused by performance of duty one-half of the retirement allowance to which the member would have been entitled if he or she had retired for service at the date of death or one-half of the retirement allowance as it was at his or her

death, as the case may be, shall be continued throughout his or her life or until remarriage to his or her surviving spouse, or

- (b) if his or her death occurred after the completion of at least 25 years of service in the aggregate but prior to the attainment of the age of 50 years, one-half of the retirement allowance to which he or she would have been entitled under Section A8.597-2 if he or she had attained the age of 50 years on the date of his or her death shall be continued throughout life or until remarriage to his or her surviving spouse, or
- (c) if his or her death occurred after retirement for disability by reason of injury received in or illness caused by performance of duty, three-fourths of his or her retirement allowance as it was at his or her death shall be continued throughout life or until remarriage to his or her surviving spouse, except that, if death occurred prior to qualification for service retirement allowance, the allowance continued shall be adjusted upon the date on which said member would have completed at least twenty-five (25) years of service in the aggregate and attained the age of fifty (50) years, in the same manner as it would have been adjusted had the member not died, or
- (d) if his or her death occurred after completion of at least 10 years of service in the aggregate, computed as provided in Section A8.597-10, an allowance in an amount equal to the retirement allowance to which the member would have been entitled pursuant to Section A8.597-3 if he or she had retired on the date of death because of incapacity for performance of duty shall be paid throughout life or until remarriage to his or her surviving spouse. If there is no surviving spouse entitled to an allowance hereunder, or if he or she dies or remarries before every child of such deceased member attains the age of 18 years, then the allowance which the surviving spouse would have received had he or she lived and not remarried shall be paid to his or her child or children under said age, collectively, to continue until every such child dies or attains said age, provided that no child shall receive any allowance after marrying or attaining the age of 18 years. Should said member leave no surviving spouse and no children, under age of 18 years, but leave a child or children, regardless of age, dependent upon him or her for support because partially or totally disabled and unable to earn a livelihood or a parent or parents dependent upon him or her for support, the child or children and the parents so dependent shall collectively receive a monthly allowance equal to that which a surviving spouse otherwise would have received, during such dependency. No allowance, however shall be paid under this section to a surviving spouse unless he or she was married to the member prior to the date of the injury or onset of the illness which results in death if he or she had not retired, or unless he or she was married to the member at least one year prior to his or her retirement if he or she had retired.

As used in this section and Section A8.597-4 "surviving spouse" shall mean and include a surviving spouse, and shall also mean and include a spouse who has remarried since the death of the member, but whose remarriage has been terminated by death, divorce or annulment within five years after the date of such remarriage and who has not thereafter again remarried.

The surviving spouse, in the event of death of the member after qualification for, but before service retirement, may elect before the first payment of the allowance, to receive the

benefit provided in Section A8.597-8, in lieu of the allowance which otherwise would be continued to him or her under this section. If there is no surviving spouse, the guardian of the eligible child or children may make such election, and if there are no such children, the dependent parent or parents may make such election. "Qualified for service retirement," "qualification for service retirement" or "qualified as to age and service for retirement," as used in this section and other sections to which persons who are members under Section A8.597 are subject, shall mean completion of 25 years of service and attainment of age 50, said service to be computed under Section A8.597-10. (Added November 2002)

A8.597-6 ADJUSTMENT OF ALLOWANCES

Every retirement or death allowance payable to or on account of any member under Section A8.597 shall be adjusted in accordance with the provisions of Subsection (b) of Section A8.526 of this Charter. (Added November 2002)

A8.597-7 ADJUSTMENT FOR COMPENSATION PAYMENTS

That portion of any allowance payable because of the death or retirement of any member of the police department which is provided by contributions of the City and County, shall be reduced, by the amount of any benefits other than medical benefits, payable by the City and County to or on account of such person, under any workers' compensation law or any other general law and because of the injury or illness resulting in said death or retirement. Such portion which is paid because of death or retirement which resulted from injury received in, or illness caused by performance of duty, shall be considered as in lieu of all benefits, other than medical benefits, payable to or on account of such person under such law and shall be in satisfaction and discharge of the obligation of the City and County to pay such benefits. (Added November 2002)

A8.597-8 DEATH BENEFIT

If a member of the police department shall die, before retirement from causes other than an injury received in, or illness caused by the performance of duty, or regardless of cause if no allowance shall be payable under Section A8.597-4 or A8.597-5 preceding, a death benefit shall be paid to his or her estate or designated beneficiary, the amount of which and the conditions for the payment of which shall be determined in the manner prescribed by the Board of Supervisors for the death benefit of other members of the Retirement System. Upon the death of a member after retirement and regardless of the cause of death, a death benefit shall be paid to his or her estate or designated beneficiary the amount of which and the conditions for the payment of which shall be determined in the manner prescribed by the Board of Supervisors for the death benefit of other members of the Retirement System. (Added November 2002)

A8.597-9 REFUNDS AND REDEPOSITS

Should any member of the police department cease to be employed as such a member, through any cause other than death or retirement or transfer to another office or department, all of his or her contributions, with interest credited thereon, shall be refunded to him or her subject to the conditions prescribed by the Board of Supervisors to govern similar terminations of employment of other members of the Retirement System. If he or she shall again become a member of the department, he or she shall redeposit in the retirement fund the amount refunded to him or her. Should a member of the police department become an employee of any other office or department, his or her accumulated contribution account

shall be adjusted by payments to or from him or her as the case may be to make the accumulated contributions credited to him or her at the time of change equal to the amount which would have been credited to him or her if he or she had been employed in said other office or department at the rate of compensation received by him or her in the police department and he or she shall receive credit for service for which said contributions were made, according to the Charter section under which his or her membership in the Retirement System continues. (Added November 2002)

A8.597-10 COMPUTATION OF SERVICE

The following time shall be included in the computation of the service to be credited to a member of the police department for the purposes of determining whether such member qualified for retirement and calculating benefits, excluding, however, any time, the contributions for which were withdrawn by said member upon termination of his or her service while he or she was a member under any other Charter section, and not redeposited upon re-entry into service:

- (a) Time during and for which said member is entitled to receive compensation because of services as a member of the police or fire department.
- (b) Time during which said member was on Unpaid Parental Leave pursuant to Charter Section A8.523, and for which said member has purchased service credit in the Retirement System.
- (c) Time during which said member is absent from a status included in Subsection (a) next preceding, by reason of service in the armed forces of the United States of America, or by reason of any other service included in Sections A8.520 and A8.521 of the Charter, during any war in which the United States was or shall be engaged or during other national emergency, and for which said member contributed or contributes to the Retirement System or for which the City and County contributed or contributes on his or her account.
- (d) Time during which said member earned compensation as an airport police officer, provided that said member does not receive a retirement allowance from the Public Employees' Retirement System or receive credit from the Public Employees' Retirement System for the same service, and provided further that the accumulated assets with interest and accrued liability for the past service relating to each said member is transferred from the Public Employees' Retirement System to his or her Section A8.597 account, or if previously refunded, is redeposited into his or her Section A8.597 account with interest from the date of refund to the date of redeposit, at times and in the manner fixed by the Retirement Board: The Retirement Board shall require that each said member execute a waiver consenting to the transfer so that any airport police officer service covered by Section A8.597 is not also covered by other pension provisions in this Charter, and so that any such member is not receiving either a retirement allowance or service credit from the Public Employees' Retirement System for the same service, and agree to pay for any required costs allocable to such member under Section A8.506-2. Members of the police department on November 6, 2007, who are members of the Retirement System under Section A8.597 shall execute and file said waiver on or before February 1, 2008. Failure to file a timely waiver shall bar

any application to have such airport police officer service treated as safety service under this subsection.

The additions to this Section A8.597-10, approved by the electorate on November 6, 2007, shall not apply to any member of the Retirement System who separated from service, retired, or died before November 6, 2007, or to his or her continuant. (Added November 2002; Amended by Proposition F, Approved 11/6/2007; Amended by Proposition G, 11/4/2008)

A8.597-11 SOURCES OF FUNDS

All payments provided for members under Section A8.597 shall be made from funds derived from the following sources, plus interest earned on said funds:

- (a) There shall be deducted from each payment of compensation made to a member under Section A8.597 a sum equal to seven percent of such payment of compensation plus the member's allocable share, if any, of the costs required under Section A8.506-2. The sum so deducted shall be paid forthwith to the Retirement System. Said contribution shall be credited to the individual account of the member from whose salary it was deducted, and the total of said contributions, together with interest credited thereon in the same manner as is prescribed by the board of supervisors for crediting interest to contributions of other members of the Retirement System, shall be applied to provide part of the retirement allowance granted to, or allowance granted on account of said member, or shall be paid to said member or his or her estate or beneficiary as provided in Sections A8.597-8, A8.597-9 and A8.597-10. A member's individual account under Section A8.597 shall include all monies previously credited to the member's account under Section A8.586. The individual accounts of members who were also airport police officers that terminated their participation in the Public Employees' Retirement System as provided in Section A8.506-2 shall also include that portion of the accumulated assets transferred to the San Francisco Employees' Retirement System that represents their contributions to the Public Employees' Retirement System plus interest. The individual accounts of members who purchased service credit for Unpaid Parental Leave shall also include the amount paid by the member for said purchase, plus interest.
- (b) The City and County shall contribute to the Retirement System such amounts as may be necessary, when added to the contributions referred to in Subsection (a) of this Section A8.597-11, to provide the benefits payable to members under Section A8.597. Such contributions of the City and County to provide the portion of the benefits hereunder shall be made in annual installments, and the installment to be paid in any year shall be determined by the application of a percentage to the total compensation paid during said year to persons who are members under Section A8.597 in accordance with the provisions of Section A8.510.
- (c) To promote the stability of the Retirement System through a joint participation in the result of variations in the experience under mortality, investment and other contingencies, the contributions of both members and the City and County held by the system to provide benefits for members under Section A8.597, shall be a part of the fund in which all other assets of said system are included.

- (d) Any year in which, based upon the Retirement System's annual actuarial valuation, the employer contribution rate exceeds 0%, the employee organizations representing safety members shall jointly meet and confer with City representatives to implement a cost sharing arrangement between the City and employee organizations. Such arrangement will effect a material reduction of the cost impact of employer contributions on the City's general fund.

The dollar value of the cost sharing arrangement shall not exceed the total annual cost to the Retirement System of improving the police and fire safety retirement plans to the 3% @ 55 benefit level or the total employer contribution required by the Retirement System, whichever is lesser. Such cost sharing arrangement shall not require an employee contribution in excess of the limits set elsewhere in this Charter.

The meet and confer process, including all impasse procedures under section A8.590-1 et seq., shall be concluded not later than April 1st except by mutual agreement of the parties. The cost sharing arrangement must be finalized to permit implementation effective July 1.

The retirement board's authority under Charter section 12.100 and in section A8.510 concerning the annual setting of the rates of contribution are not subject to the meet and confer process, including all impasse procedures under section A8.590-1 et seq. (Added November 2002; Amended by Proposition F, Approved 11/6/2007; Amended by Proposition G, 11/4/2008)

A8.597-12 RIGHT TO RETIRE

Upon the completion of the years of service set forth in Section 8.597-2 as requisite to retirement, a member of the police department shall be entitled to retire at any time thereafter in accordance with the provisions of said Section 8.597-2, and except as provided in Section 8.597-16, nothing shall deprive said member of said right. (Added November 2002; Amended by Proposition C, 6/3/2008)

A8.597-13 LIMITATION ON EMPLOYMENT DURING RETIREMENT

(a) Except as provided in Section A8.511 of this Charter and in Subsection (b) of this section, no person retired as a member under Section A8.597 for service or disability and entitled to receive a retirement allowance under the Retirement System shall be employed in any capacity by the City and County, nor shall such person receive any payment for services rendered to the City and County after retirement.

(b) (1) Service as an election officer or juror, or in the preparation for, or giving testimony as an expert witness for or on behalf of the City and County before any court or legislative body shall be affected by the provisions of Subsection (a) of this section.

(2) The provisions of Subsection (a) shall not prevent such retired person from serving on any board or commission of the City and County and receiving the compensation for such office, provided said compensation does not exceed \$100 per month.

(3) If such retired person is elected or appointed to a position or office which subjects him or her to membership in the Retirement System under Section A8.597, he or she shall re-enter membership under Section A8.597 and his or her retirement allowance shall be cancelled immediately upon his or her re-entry. The provisions of Subsection (a) of this section shall not prevent such person from receiving the compensation for such position or office. The rate of contributions of such member shall be the same as that for other members under Section A8.597. Such member's individual account shall be credited with an amount

which is the actuarial equivalent of his or her annuity at the time of his or her re-entry, but the amount thereof shall not exceed the amount of his or her accumulated contributions at the time of his or her retirement. Such member shall also receive credit for his or her service as it was at the time of his or her retirement.

(c) Notwithstanding any provision of this Charter to the contrary, should any person retired for disability engage in a gainful occupation prior to attaining the age of 55 years, the retirement board shall reduce that part of his or her monthly retirement allowance which is provided by contributions of the City and County to an amount which, when added to the amount of the compensation earnable, at the time he or she engages in the gainful occupation, by such person if he or she held the position which he or she held at the time of his or her retirement, or, if that position has been abolished, the compensation earnable by the member if he or she held the position from which he or she was retired immediately prior to its abolishment. (Added November 2002)

A8.597-14 CONFLICTING CHARTER PROVISIONS

Any section or part of any section in this Charter, insofar as it should conflict with the provisions of Section A8.597 through A8.597-15 or with any part thereof, shall be superseded by the contents of said sections. In the event that any word, phrase, clause or section of said sections shall be adjudged unconstitutional, the remainder thereof shall remain in full force and effect. (Added November 2002)

A8.597-15 VESTING

Notwithstanding any provisions of this Charter to the contrary, should any member of the police department who is a member of the Retirement System under Charter Section A8.597 with five years of credited service, cease to be so employed, through any cause other than death or retirement, he or she shall have the right to elect, without right of revocation and within 90 days after termination of said service, to allow his or her accumulated contributions including interest to remain in the retirement fund and to receive a retirement allowance equal to the percent set forth in Section A8.597-2 opposite his or her age at retirement, for each year of service multiplied against the final compensation of said member, calculated at termination, payable beginning no earlier than age 50. No vesting retirement allowance under this section shall exceed ninety (90%) percent of the member's final compensation. The provisions of Section A8.597-15 shall not apply to any members of the Retirement System under Section A8.586 who terminated before January 1, 2003 or their continuants. (Added November 2002)

A8.597-16 FORFEITURE FOR CRIMES INVOLVING MORAL TURPITUDE

Any member convicted of a crime involving moral turpitude committed in connection with his or her duties as an officer or employee of the City and County shall forfeit all rights to any benefits under the Retirement System except refund of his or her accumulated contributions; provided, however, that if such member is qualified for service retirement by reason of service and age under the provisions of Section 8.597-2, he or she shall have the right to elect, without right of revocation and within 90 days after his or her removal from office or employment to receive as his or her sole benefit under the Retirement System an annuity which shall be the actuarial equivalent of his or her accumulated contributions at the time of such removal from office or employment.

Any member after retirement for service or disability or while receiving a vesting allowance, who is convicted of a crime involving moral turpitude in connection with his or

her duties as an officer or employee of the City and County shall forfeit all rights to any further benefit from the Retirement System and the Retirement System shall immediately cease all future payments to such member; provided however, that if at the time of the conviction, said member has remaining accumulated contributions, then such member shall have the right to elect, without right of revocation and within 30 days after his or her conviction, to receive as his or her sole benefit under the Retirement System an annuity which shall be the actuarial equivalent of his or her accumulated contributions remaining at the time of the conviction. (Added by Proposition C, 6/3/2008)

A8.598 MEMBERS OF THE FIRE DEPARTMENT ON JANUARY 1, 2003 WHO ARE MEMBERS OF THE RETIREMENT SYSTEM UNDER CHARTER SECTION A8.588, AND MEMBERS OF THE FIRE DEPARTMENT AFTER JANUARY 1, 2003

Members of the fire department on January 1, 2003 who are members of the Retirement System under Section A8.588, and persons who become members of the fire department, as defined in Section A8.598-1, after January 1, 2003, shall be members of the Retirement System subject to the provisions of Sections A8.598 through A8.598-15 (which shall apply only to members under Section A8.598) in addition to the provisions contained in Sections 12.100 to 12.103 and Sections 8.500, 8.510, 8.520 and 8.526 of this Charter, notwithstanding the provisions of any other section of this Charter, and shall not be subject to any of the provisions of Sections A8.588 of this Charter.

The provisions of section A8.598 shall not apply to any member of the Retirement System under section A8.588 who separated from service, retired or died before January 1, 2003, or to his or her continuant; provided, however, that the provisions of section A8.598-2 shall apply to the adjustment required in Sections A8.588-3, A8.588-4 and A8.588-5 for a retired member or his or her surviving spouse or continuant when the retired member would not have completed at least twenty-five (25) years of service in the aggregate and attained the age of fifty (50) years until after January 1, 2003. (Added November 2002)

A8.598-1 DEFINITIONS

The following words and phrases as used in this Section, Section A8.598 and Section A8.598-2 through A8.598-14, unless a different meaning is plainly required by the context, shall have the following meanings:

"Retirement allowance," "death allowance" or "allowance," shall mean equal monthly payments, beginning to accrue upon the date of retirement, or upon the day following the date of death, as the case may be, and continuing for life unless a different term of payment is definitely provided by the context.

"Compensation," as distinguished from benefits under the Workers' Compensation Insurance and Safety Act of the State of California, shall mean the remuneration payable in cash, by the City and County, without deduction except for absence from duty, for time during which the individual receiving such remuneration is a member of the fire department, but excluding remuneration paid for overtime. Subject to the requirement that it be payable in cash and that overtime be excluded, "compensation" for pension purposes may be defined in a collective bargaining agreement.

"Compensation earnable" shall mean the compensation which would have been earned had the member received compensation without interruption throughout the period under consideration and at the rates of remuneration attached at that time to the ranks or positions held by him or her during such period, it being assumed that during any absence, he or she was in the rank or position held by him or her at the beginning of the absence, and that

prior to becoming a member of the fire department, he or she was in the rank or position first held by him or her in such department.

"Benefit" shall include "allowance," "retirement allowance," "death allowance" and "death benefit."

"Final compensation" shall mean the average monthly compensation earnable by a member during any one year of credited service in which his or her average compensation is the highest.

For the purpose of Section A8.598 through A8.598-14, the terms "member of the fire department," "member of the department," or "member" shall mean any member of the fire department on January 1, 2003 who was an active member of the Retirement System under Section A8.588, and any officer or employee of the fire department employed after January 1, 2003 who was or shall be subject to the Charter provisions governing entrance requirements of members of the uniformed force of said department and said terms shall further mean persons employed after January 1, 2003 at an age not greater than the maximum age then prescribed for entrance into employment in said uniformed force, to perform duties now performed under the titles of pilot of fireboats, or marine engineer of fireboats; provided, however, that said terms shall not include any person who has not satisfactorily completed such course of training as may be required by the fire department prior to assignment to active duty with said department.

"Retirement system" or "system" shall mean San Francisco City and County Employees' Retirement System as created in Section A8.500 of the Charter.

"Retirement board" shall mean "retirement board" as created in Section 3.670 of the Charter.

"Charter" shall mean the Charter of the City and County of San Francisco.

Words used in the masculine gender shall include the feminine and neuter gender, words used in the feminine gender shall include the masculine and neuter gender, and singular numbers shall include the plural and the plural the singular.

"Interest" shall mean interest at the rate adopted by the retirement board. (Added November 2002)

A8.598-2 SERVICE RETIREMENT

Any member of the fire department who completes at least five years of service in the aggregate and attains the age of fifty (50) years, said service to be computed under Section A8.598-10, may retire for service at his or her option. A member retired after meeting the service and age requirements in the preceding sentence, shall receive a retirement allowance equal to the percent of final compensation (as defined in Section A8.598-1) set forth below opposite his or her age at retirement, taken to the preceding completed quarter year, for each year of service, as computed under Section A8.598-10:

Retirement Age	Percent for Each Year of Credited Service
50	2.400
50.25	2.430
50.5	2.460
50.75	2.490
51	2.520
51.25	2.550

51.5	2.580
51.75	2.610
52	2.640
52.25	2.670
52.5	2.700
52.75	2.730
53	2.760
53.25	2.790
53.5	2.820
53.75	2.850
54	2.880
54.25	2.910
54.5	2.940
54.75	2.970
55+	3.000

In no event, however, shall such a retirement allowance exceed ninety (90) percent of a member's final compensation. (Added November 2002)

A8.598-3 RETIREMENT FOR INCAPACITY

Any member of the fire department who becomes incapacitated for the performance of his or her duty by reason of any bodily injury received in, or illness caused by the performance of his or her duty, shall be retired. If he or she is not qualified for service retirement, he or she shall receive a retirement allowance in an amount which shall be equal to the same percentage of the final compensation of said member, as defined in Section A8.598-1, as his or her percentage of disability is determined to be. The percentage of disability shall be as determined by the Workers' Compensation Appeals Board of the State of California upon referral from the retirement board for that purpose; provided that the retirement board may, by five affirmative votes, adjust the percentage of disability as determined by said appeals board; and provided, further, that such retirement allowance shall be in an amount not less than 50 percent nor more than 90 percent of the final compensation of said member, as defined in Section A8.598-1. Said allowance shall be paid to him or her until the date upon which said member would have completed at least twenty-five (25) years of service in the aggregate and attained the age of fifty (50) years had he or she lived and rendered service without interruption in the rank held by him or her at retirement, and after said date the allowance payable shall be equal to the retirement allowance said member would have received if retired for service on said date based on the final compensation, as defined in Section A8.598-1, he or she would have received immediately prior to said date, had he or she lived and rendered service as assumed, but such allowance shall not be less than 50 percent of such final compensation.

If, at the time of retirement because of disability, he or she is qualified as to age and service for retirement under Section A8.598-2, he or she shall receive an allowance equal to the retirement allowance which he or she would receive if retired under Section A8.598-2, but not less than 50 percent of said final compensation. Any member of the fire department who becomes incapacitated for performance of his or her duty by reason of a cause not included under the provisions of the immediately preceding sentences, and who shall have

completed at least 10 years of service in the aggregate, computed as provided in Section A8.598-10, shall be retired upon an allowance of 1 1/2 percent of the final compensation of said member as defined in Section A8.598-1 for each year of service, provided that said allowance shall not be less than 33 1/3 percent of said final compensation. The question of retiring a member under this section may be brought before the retirement board on said board's own motion, by recommendation of the fire commission or by said member or his or her guardian. If his or her disability shall cease, his or her retirement allowance shall cease and he or she shall be restored to the service in the rank he or she occupied at the time of his or her retirement. (Added November 2002)

A8.598-4 DEATH ALLOWANCE

If a member of the fire department shall die before or after retirement by reason of an injury received in, or illness caused by the performance of his or her duty, a death allowance, in lieu of any allowance, payable under any other section of the Charter or by ordinance, on account of death resulting from injury received in or illness caused by the performance of duty, shall be paid, beginning on the date next following the date of death, to his or her surviving spouse throughout his or her life or until his or her remarriage. If the member, at the time of death, was qualified for service retirement, but he or she had not retired, the allowance payable shall be equal to the retirement allowance which the member would have received if he or she had been retired for service on the date of death, but such allowance shall not be less than 50 percent of the final compensation earnable by said member immediately preceding death. If death occurs prior to qualification for service retirement, the allowance payable shall be equal to the compensation of said member at the date of death, until the date upon which said member would have completed at least twenty-five (25) years of service in the aggregate and attained the age of fifty (50) years, had he or she lived and rendered service without interruption in the rank held by him or her at death, and after said date the allowance payable shall be equal to the retirement allowance said member would have received if retired for service on said date, based on the final compensation he or she would have received prior to said date, had he or she lived and rendered service as assumed, but such allowance shall not be less than 50 percent of such final compensation. If he or she had retired prior to death, for service or for disability resulting from injury received in, or illness caused by the performance of duty, the allowance payable shall be equal to the retirement allowance of the member, except that if he or she was a member under Section A8.598 and retirement was for such disability, and if death occurred prior to qualification for the service retirement allowance, the allowance continued shall be adjusted upon the date at which said member would have completed at least twenty-five (25) years of service in the aggregate and attained the age of fifty (50) years, in the same manner as it would have been adjusted had the member not died.

If there is no surviving spouse entitled to an allowance hereunder, or if he or she dies or remarries before every child of such deceased member attains the age of 18 years, then the allowance which the surviving spouse would have received had he or she lived and not remarried shall be paid to his or her child or children under said age, collectively, until every such child dies or attains said age, provided that no child shall receive any allowance after marrying or attaining the age of 18 years. Should said member leave no surviving spouse and no children under the age of 18 years, but leave a child or children, regardless of age, dependent upon him or her for support because partially or totally disabled and unable to earn a livelihood or a parent or parents dependent upon him or her for support, the child or children and the parents so dependent shall collectively receive a monthly allowance equal to

that which a surviving spouse otherwise would have received, during such dependency. No allowance, however, shall be paid under this section to a surviving spouse following the death of a member unless he or she was married to the member prior to the date of the injury or onset of the illness which results in death.

The amendments to this Section A8.597-4, approved by the electorate on November 2, 2004 shall apply to any work-related death that occurs on or after November 2, 2004, and to any qualified survivor who, on November 2, 2004, is receiving a continuation allowance under this section due to the work-related death of a member on or after January 1, 1989. Any increase in the continuation allowance payable to such a qualified survivor by virtue of the amendments to this section approved by the electorate on November 2, 2004 shall be prospective only, beginning November 2, 2004. (Added November 2002; amended November 2004)

A8.598-5 PAYMENT TO SURVIVING DEPENDENTS

Upon the death of a member of the fire department resulting from any cause other than an injury received in, or illness caused by performance of duty,

(a) if the death occurred after qualification for service retirement under Section A8.598-2, or after retirement service or because of disability which result from any cause other than an injury received in, or illness caused by performance of duty one-half of the retirement allowance to which the member would have been entitled if he or she had retired for service at the date of death or one-half of the retirement allowance as it was at his or her death, as the case may be, shall be continued throughout his or her life or until remarriage to his or her surviving spouse, or

(b) if his or her death occurred after the completion of at least 25 years of service in the aggregate but prior to the attainment of the age of 50 years, one-half of the retirement allowance to which he or she would have been entitled under Section A8.598-2 if he or she had attained the age of 50 years on the date of his or her death shall be continued throughout life or until remarriage to his or her surviving spouse, or

(c) if his or her death occurred after retirement for disability by reason of injury received in or illness caused by performance of duty, three-fourths of his or her retirement allowance as it was at his or her death shall be continued throughout life or until remarriage to his or her surviving spouse, except that, if death occurred prior to qualification for service retirement allowance, the allowance continued shall be adjusted upon the date on which said member would have completed at least twenty-five (25) years of service in the aggregate and attained the age of fifty (50) years, in the same manner as it would have been adjusted had the member not died, or

(d) if his or her death occurred after completion of at least 10 years of service in the aggregate, computed as provided in Section A8.598-10, an allowance in an amount equal to the retirement allowance to which the member would have been entitled pursuant to Section A8.598-3 if he or she had retired on the date of death because of incapacity for performance of duty shall be paid throughout life or until remarriage to his or her surviving spouse. If there is no surviving spouse entitled to an allowance hereunder, or if he or she dies or remarries before every child of such deceased member attains the age of 18 years, then the allowance which the surviving spouse would have received had he or she lived and not remarried shall be paid to his or her child or children under said age, collectively, to continue until every such child dies or attains said age, provided that no child shall receive any allowance after marrying or attaining the age of 18 years. Should said member leave no surviving spouse and no children, under age of 18 years, but leave a child or children,

regardless of age, dependent upon him or her for support because partially or totally disabled and unable to earn a livelihood or a parent or parents dependent upon him or her for support, the child or children and the parents so dependent shall collectively receive a monthly allowance equal to that which a surviving spouse otherwise would have received, during such dependency. No allowance, however shall be paid under this section to a surviving spouse unless he or she was married to the member prior to the date of the injury or onset of the illness which results in death if he or she had not retired, or unless he or she was married to the member at least one year prior to his or her retirement if he or she had retired.

As used in this section and Section A8.598-4 "surviving spouse" shall mean and include a surviving spouse, and shall also mean and include a spouse who has remarried since the death of the member, but whose remarriage has been terminated by death, divorce or annulment within five years after the date of such remarriage and who has not thereafter again remarried.

The surviving spouse, in the event of death of the member after qualification for, but before service retirement, may elect before the first payment of the allowance, to receive the benefit provided in Section A8.598-8, in lieu of the allowance which otherwise would be continued to him or her under this section. If there is no surviving spouse, the guardian of the eligible child or children may make such election, and if there are no such children, the dependent parent or parents may make such election. "Qualified for service retirement," "qualification for service retirement" or "qualified as to age and service for retirement," as used in this section and other sections to which persons who are members under Section A8.598 are subject, shall mean completion of 25 years of service and attainment of age 50, said service to be computed under Section A8.598-10. (Added November 2002)

A8.598-6 ADJUSTMENT OF ALLOWANCES

Every retirement or death allowance payable to or on account of any member under Section A8.598 shall be adjusted in accordance with the provisions of Subsection (b) of Section A8.526 of this Charter. (Added November 2002)

A8.598-7 ADJUSTMENT FOR COMPENSATION PAYMENTS

That portion of any allowance payable because of the death or retirement of any member of the fire department which is provided by contributions of the City and County, shall be reduced, by the amount of any benefits other than medical benefits, payable by the City and County to or on account of such person, under any workers' compensation law or any other general law and because of the injury or illness resulting in said death or retirement. Such portion which is paid because of death or retirement which resulted from injury received in, or illness caused by performance of duty, shall be considered as in lieu of all benefits, other than medical benefits, payable to or on account of such person under such law and shall be in satisfaction and discharge of the obligation of the City and County to pay such benefits. (Added November 2002)

A8.598-8 DEATH BENEFIT

If a member of the fire department shall die, before retirement from causes other than an injury received in, or illness caused by the performance of duty, or regardless of cause if no allowance shall be payable under Section A8.598-4 or A8.598-5 preceding, a death benefit shall be paid to his or her estate or designated beneficiary, the amount of which and the conditions for the payment of which shall be determined in the manner prescribed by the Board of Supervisors for the death benefit of other members of the Retirement System. Upon

the death of a member after retirement and regardless of the cause of death, a death benefit shall be paid to his or her estate or designated beneficiary the amount of which and the conditions for the payment of which shall be determined in the manner prescribed by the Board of Supervisors for the death benefit of other members of the Retirement System. (Added November 2002)

A8.598-9 REFUNDS AND REDEPOSITS

Should any member of the fire department cease to be employed as such a member, through any cause other than death or retirement or transfer to another office or department, all of his or her contributions, with interest credited thereon, shall be refunded to him or her subject to the conditions prescribed by the Board of Supervisors to govern similar terminations of employment of other members of the Retirement System. If he or she shall again become a member of the department, he or she shall redeposit in the retirement fund the amount refunded to him or her. Should a member of the fire department become an employee of any other office or department, his or her accumulated contribution account shall be adjusted by payments to or from him or her as the case may be to make the accumulated contributions credited to him or her at the time of change equal to the amount which would have been credited to him or her if he or she had been employed in said other office or department at the rate of compensation received by him or her in the fire department and he or she shall receive credit for service for which said contributions were made, according to the Charter section under which his or her membership in the Retirement System continues. (Added November 2002)

A8.598-10 COMPUTATION OF SERVICE

The following time shall be included in the computation of the service to be credited to a member of the fire department for the purposes of determining whether such member qualified for retirement and calculating benefits, excluding, however, any time, the contributions for which were withdrawn by said member upon termination of his or her service while he or she was a member under any other Charter section, and not redeposited upon re-entry into service:

- (a) Time during and for which said member is entitled to receive compensation because of services as a member of the police or fire department.
- (b) Time prior to January 1, 2003, during which said member was entitled to receive compensation while a member of the police or fire department under any other section of the Charter, provided that accumulated contributions on account of such service previously refunded are redeposited with interest from the date of refund to the date of redeposit, at times and in the manner fixed by the retirement board; and solely for the purpose of determining qualification for retirement under Section A8.598-3 for disability not resulting from injury received in or illness caused by performance of duty, time during which said member serves and receives compensation because of services rendered in other offices and departments.
- (c) Time during which said member earned compensation as a paramedic with the fire department or department of public health, provided that the accumulated contributions on account of such service are transferred to his or her Section A8.598 account or, if previously refunded, are redeposited with interest from the date of refund to the date of redeposit, at times and in the manner fixed by the retirement board. The retirement board shall require that said member execute a waiver so that any paramedic service covered by Section A8.598 is not also covered by other pension provisions in this Charter. Members of the fire department

on January 1, 2003, who are members of the Retirement System under Section A8.598, shall execute and file said waiver on or before June 30, 2003. Persons who become members of the fire department, as defined in Section A8.598-1, after January 1, 2003, shall execute and file said waiver within 90 days after their effective date of membership. Failure to file a timely waiver shall bar any application to have such paramedic service treated as safety service under this subsection.

(d) Time during which said member is absent from a status included in Subsection (a) next preceding, by reason of service in the armed forces of the United States of America, or by reason of any other service included in Sections A8.520 and A8.521 of the Charter, during any war in which the United States was or shall be engaged or during other national emergency, and for which said member contributed or contributes to the Retirement System or for which the City and County contributed or contributes on his or her account.

(e) Time during which said member was on Unpaid Parental Leave pursuant to Charter Section A8.523, and for which said member has purchased service credit in the Retirement System. (Added November 2002; Amended by Proposition G, 11/4/2008)

A8.598-11 SOURCES OF FUNDS

All payments provided for members under Section A8.598 shall be made from funds derived from the following sources, plus interest earned on said funds:

(a) There shall be deducted from each payment of compensation made to a member under Section A8.598 a sum equal to seven percent of such payment of compensation. The sum so deducted shall be paid forthwith to the Retirement System. Said contribution shall be credited to the individual account of the member from whose salary it was deducted, and the total of said contributions, together with interest credited thereon in the same manner as is prescribed by the Board of Supervisors for crediting interest to contributions of other members of the Retirement System, shall be applied to provide part of the retirement allowance granted to, or allowance granted on account of said member, or shall be paid to said member or his or her estate or beneficiary as provided in Section A8.598.8, A8.598-9 and A8.598-10. A member's individual account under Section A8.598 shall include all monies previously credited to the member's account under Section A8.588. The individual accounts of members who purchased service credit for Unpaid Parental Leave shall also include the amount paid by the member for said purchase, plus interest.

(b) The City and County shall contribute to the Retirement System such amounts as may be necessary, when added to the contributions referred to in Subsection (a) of this Section A8.598-11, to provide the benefits payable to members under Section A8.598. Such contributions of the City and County to provide the portion of the benefits hereunder shall be made in annual installments, and the installment to be paid in any year shall be determined by the application of a percentage to the total compensation paid during said year to persons who are members under Section A8.598 in accordance with the provisions of Section A8.510.

(c) To promote the stability of the Retirement System through a joint participation in the result of variations in the experience under mortality, investment and other contingencies, the contributions of both members and the City and County held by the system to provide benefits for members under Section A8.598, shall be a part of the fund in which all other assets of said system are included.

(d) Any year in which, based upon the Retirement System's annual actuarial valuation, the employer contribution rate exceeds 0%, the employee organizations representing safety members shall jointly meet and confer with City representatives to implement a cost sharing

arrangement between the City and employee organizations. Such arrangement will effect a material reduction of the cost impact of employer contributions on the City's general fund.

The dollar value of the cost sharing arrangement shall not exceed the total annual cost to the Retirement System of improving the police and fire safety retirement plans to the 3% @ 55 benefit level or the total employer contribution required by the Retirement System, whichever is lesser. Such cost sharing arrangement shall not require an employee contribution in excess of the limits set elsewhere in this Charter.

The meet and confer process, including all impasse procedures under Section A8.590-1 et seq., shall be concluded not later than April 1st except by mutual agreement of the parties. The cost sharing arrangement must be finalized to permit implementation effective July 1.

The retirement board's authority under Charter section 12.100 and in Section A8.510 concerning the annual setting of the rates of contribution are not subject to the meet and confer process, including all impasse procedures under Section A8.590-1 et seq. (Added November 2002; Amended by Proposition G, 11/4/2008)

A8.598-12 RIGHT TO RETIRE

Upon the completion of the years of service set forth in Section 8.598-2 as requisite to retirement, a member of the fire department shall be entitled to retire at any time thereafter in accordance with the provisions of said Section 8.598-2, and except as provided in Section 8.598-16, nothing shall deprive said member of said right. (Added November 2002; Amended by Proposition C, 6/3/2008)

A8.598-13 LIMITATION ON EMPLOYMENT DURING RETIREMENT

(a) Except as provided in Section A8.511 of this Charter and in Subsection (b) of this section, no person retired as a member under Section A8.598 for service or disability and entitled to receive a retirement allowance under the Retirement System shall be employed in any capacity by the City and County, nor shall such person receive any payment for services rendered to the City and County after retirement.

(b) (1) Service as an election officer or juror, or in the preparation for, or giving testimony as an expert witness for or on behalf of the City and County before any court or legislative body shall be affected by the provisions of Subsection (a) of this section.

(2) The provisions of Subsection (a) shall not prevent such retired person from serving on any board or commission of the City and County and receiving the compensation for such office, provided said compensation does not exceed \$100 per month.

(3) If such retired person is elected or appointed to a position or office which subjects him or her to membership in the Retirement System under Section A8.598, he or she shall re-enter membership under Section A8.598 and his or her retirement allowance shall be cancelled immediately upon his or her re-entry. The provisions of Subsection (a) of this section shall not prevent such person from receiving the compensation for such position or office. The rate of contributions of such member shall be the same as that for other members under Section A8.598. Such member's individual account shall be credited with an amount which is the actuarial equivalent of his or her annuity at the time of his or her re-entry, but the amount thereof shall not exceed the amount of his or her accumulated contributions at the time of his or her retirement. Such member shall also receive credit for his or her service as it was at the time of his or her retirement.

(c) Notwithstanding any provision of this Charter to the contrary, should any person retired for disability engage in a gainful occupation prior to attaining the age of 55 years, the retirement board shall reduce that part of his or her monthly retirement allowance which is provided by contributions of the City and County to an amount which, when added to the amount of the compensation earnable, at the time he or she engages in the gainful occupation, by such person if he or she held the position which he or she held at the time of his or her retirement, or, if that position has been abolished, the compensation earnable by the member if he or she held the position from which he or she was retired immediately prior to its abolishment. (Added November 2002)

A8.598-14 CONFLICTING CHARTER PROVISIONS

Any section or part of any section in this Charter, insofar as it should conflict with the provisions of Section A8.598 through A8.598-15 or with any part thereof, shall be superseded by the contents of said sections. In the event that any word, phrase, clause or section of said sections shall be adjudged unconstitutional, the remainder thereof shall remain in full force and effect. (Added November 2002)

A8.598-15 VESTING

Notwithstanding any provisions of this Charter to the contrary, should any member of the fire department who is a member of the Retirement System under Charter Section A8.598 with five years of credited service, cease to be so employed, through any cause other than death or retirement, he or she shall have the right to elect, without right of revocation and within 90 days after termination of said service, to allow his or her accumulated contributions including interest to remain in the retirement fund and to receive a retirement allowance equal to the percent set forth in Section A8.598-2 opposite his or her age at retirement, for each year of service multiplied against the final compensation of said member, calculated at termination, payable beginning no earlier than age 50. No vesting retirement allowance under this section shall exceed ninety (90%) percent of the member's final compensation. The provisions of Section A8.598-15 shall not apply to any members of the Retirement System under Section A8.588 who terminated before January 1, 2003 or their continuants. (Added November 2002)

A8.598-16 FORFEITURE FOR CRIMES INVOLVING MORAL TURPITUDE

Any member convicted of a crime involving moral turpitude committed in connection with his or her duties as an officer or employee of the City and County shall forfeit all rights to any benefits under the Retirement System except refund of his or her accumulated contributions; provided, however, that if such member is qualified for service retirement by reason of service and age under the provisions of Section 8.598-2, he or she shall have the right to elect, without right of revocation and within 90 days after his or her removal from office or employment to receive as his or her sole benefit under the Retirement System an annuity which shall be the actuarial equivalent of his or her accumulated contributions at the time of such removal from office or employment.

Any member, after retirement for service or disability or while receiving a vesting allowance, who is convicted of a crime involving moral turpitude in connection with his or her duties as an officer or employee of the City and County shall forfeit all rights to any further benefit from the Retirement System and the Retirement System shall immediately cease all future payments to such member; provided however, that if at the time of the conviction, said member has remaining accumulated contributions, then such member shall

have the right to elect, without right of revocation and within 30 days after his or her conviction, to receive as his or her sole benefit under the Retirement System, an annuity which shall be the actuarial equivalent of his or her. (Added by Proposition C, 6/3/2008)

A8.599 TAX-DEFERRED PLANS FOR ACCUMULATED COMPENSATION

The Board of Supervisors is empowered to enact, by a vote of three-fourths of its members, such ordinances as it deems necessary to establish a plan or plans, consistent with federal and state requirements, to provide for the deferred taxation of accumulated vacation, sick leave or other compensation earned by and payable to employees on account of and after their separation from City and County employment. The City and County of San Francisco does not and cannot represent or guarantee that any particular federal or state income, payroll or other tax consequence will occur by reason of an employee's participation in these plans nor whether there will be gains or losses on moneys paid into these plans. The Retirement Board shall administer any such plans. The Retirement Board may contract with a financially responsible independent contractor to serve as the third party administrator of any such plans. The Retirement Board shall manage such plans in compliance with federal and state tax laws and ensure that plan benefits do not conflict with or reduce benefits under the Retirement System. The reasonable and necessary administrative costs of this plan shall not be borne by the City and County but by the participants and by any third party plan administrator appointed hereunder. (Added March 2004)

APPENDIX C:

ETHICS PROVISIONS*

* Citations in these appendices to other Charter sections refer to provisions of the 1932 Charter, as amended. Not all of those provisions have been carried forward under the new Charter.

C3.699-10	Administration and Implementation
C3.699-11	Duties
C3.699-13	Investigations and Enforcement Proceedings

C3.699-10 ADMINISTRATION AND IMPLEMENTATION

The Commission shall have responsibility for the impartial and effective administration and implementation of the provisions of this charter, statutes and ordinances concerning campaign finance, lobbying, conflicts of interest and governmental ethics.

C3.699-11 DUTIES

The ethics commission shall have the following duties and responsibilities:

1. To administer the provisions of the San Francisco Municipal Elections Campaign Contribution Control Ordinance, and Proposition F, adopted by voters at the June 1986 election, which appears as Appendix K to this charter or any successors to these ordinances.
2. To receive documents required to be filed pursuant to, and to otherwise administer, the provisions of the City's lobbyist registration ordinance.
3. To act as the filing officer and to otherwise receive documents in any instance where the clerk of the board of supervisors, the registrar of voters and, with respect to members of the boards and commissions, department heads would otherwise be authorized to do so pursuant to Chapters 4 and 7 of the California Political Reform Act of 1974 (Government Code sections 81000, et seq.), as amended.
4. To audit campaign statements and other relevant documents and investigate alleged violations of state law, this charter and City ordinances relating to campaign finance, governmental ethics and conflicts of interest and to report the findings to the district attorney, City attorney and other appropriate enforcement authorities. Commission investigation of alleged violations of state law shall be conducted only after the commission has provided to the district attorney and City attorney the information set forth in Section 3.699-12 and the district attorney and City attorney notify the commission that no investigation will be pursued.
5. To provide assistance to agencies, public officials and candidates in administering the provisions of this charter and other laws relating to campaign finance, conflicts of interest and governmental ethics.
6. To make recommendations to the mayor and the board of supervisors concerning (a) campaign finance reform, (b) adoption of and revisions to City ordinances laws related to conflict of interest and lobbying laws and governmental ethics and (c) the submission to the voters of charter amendments relating to campaign finance, conflicts of interest and governmental ethics. The commission shall report to the board of supervisors and mayor annually concerning the effectiveness of such laws. The commission shall transmit its first set of recommendations to the board of supervisors and mayor no later than July 1, 1995.

7. To maintain a whistleblower hot line and administer the provisions of the City's improper government activities ordinance.
8. To annually adjust any limitation and disclosure thresholds imposed by City law to reflect any increases or decreases in the Consumer Price Index. Such adjustments shall be rounded off to the nearest hundred dollars for the limitations on contributions.
9. To assist departments in developing and maintaining their conflict of interest codes as required by state law.
10. To advocate understanding of the charter and City ordinances related to campaign finance, conflicts of interest, lobbying, governmental ethics and open meetings and public records, and the roles of elected and other public officials, City institutions and the City electoral process.
11. To have full charge and control of its office, to be responsible for its proper administration, subject to the budgetary and fiscal provisions of the charter.
12. To prescribe forms for reports, statements, notices and other documents required by this charter or by ordinances now in effect or hereafter adopted relating to campaign finance, conflicts of interest, lobbying and governmental ethics.
13. To prepare and publish manuals and instructions setting forth methods of bookkeeping, preservation of records to facilitate compliance with and enforcement of the laws relating to campaign finance, conflicts of interest, lobbying and governmental ethics, and explaining applicable duties of persons and committees.
14. To develop an educational program, including but not limited to the following components:
 - (a) Seminars, when deemed appropriate, to familiarize newly elected and appointed officers and employees, candidates for elective office and their campaign treasurers, and lobbyists with City, state and federal ethics laws and the importance of ethics to the public's confidence in municipal government.
 - (b) Annual seminars for top-level officials, including elected officers and commissioners, to reinforce the importance of compliance with, and to inform them of any changes in, the law relating to conflicts of interest, lobbying, governmental ethics and open meetings and public records.
 - (c) A manual which will include summaries, in simple, non-technical language, of ethics laws and reporting requirements applicable to City officers and employees, instructions for completing required forms, questions and answers regarding common problems and situations, and information regarding sources of assistance in resolving questions. The manual shall be updated when necessary to reflect changes in applicable City, state and federal laws governing the ethical conduct of City employees.
 - (d) A manual which will include summaries, in simple, non-technical language, of City ordinances related to open meetings and public records, questions and answers regarding common problems and situations, and information regarding sources of assistance in resolving questions. The manual shall be updated when necessary to reflect changes in applicable City ordinances related to open meetings and public records.

C3.699-13 INVESTIGATIONS AND ENFORCEMENT PROCEEDINGS

The commission shall conduct investigations in accordance with this subdivision of alleged violations of this charter and city ordinances relating to campaign finance, lobbying, conflicts of interest and governmental ethics.

- (a) Investigations.

If the commission, upon the receipt of a sworn complaint of any person or its own initiative, has reason to believe that a violation of this charter or city ordinances relating to campaign finance, lobbying, conflicts of interest or governmental ethics has occurred, the commission immediately shall forward the complaint or information in its possession regarding the alleged violation to the district attorney and city attorney. Within ten working days, after receipt of the complaint or information, the district attorney and city attorney shall inform the commission in writing regarding whether the district attorney or city attorney has initiated or intends to pursue an investigation of the matter.

If the commission, upon the sworn complaint or on its own initiative, determines that there is sufficient cause to conduct an investigation, it shall investigate alleged violations of this charter or city ordinances relating to campaign finance, lobbying, conflicts of interest and governmental ethics. A complaint filed with the commission shall be investigated only if it identifies the specific alleged violations which form the basis for the complaint and the commission determines that the complaint contains sufficient facts to warrant an investigation.

Within 14 days after receiving notification that neither the district attorney nor city attorney intends to pursue an investigation, the commission shall notify in writing the person who made the complaint of the action, if any, the commission has taken or plans to take on the complaint, together with the reasons for such action or non-action. If no decision has been made within 14 days, the person who made the complaint shall be notified of the reasons for the delay and shall subsequently receive notification as provided above.

The investigation shall be conducted in a confidential manner. Records of any investigation shall be considered confidential information to the extent permitted by state law. Any member or employee of the commission or other person who, prior to a determination concerning probable cause, discloses information about any preliminary investigation, except as necessary to conduct the investigation, shall be deemed guilty of official misconduct. The unauthorized release of confidential information shall be sufficient grounds for the termination of the employee or removal of the commissioner responsible for such release.

(b) Findings of Probable Cause.

No finding of probable cause to believe that a provision of this charter or city ordinances relating to campaign finance, lobbying, conflicts of interest or governmental ethics has been violated shall be made by the commission unless, at least 21 days prior to the commission's consideration of the alleged violation, the person alleged to have committed the violation is notified of the alleged violation by service of process or registered mail with return receipt requested, is provided with a summary of the evidence, and is informed of his or her right to be present in person and to be represented by counsel at any proceeding of the commission held for the purpose of considering whether probable cause exists for believing the person committed the violation. Notice to the alleged violator shall be deemed made on the date of service, the date the registered mail receipt is signed, or, if the registered mail receipt is not signed, the date returned by the post office. A proceeding held for the purpose of considering probable cause shall be private to the extent permitted by state law unless the alleged violator files with the commission a written request that the proceeding be public.

(c) Administrative Orders and Penalties.

(i) When the commission determines there is probable cause for believing a provision of this charter or city ordinance has been violated, it may hold a public hearing to determine if such a violation has occurred. When the commission determines on the basis of substantial

evidence presented at the hearing that a violation has occurred, it shall issue an order which may require the violator to:

- (1) Cease and desist the violation;
 - (2) File any reports, statements or other documents or information required by law;
- and/or
- (3) Pay a monetary penalty to the general fund of the city of up to five thousand dollars (\$5,000) for each violation or three times the amount which the person failed to report properly or unlawfully contributed, expended, gave or received, whichever is greater. Penalties that are assessed but uncollected after 60 days shall be referred to the bureau of delinquent revenues for collection.

In addition, with respect to city officers other than those identified in Section 8.107 of this charter, when the commission determines on the basis of substantial evidence presented at the hearing that a violation has occurred, the commission may recommend to the appointing officer that the officer be removed from office.

When the commission determines that no violation has occurred, it shall publish a declaration so stating.

- (d) In addition to any other penalty that may be imposed by law, any person who violates any provision of this charter or of a city ordinance relating to campaign finance, lobbying, conflicts of interest or governmental ethics, or who causes any other person to violate any such provision, or who aids and abets any other person in such violation, shall be liable under the provisions of this section. (Amended November 2001)

ADMINISTRATIVE CODE**CHAPTER 2A: EXECUTIVE BRANCH****ARTICLE II
DEPARTMENTS**

SEC. 2A.30. Department Heads.

SEC. 2A.30. DEPARTMENT HEADS.

Each elective officer in charge of an administrative office, the chief executive under a board or commission, the Controller, the City Administrator and each department head appointed by the Mayor shall have the powers and duties of a department head, except as otherwise specifically provided in the Charter.

Each department head shall be immediately responsible for the administration of his or her department, and shall file an annual report and make such other reports, estimates and recommendations at the time and in the manner required by law, or as required by the Mayor, board or commission.

The department head shall act as the "appointing officer" under the civil service provisions of the Charter for the appointing, disciplining and removal of such officers, assistants and employees as may be authorized. On the written direction of the department head concerned, the head of any utility, institution, bureau or other subdivision of such department may be designated as the "appointing officer" for such utility, institution, bureau or other subdivision. Non-civil service appointments and any temporary appointments in any department or subdivision thereof, and all removals therefrom shall be made by the department head, bureau head or other subdivision head designated as the appointing officer.

The department head shall issue or authorize all requisitions for the purchase of materials, supplies and equipment required by such department, provided that, on the written direction of the department head concerned, the head of any utility, institution, bureau or other subdivision of a department may likewise be vested with such power. Each department head or the head of a utility, institution, bureau or other subdivision of each department shall be responsible for the proper checking of all materials, supplies and equipment ordered for its purposes, and for the approval or disapproval of bills for claims rendered for such materials, supplies or equipment.

The head of any department, through the Mayor if part of the Executive Branch under the Charter, shall recommend to the Board of Supervisors such ordinances as may be required to carry out the powers vested and the duties imposed, and to establish or readjust fees or charges for permits issued to or work performed for persons, firms or corporations when these are subject to the department's jurisdiction.

Each department head, through the Mayor if part of the Executive Branch under the Charter, may suggest the creation of positions subject to the provisions of the Charter, and may reduce the forces under his or her jurisdiction to conform to the needs of the work for which he or she is responsible.

(Added by Ord. 277-96, App. 7/3/96; amended by Ord. 204-04, File No. 040754, App. 8/5/2004)

ADMINISTRATIVE CODE**CHAPTER 2A: EXECUTIVE BRANCH****ARTICLE IV
POLICE**

Sec. 2A.75 Police; Ranks in the Department

Sec. 2A.76. Police; Creation on New Ranks

Sec. 2A.76-1. Supplemental Authority Regarding Appointment to Non-Civil Service Ranks Above Captain.

Sec. 2A.77. -. Police; Other Executives

Sec. 2a.78. - Police; Inspectors

SEC. 2A.75. POLICE; RANKS IN THE DEPARTMENT

The several ranks or positions in the Department shall be as follows: Chief of Police, captains, criminologists, lieutenants, inspectors, sergeants, assistant inspectors, police surgeon, police officers, police patrol drivers and women protective officers, and such other ranks or positions as the Police Commission may from time to time create as provided for in Section 2A.76 of this Code. (Added by Ord. 320-96; App. 8/8/96)

SEC. 2A.76. POLICE; CREATION OF NEW RANKS

The Police Commission shall by rule and subject to the fiscal provisions of the Charter, have power to create new or additional ranks or positions in the Department which shall be subject to the civil service provisions of the Charter; provided that the Police Commission subject to the recommendation of the Civil Service Commission and the approval of the Board of Supervisors may declare such new or additional ranks or positions to be exempt from the civil service provisions of the Charter. If the Civil Service Commission disapproves any such exemption, the Board of Supervisors may approve such exemptions by a majority vote of the members thereof.

The Police Commission may in their discretion designate the rank or ranks from which appointments to such exempt ranks or positions shall be made. The Chief of Police may appoint to any non-civil service rank or position above the rank of captain as may be created hereunder Department or any member of the Police Department who has had supervisory experience over other sworn law enforcement officers. If any new or additional rank or position is created pursuant hereto pending the adoption of salary standards for such rank or position, the Police Commission shall have power to recommend the basic rate of compensation therefor to the Board of Supervisors who shall have the power to fix the rate of compensation for said new rank or position and it shall have the power, and it shall be its duty without reference or amendment to the annual budget, to amend the annual appropriation ordinance and the annual salary ordinance to include the provisions necessary for paying the basic rate of compensation fixed by said Board of Supervisors for said new rank or position for the then current fiscal year.

The Police Commission shall also have power to establish and from time to time change the order or rank of the non-civil service ranks in the Police Department. (Added by Ord. 320-96, App. 8/8/96; amended by Ord. 44-99, App 3/26/99; Ord 218-09, File No. 091031; App. 10/29/2009).

SEC. 2A.76-1. SUPPLEMENTAL AUTHORITY REGARDING APPOINTMENT TO NON-CIVIL SERVICE RANKS ABOVE CAPTAIN

Notwithstanding the requirements in Section 2A.76, the Chief of Police may appoint to any non-civil service rank above the rank of captain any sworn law enforcement officer who has had supervisory experience over other sworn law enforcement officers in any federal, state or local agency that employs sworn law enforcement officers, provided however that no more than one such officer may hold an appointment at any one time.

The authority to make appointments under this Section 2A.76-1 shall expire five years from the effective date of this ordinance. The expiration of the authority that this Section creates shall not terminate or otherwise affect any appointment that the Chief of Police made under this Section. (Added by Ord. 218-09, Dile No. 091031, App. 10/29/2009)

SEC. 2A.77. POLICE; OTHER EXECUTIVES

Subject to the provisions of the Charter governing the appointment and removal of non-civil service appointees, and without competitive examination, the Chief of Police shall have power to appoint a police surgeon; to appoint any person who meets the qualification in Section 2A. 76 or 2A.76-1 to any non-civil service rank above the rank of captain as may be created by the Police Commission pursuant to the provisions of Section 2A.76 of this Code; and to appoint a member to any non-civil service rank below the rank of captain as may be created by the Police Commission pursuant to the provisions of Section 2A.76 from among the members of the Department holding the rank or ranks designated by said commission pursuant to the provisions of Section 2A.76 of this Code. When any member of the Department, detailed to any of the positions above mentioned, shall be removed from said detail or position, he or she shall be returned to his or her civil service rank and position, unless removed from the Department pursuant to the provisions of Section A8.343 of the Charter. (Added by Ord. 320-96, App. 8/8/96; amended by Ord. 45-99, App. 3/26/99; Ord. 218-09, File No. 091031, App. 10/29/2009)

SEC. 2A.78. - POLICE; INSPECTORS.

Assignment to the ranks of assistant inspector and inspector in the Police Department shall be made by the Chief of Police from among those members of said Department holding the ranks of sergeant or police officer who have qualified in the following manner; any of the aforesaid members of the Police Department who has served in the Department not less than three years shall be eligible to participate in a competitive examination for the rank of assistant inspector which shall be administered by the Civil Service Commission. The Chief of Police shall appoint assistant inspectors to fill vacancies in the rank of assistant inspector from the certified list of qualified candidates as provided for under the Civil Service Rules pertaining to uniformed personnel of the Police Department. If any member of the Department appointed as an assistant inspector is a sergeant at the time of the appointment or is appointed a sergeant thereafter, that member shall receive the rate of compensation attached to the rank of sergeant.

Assistant inspectors shall serve a six-month probationary period. Appointment as inspector shall not be subject to competitive examination. In case of vacancy in said rank of inspector the appointment shall be made by the Chief of Police from among those holding the rank of assistant inspector who have actually served as assistant inspector for at least two years prior to such appointment; provided, however, that in the event there are no assistant inspectors who have actually served as such for at least two years prior to such appointment, the appointment may be made by the Chief of Police from among those holding the rank of

assistant inspector who have completed their six months' probationary period prior to such appointment. The Chief of Police may, from time to time, detail members of the Department for performance of duty, without change in rank, in the various units and bureaus of the Department.

Inspectors and assistant inspectors shall have the same rights as other members of the Department to take competitive examinations from their respective civil service ranks; provided, however, that any member of the Department holding the rank of inspector, assistant inspector or police officer may take the competitive examination for the rank of sergeant. An inspector or assistant inspector guilty of any offense or violation of the rules and procedures of the Police Department shall be subject to punishment as provided in Charter Section A8.343; provided, however, that in addition to the punishments set forth in Section A8.343, an inspector may be demoted to his or her civil service rank for any offense or violation set forth in said section and after trial and hearing before the Police Commission as set forth therein.

(Added by Ord. 320-96, App.8/8/96; amended by Ord. 202-02, File No. 010762, App. 9/28/2001)

ADMINISTRATIVE CODE**CHAPTER 6: PUBLIC WORKS CONTRACTING POLICIES AND PROCEDURES****ARTICLE II: CONSTRUCTION CONTRACTING**

SEC. 6.22. Public Work Construction Contract Terms and Working Conditions.

SEC. 6.22. PUBLIC WORK CONSTRUCTION CONTRACT TERMS AND WORKING CONDITIONS.**(E) Prevailing Wages.**

(1) **Generally.** All contractors and subcontractors performing a public work or improvement for the City and County of San Francisco shall pay its workers on such projects the prevailing rate of wages as provided below. For the purpose of prevailing wage requirements only, the definition of a public work shall include those public works or improvements defined in the foregoing section 6.1 of this Chapter and shall also include (a) any trade work performed at any stage of construction (including preconstruction work) and (b) any public work paid for by the City and County of San Francisco with "the equivalent of money" under the meaning of Labor Code section 1720(b).

(2) **Leased Property Included.** For the limited purposes of this subsection, a "public work or improvement" also means and includes any construction work done under private contract when all of the following conditions exist:

(a) The construction contract is between private persons; and
(b) The property subject to the construction contract is privately owned, but upon completion of the construction work will be leased to the City and County of San Francisco for its use; and

(c) Either of the following conditions exist: (1) The lease agreement between the lessor and the City and County of San Francisco, as lessee, is entered into prior to the construction contract, or (2) The construction work is performed according to the plans, specifications, or criteria furnished by the City and County of San Francisco, and the lease agreement between the lessor and the City and County of San Francisco as lessee, is entered into during, or upon completion, of the construction work.

(3) **Determination of the Prevailing Wage.** It shall be the duty of the Board of Supervisors, from time to time and at least once during each calendar year, to fix and determine the prevailing rate of wages as follows:

On or before the first Monday in November of each year, the Civil Service Commission shall furnish to the Board of Supervisors data as to the highest general prevailing rate of wages of the various crafts and kinds of labor as paid in private employment in the City and County of San Francisco, plus "per diem wages" and wages for overtime and holiday work. The Civil Service Commission shall provide the Board of Supervisors data for "per diem wages" pursuant to California Labor Code sections 1773.1 and 1773.9, as amended from time to time. The Board of Supervisors shall, upon receipt of such data, fix and determine the prevailing rate of wages. The prevailing rate of wages as so fixed and determined by the Board of Supervisors shall remain in force and shall be deemed to be the highest general prevailing rate of wages paid in private employment for similar work, until the same is changed by the Board of Supervisors. In determining the highest general prevailing rate of wages per diem wages and wages for overtime and holiday work,

as provided for in this section, the Board of Supervisors shall not be limited to the consideration of data furnished by the Civil Service Commission, but may consider such other evidence upon the subject as the Board shall deem proper and thereupon base its determination upon any or all of the data or evidence considered.

In the event that the Board of Supervisors does not fix or determine the highest general prevailing rate of wages in any calendar year, the rates established by the California Department of Industrial Relations for such year shall be deemed adopted.

(4) **Specifications to Include Wage Rate.** The department head authorized to execute a construction contract under this Chapter shall include in the contract specifications, or make available in the offices of the department or at the job site, a detailed statement of the prevailing rate of wages as fixed and determined by the Board of Supervisors at the time the department issued the Advertisement For Bids on the contract. The contractor shall agree to pay to all persons performing labor in and about the public work or improvement the highest general prevailing rate of wages as determined pursuant to this Chapter, including wages for holiday and overtime work. If the specifications do not include the prevailing rate of wages, the specifications shall include a statement that copies of the prevailing rate of wages as fixed and determined by the Board of Supervisors are on file at the department's principal office or at the job site and shall be made available to any interested party on request.

(5) **Subcontractors Bound by Wage Provisions.** Every contract for any public work or improvement shall also contain a provision that the contractor shall insert in every subcontract or other arrangement which he or she may make for the performance of any work or labor on a public work or improvement. This provision shall be that the subcontractor shall pay to all persons performing labor or rendering service under said subcontract or other arrangement the highest general prevailing rate of wages as fixed and determined by the Board of Supervisors for such labor or services.

(6) **Records to be Kept by Contractors and Subcontractors.** Every public works contract or subcontract awarded under this Chapter shall contain a provision that the contractor shall keep, or cause to be kept, for a period of four years from the date of substantial completion of a public work, payrolls and basic records including time cards, trust fund forms, apprenticeship agreements, accounting ledgers, tax forms and superintendent and foreman daily logs for all trades workers performing work at or for a City and County of San Francisco public work or improvement. Such records shall include the name, address and social security number of each worker who worked on the project, including apprentices, his or her classification, a general description of the work each worker performed each day, the rate of pay (including rates of contributions for, or costs assumed to provide fringe benefits), daily and weekly number of hours worked, deductions made and actual wages paid. Every subcontractor who shall undertake the performance of any part of a public work or improvement shall keep a like record of each person engaged in the execution of the subcontract.

The contractor shall maintain weekly certified payroll records for submission to the awarding department as required. The contractor shall be responsible for the submission of payroll records of its subcontractors. All certified payroll records shall be accompanied by a statement of compliance signed by the contractor indicating that the payroll records are correct and complete, that the wage rates contained therein are not less than those determined by the San Francisco Board of Supervisors and that the classifications set forth for each employee conform with the work performed.

All such records as described in this section shall at all times be open to inspection and examination of the duly authorized officers and agents of the City and County of San Francisco, including representatives of the Office of Labor Standards Enforcement.

Should the department head responsible for the public work or the Labor Standards Enforcement Officer determine that a contractor or subcontractor is not in compliance with the requirements of this subsection, the department head or the Labor Standards Enforcement Officer shall issue written notification to the contractor or subcontractor mandating compliance within not fewer than ten calendar days from the date of the notification. Should the contractor or subcontractor fail to comply as required in the notification, the department head who executed the contract or the Labor Standards Enforcement Officer may impose a penalty of \$25.00 for each calendar day of noncompliance, or portion thereof, for each worker. Upon the request of the responsible department head or the Labor Standards Enforcement Officer, the Controller shall withhold these penalties from progress payments then due or to become due.

(7) **Additional Required Contract Provisions.** Every public works contract shall contain provisions stating that (1) the contractor will cooperate fully with the Labor Standards Enforcement Officer and other City employees and agents authorized to assist in the administration and enforcement of the prevailing wage requirements and other labor standards imposed on public works contractors by the Charter and [Chapter 6](#) of the San Francisco Administrative Code; (2) the contractor agrees that the Labor Standards Enforcement Officer and his or her designees, in the performance of their duties, shall have the right to engage in random inspections of job sites and to have access to the employees of the contractor, employee time sheets, inspection logs, payroll records and employee paychecks; (3) the contractor shall maintain a sign-in and sign-out sheet showing which employees are present on the job site; (4) the contractor shall prominently post at each job-site a sign informing employees that the project is subject to the City's prevailing wage requirements and that these requirements are enforced by the Labor Standards Enforcement Officer; and (5) that the Labor Standards Enforcement Officer may audit such records of the contractor as he or she reasonably deems necessary to determine compliance with the prevailing wage and other labor standards imposed by the Charter and this Chapter on public works contractors. Failure to comply with these requirements may result in penalties and forfeitures consistent with California Labor Code section 1776(g), as amended from time to time.

(8) **Non-compliance with Wage Provisions – Penalties.**

(a) **Penalty and Forfeiture.** Any contractor or subcontractor who shall fail or neglect to pay to the several persons who shall perform labor under any contract, subcontract or other arrangement on any public work or improvement as defined in this Chapter the highest general prevailing rate of wages as fixed by the Board of Supervisors under authority of this Chapter, shall forfeit; and, in the case of any subcontractor so failing or neglecting to pay said wage, the original contractor and the subcontractor shall jointly and severally forfeit to the City and County of San Francisco back wages due plus the penal sum of \$50.00 per day for each laborer, workman or mechanic employed for each calendar day or portion thereof, while they shall be so employed and not paid said highest general prevailing rate of wages, and in addition shall be subject to the penalties set forth in Article V of this Chapter, including debarment.

(b) **Enforcement.** It shall be the duty of the officer, board or commission under whose jurisdiction said public work or improvement is being carried on, made or constructed, when certifying to the Controller any payment which may become due under said contract, to

deduct from said payment or payments the total amount of said forfeiture provided for in this subsection. In doing so, the department head must also notify in writing the Labor Standards Enforcement Officer of his/her action. The Labor Standards Enforcement Officer may also upon written notice to the department head who is responsible for the project, certify to the Controller any forfeiture(s) to deduct from any payment as provided for in this Subsection [6.22\(E\)\(8\)](#). Certification of forfeitures under this subsection shall be made only upon an investigation and audit by the responsible department head or the Labor Standards Enforcement Officer and upon service of written notice to the contractor that includes identification of the grounds for the forfeiture or forfeitures ("Certification of Forfeiture"). The audit supporting the forfeiture shall be appended to the Certification of Forfeiture, but failure to append such documentation shall not invalidate the Certification. Service of the Certification of Forfeiture shall be made by United States mail and the date of service shall be the date of mailing. The Controller, in issuing any warrant for any such payment, shall deduct from the amount which would otherwise be due on said payment or payments the amount of said forfeiture or forfeitures as so certified.

(c) **Recourse Procedure.** A contractor and/or a subcontractor may appeal from a Certification of Forfeiture. The Controller shall adopt and maintain rules and regulations for any appeal under this Subsection [6.22\(E\)\(8\)\(c\)](#), which rules shall generally include the following parameters for efficient and effective due process:

(i) Any Appeal from Certification of Forfeiture shall be filed in writing by the contractor and/or subcontractor (referred to in this Subsection [6.22\(E\)\(8\)\(c\)](#), whether singular or plural, as the "Appellant") within 15 days of the date of service of the Certification of Forfeiture. Appellant shall file the Appeal from Certification of Forfeiture with the City Controller and serve a copy on the Labor Standards Enforcement Officer. Failure by the contractor or subcontractor to submit a timely, written Appeal from Certification of Forfeiture shall constitute concession to the forfeiture, and the forfeiture shall be deemed final upon expiration of the 15-day period.

(ii) The Office of Labor Standards Enforcement shall promptly afford Appellant an opportunity to meet and confer in good faith regarding possible resolution of the Certification of Forfeiture in advance of further proceedings under this Subsection [6.22\(E\)\(8\)\(c\)](#), with the intention that such meeting occur within 30 days of the date the Appeal from Certification of Forfeiture is filed.

(iii) After the expiration of 30 days following the date the Appeal from Certification of Forfeiture is filed, any party may request in writing, with concurrent notice to all other parties, that the Controller appoint a hearing officer to hear and decide the appeal. If no party requests appointment of a hearing officer, the Certification of Forfeiture shall be deemed final on the 60th day after the date the Appeal from Certification of Forfeiture is filed.

(iv) Within 15 days of receiving a written request for appointment of a hearing officer under Section [6.22\(E\)\(8\)\(c\)\(iii\)](#), the Controller shall appoint an impartial hearing officer and immediately notify the enforcing official and Appellant, and their respective counsel or authorized representative if any, of the appointment. The appointed hearing officer shall be an Administrative Law Judge with at least ten years experience with the City and not less than two years experience in labor law, prevailing wage, and/or wage and hour matters; or shall be an attorney with knowledge and not less than five years' experience in labor law, prevailing wage, and/or wage and hour matters.

(v) The hearing officer shall promptly set a date for a hearing. The hearing must commence within 45 days of the date the Controller notice of the hearing officer

appointment, and conclude within 75 days of such notice. The hearing officer shall conduct a fair and impartial evidentiary hearing in conformance with the time limitations set forth in this subsection [6.22\(E\)\(8\)\(c\)](#) and in the rules and regulations, so as to avoid undue delay in the resolution of any appeal. The hearing officer shall have the discretion to extend the times under this subsection [6.22\(E\)\(8\)\(c\)](#), and any time requirements under the rules and regulations, only upon a showing of good cause.

(vi) Appellant has the burden of proving by a preponderance of the evidence that the basis for the Certification of Forfeiture is incorrect, including any back wage and penalty assessments that are at issue in the appeal.

(vii) Within 30 days of the conclusion of the hearing, the hearing officer shall issue a written decision affirming, modifying, or dismissing the forfeiture. The decision of the hearing officer shall consist of findings and a determination. The hearing officer's findings and determination shall be final.

(viii) Appellant may appeal a final determination under this section only by filing in the San Francisco Superior Court a petition for a writ of mandate under California Code of Civil Procedure, section 1084, et seq., as applicable and as may be amended from time to time.

(d) **Distribution of Forfeiture.** The Controller shall withhold any forfeiture as provided in the foregoing paragraphs until such time as either the contractor or subcontractor has conceded to the forfeiture or, in the event of an appeal, there is a determination no longer subject to judicial review. The Controller shall then distribute the amounts withheld in the following order: (1) the Labor Standards Enforcement Officer shall make best efforts to distribute back wages withheld to the individual workers identified as not having been paid the proper wage rate; (2) the penal sums provided for above shall inure to the benefit of the general fund of the City and County of San Francisco; (3) the Controller shall hold the balance of any back wages in escrow for workers whom the Labor Standards Enforcement Officer, despite his/her best efforts, cannot locate. In the event back wages are unclaimed for a period of three years, the Controller shall undertake administrative procedures for unclaimed funds in conformance with Government Code Section 50050, et seq., as may be amended from time to time.

(Added by Ord. 286-99, File No. 991645, App. 11/5/99; amended by Ord. 153-00, File No. 000805, App. 6/30/2000; Ord. 237-00, File No. 001207, App. 10/20/2000; Ord. 7-02, File No. 011675, App. 1/25/2002; Ord. 208-02, File No. 021221, App. 10/18/2002; Ord. 58-05, File No. 041571, App. 4/1/2005; Ord. 107-05, File No. 050215, App. 6/10/2005; Ord. 131-06, File No. 060444, App. 6/22/2006; Ord. 119-08, File No. 080277, App. 7/11/2008; Ord. 19-10, File No. 091163, App. 2/10/2010; Ord. 23-10, File No. 091233, App. 2/11/2010; Ord. 311-10, File No. 101311, App. 12/23/2010; Ord. 79-11, File No. 110330, App. 5/19/2011, Eff. 6/18/2011)

ADMINISTRATIVE CODE

CHAPTER 12W: SICK LEAVE

- SEC. 12W.1. Title.
- SEC. 12W.2. Definitions.
- SEC. 12W.3. Accrual of Paid Sick Leave.
- SEC. 12W.4. Use of Paid Sick Leave.
- SEC. 12W.5. Notice and Posting.
- SEC. 12W.6. Employer Records.
- SEC. 12W.7. Exercise of Rights Protected; Retaliation Prohibited
- SEC. 12W.8. Implementation and Enforcement.
- SEC. 12W.9. Waiver Through Collective Bargaining.
- SEC. 12W.10. Other Legal Requirements.
- SEC. 12W.11. More Generous Employer Leave Policies.
- SEC. 12W.12. Operative Date.
- SEC. 12W.13. Preemption.
- SEC. 12W.14. City Undertaking Limited to Promotion of the General Welfare
- SEC. 12W.15. [Severability.](#)
- SEC. 12W.16. [Amendment by the Board of Supervisors.](#)

SEC. 12W.1. TITLE.

This Chapter shall be known as the "Sick Leave Ordinance."
(Added by Proposition F, 11/7/2006)

SEC. 12W.2. DEFINITIONS.

For purposes of this Chapter, the following definitions apply.

- (a) "Agency" shall mean the Office of Labor Standards Enforcement or any department or office that by ordinance or resolution is designated the successor to the Office of Labor Standards Enforcement.
- (b) "City" shall mean the City and County of San Francisco.
- (c) "Employee" shall mean any person who is employed within the geographic boundaries of the City by an employer, including part-time and temporary employees. "Employee" includes a participant in a Welfare-to-Work Program when the participant is engaged in work activity that would be considered "employment" under the federal Fair Labor Standards Act, 29 U.S.C. §201 et seq., and any applicable U.S. Department of Labor Guidelines. "Welfare-to-Work Program" shall include any public assistance program administered by the Human Services Agency, including but not limited to CalWORKS and the County Adult Assistance Program (CAAP), and any successor programs that are substantially similar to them, that require a public assistance applicant or recipient to work in exchange for their grant.
- (d) "Employer" shall mean any person, as defined in Section 18 of the California Labor Code, including corporate officers or executives, who directly or indirectly or through an agent or any other person, including through the services of a temporary services or staffing agency or similar entity, employs or exercises control over the wages, hours, or working conditions of an employee.

(e) "Paid sick leave" shall mean paid "sick leave" as defined in California Labor Code § 233(b)(4), except that the definition extends beyond the employee's own illness, injury, medical condition, need for medical diagnosis or treatment, or medical reason, to also encompass time taken off work by an employee for the purpose of providing care or assistance to other persons, as specified further in Section 12W.4(a), with an illness, injury, medical condition, need for medical diagnosis or treatment, or other medical reason.

(f) "Small business" shall mean an employer for which fewer than ten persons work for compensation during a given week. In determining the number of persons performing work for an employer during a given week, all persons performing work for compensation on a full-time, part-time, or temporary basis shall be counted, including persons made available to work through the services of a temporary services or staffing agency or similar entity.

(Added by Proposition F, 11/7/2006)

SEC. 12W.3. ACCRUAL OF PAID SICK LEAVE.

(a) For employees working for an employer on or before the operative date of this Chapter, paid sick leave shall begin to accrue as of the operative date of this Chapter. For employees hired by an employer after the operative date of this Chapter, paid sick leave shall begin to accrue 90 days after the commencement of employment with the employer.

(b) For every 30 hours worked after paid sick leave begins to accrue for an employee, the employee shall accrue one hour of paid sick leave. Paid sick leave shall accrue only in hour-unit increments; there shall be no accrual of a fraction of an hour of paid sick leave.

(c) For employees of small businesses, there shall be a cap of 40 hours of accrued paid sick leave. For employees of other employers, there shall be a cap of 72 hours of accrued paid sick leave. Accrued paid sick leave for employees carries over from year to year (whether calendar year or fiscal year), but is limited to the aforementioned caps.

(d) If an employer has a paid leave policy, such as a paid time off policy, that makes available to employees an amount of paid leave that may be used for the same purposes as paid sick leave under this Chapter and that is sufficient to meet the requirements for accrued paid sick leave as stated in subsections (a)-(c), the employer is not required to provide additional paid sick leave.

(e) An employer is not required to provide financial or other reimbursement to an employee upon the employee's termination, resignation, retirement, or other separation from employment, for accrued paid sick leave that the employee has not used.

(Added by Proposition F, 11/7/2006)

SEC. 12W.4. USE OF PAID SICK LEAVE.

(a) An employee may use paid sick leave not only when he or she is ill or injured or for the purpose of the employee's receiving medical care, treatment, or diagnosis, as specified more fully in California Labor Code § 233(b)(4), but also to aid or care for the following persons when they are ill or injured or receiving medical care, treatment, or diagnosis: Child; parent; legal guardian or ward; sibling; grandparent; grandchild; and spouse, registered domestic partner under any state or local law, or designated person. The employee may use all or any percentage of his or her paid sick leave to aid or care for the aforementioned persons. The aforementioned child, parent, sibling, grandparent, and grandchild relationships include not only biological relationships but also relationships resulting from adoption; step-relationships; and foster care relationships. "Child" includes a child of a domestic partner and a child of a person standing in loco parentis.

If the employee has no spouse or registered domestic partner, the employee may designate one person as to whom the employee may use paid sick leave to aid or care for the person. The opportunity to make such a designation shall be extended to the employee no later than the date on which the employee has worked 30 hours after paid sick leave begins to accrue pursuant to Section 12W.3(a). There shall be a window of 10 work days for the employee to make this designation. Thereafter, the opportunity to make such a designation, including the opportunity to change such a designation previously made, shall be extended to the employee on an annual basis, with a window of 10 work days for the employee to make the designation.

(b) An employer may not require, as a condition of an employee's taking paid sick leave, that the employee search for or find a replacement worker to cover the hours during which the employee is on paid sick leave.

(c) An employer may require employees to give reasonable notification of an absence from work for which paid sick leave is or will be used.

(d) An employer may only take reasonable measures to verify or document that an employee's use of paid sick leave is lawful.

(Added by Proposition F, 11/7/2006)

SEC. 12W.5. NOTICE AND POSTING.

(a) The Agency shall, by the operative date of this Chapter, publish and make available to employers, in all languages spoken by more than 5% of the San Francisco workforce, a notice suitable for posting by employers in the workplace informing employees of their rights under this Chapter. The Agency shall update this notice on December 1 of any year in which there is a change in the languages spoken by more than 5% of the San Francisco workforce. In its discretion, the Agency may combine the notice required herein with the notice required by Section 12R.5(a) of the Administrative Code.

(b) Every employer shall post in a conspicuous place at any workplace or job site where any employee works the notice required by subsection (a). Every employer shall post this notice in English, Spanish, Chinese, and any language spoken by at least 5% of the employees at the workplace or job site. (Added by Proposition F, 11/7/2006)

SEC. 12W.6. EMPLOYER RECORDS.

Employers shall retain records documenting hours worked by employees and paid sick leave taken by employees, for a period of four years, and shall allow the Agency access to such records, with appropriate notice and at a mutually agreeable time, to monitor compliance with the requirements of this Chapter. When an issue arises as to an employee's entitlement to paid sick leave under this Chapter, if the employer does not maintain or retain adequate records documenting hours worked by the employee and paid sick leave taken by the employee, or does not allow the Agency reasonable access to such records, it shall be presumed that the employer has violated this Chapter, absent clear and convincing evidence otherwise. (Added by Proposition F, 11/7/2006)

SEC. 12W.7. EXERCISE OF RIGHTS PROTECTED; RETALIATION PROHIBITED.

It shall be unlawful for an employer or any other person to interfere with, restrain, or deny the exercise of, or the attempt to exercise, any right protected under this Chapter.

It shall be unlawful for an employer or any other person to discharge, threaten to discharge, demote, suspend, or in any manner discriminate or take adverse action against any

person in retaliation for exercising rights protected under this Chapter. Such rights include but are not limited to the right to use paid sick leave pursuant to this Chapter; the right to file a complaint or inform any person about any employer's alleged violation of this Chapter; the right to cooperate with the Agency in its investigations of alleged violations of this Chapter; and the right to inform any person of his or her potential rights under this Chapter.

It shall be unlawful for an employer absence control policy to count paid sick leave taken under this Chapter as an absence that may lead to or result in discipline, discharge, demotion, suspension, or any other adverse action.

Protections of this Chapter shall apply to any person who mistakenly but in good faith alleges violations of this Chapter.

Taking adverse action against a person within 90 days of the person's filing a complaint with the Agency or a court alleging a violation of any provision of this Chapter; informing any person about an employer's alleged violation of this Chapter; cooperating with the Agency or other persons in the investigation or prosecution of any alleged violation of this Chapter; opposing any policy, practice, or act that is unlawful under this Chapter; or informing any person of his or her rights under this Chapter shall raise a rebuttable presumption that such adverse action was taken in retaliation for the exercise of one or more of the aforementioned rights.

(Added by Proposition F, 11/7/2006)

SEC. 12W.8. IMPLEMENTATION AND ENFORCEMENT.

(a) Implementation. The Agency shall be authorized to coordinate implementation and enforcement of this Chapter and may promulgate appropriate guidelines or rules for such purposes. Any guidelines or rules promulgated by the Agency shall have the force and effect of law and may be relied on by employers, employees, and other persons to determine their rights and responsibilities under this Chapter. Any guidelines or rules may establish procedures for ensuring fair, efficient, and cost-effective implementation of this Chapter, including supplementary procedures for helping to inform employees of their rights under this Chapter, for monitoring employer compliance with this Chapter, and for providing administrative hearings to determine whether an employer or other person has violated the requirements of this Chapter.

(b) Administrative Enforcement. The Agency is authorized to take appropriate steps to enforce this Chapter. The Agency may investigate any possible violations of this Chapter by an employer or other person. Where the Agency has reason to believe that a violation has occurred, it may order any appropriate temporary or interim relief to mitigate the violation or maintain the status quo pending completion of a full investigation or hearing.

Where the Agency, after a hearing that affords a suspected violator due process, determines that a violation has occurred, it may order any appropriate relief including, but not limited to, reinstatement, back pay, the payment of any sick leave unlawfully withheld, and the payment of an additional sum as an administrative penalty to each employee or person whose rights under this Chapter were violated. If any paid sick leave was unlawfully withheld, the dollar amount of paid sick leave withheld from the employee multiplied by three, or \$250.00, whichever amount is greater, shall be included in the administrative penalty paid to the employee. In addition, if a violation of this Chapter resulted in other harm to the employee or any other person, such as discharge from employment, or otherwise violated the rights of employees or other persons, such as a failure to post the notice required by Section 12W.5(b), or an act of retaliation prohibited by Section 12W.7, this administrative

penalty shall also include \$50.00 to each employee or person whose rights under this Chapter were violated for each day or portion thereof that the violation occurred or continued.

Where prompt compliance is not forthcoming, the Agency may take any appropriate enforcement action to secure compliance, including initiating a civil action pursuant to Section 12W.8(c) and/or, except where prohibited by State or Federal law, requesting that City agencies or departments revoke or suspend any registration certificates, permits or licenses held or requested by the employer or person until such time as the violation is remedied. In order to compensate the City for the costs of investigating and remedying the violation, the Agency may also order the violating employer or person to pay to the City a sum of not more than \$50.00 for each day or portion thereof and for each employee or person as to whom the violation occurred or continued. Such funds shall be allocated to the agency and used to offset the costs of implementing and enforcing this Chapter.

An employee or other person may report to the agency any suspected violation of this Chapter. The Agency shall encourage reporting pursuant to this subsection by keeping confidential, to the maximum extent permitted by applicable laws, the name and other identifying information of the employee or person reporting the violation. Provided, however, that with the authorization of such person, the Agency may disclose his or her name and identifying information as necessary to enforce this Chapter or for other appropriate purposes.

(c) Civil Enforcement. The Agency, the City Attorney, any person aggrieved by a violation of this Chapter, any entity a member of which is aggrieved by a violation of this Chapter, or any other person or entity acting on behalf of the public as provided for under applicable State law, may bring a civil action in a court of competent jurisdiction against the employer or other person violating this Chapter and, upon prevailing, shall be entitled to such legal or equitable relief as may be appropriate to remedy the violation including, but not limited to, reinstatement, back pay, the payment of any sick leave unlawfully withheld, the payment of an additional sum as liquidated damages in the amount of \$50.00 to each employee or person whose rights under this Chapter were violated for each hour or portion thereof that the violation occurred or continued, plus, where the employer has unlawfully withheld paid sick leave to an employee, the dollar amount of paid sick leave withheld from the employee multiplied by three; or \$250.00, whichever amount is greater; and reinstatement in employment and/or injunctive relief; and, further, shall be awarded reasonable attorneys' fees and costs. Provided, however, that any person or entity enforcing this Chapter on behalf of the public as provided for under applicable State law shall, upon prevailing, be entitled only to equitable, injunctive or restitutionary relief, and reasonable attorneys' fees and costs.

(d) Interest. In any administrative or civil action brought under this Chapter, the Agency or court, as the case may be, shall award interest on all amounts due and unpaid at the rate of interest specified in subdivision (b) of Section 3289 of the California Civil Code.

(e) Remedies Cumulative. The remedies, penalties, and procedures provided under this Chapter are cumulative.

(Added by Proposition F, 11/7/2006)

SEC. 12W.9. WAIVER THROUGH COLLECTIVE BARGAINING.

All or any portion of the applicable requirements of this Chapter shall not apply to employees covered by a bona fide collective bargaining agreement to the extent that such requirements are expressly waived in the collective bargaining agreement in clear and unambiguous terms.

(Added by Proposition F, 11/7/2006)

SEC. 12W.10. OTHER LEGAL REQUIREMENTS.

This Chapter provides minimum requirements pertaining to paid sick leave and shall not be construed to preempt, limit, or otherwise affect the applicability of any other law, regulation, requirement, policy, or standard that provides for greater accrual or use by employees of sick leave, whether paid or unpaid, or that extends other protections to employees. (Added by Proposition F, 11/7/2006)

SEC. 12W.11. MORE GENEROUS EMPLOYER LEAVE POLICIES.

This Chapter provides minimum requirements pertaining to paid sick leave and shall not be construed to prevent employers from adopting or retaining leave policies that are more generous than policies that comply with this Chapter. Employers are encouraged to provide more generous leave policies than required by this Chapter. (Added by Proposition F, 11/7/2006)

SEC. 12W.12. OPERATIVE DATE.

This Chapter shall become operative 90 days after its adoption by the voters at the November 7, 2006 election. This Chapter shall have prospective effect only. (Added by Proposition F, 11/7/2006)

SEC. 12W.13. PREEMPTION.

Nothing in this Chapter shall be interpreted or applied so as to create any power or duty in conflict with federal or state law. (Added by Proposition F, 11/7/2006)

SEC. 12W.14. CITY UNDERTAKING LIMITED TO PROMOTION OF GENERAL WELFARE.

In undertaking the adoption and enforcement of this Chapter, the City is undertaking only to promote the general welfare. The City is not assuming, nor is it imposing on its officers and employees, an obligation for breach of which it is liable in money damages to any person who claims that such breach proximately caused injury. This Chapter does not create a legally enforceable right by any member of the public against the City. (Added by Proposition F, 11/7/2006)

SEC. 12W.15. SEVERABILITY.

If any part or provision of this Chapter, or the application of this Chapter to any person or circumstance, is held invalid, the remainder of this Chapter, including the application of such part or provision to other persons or circumstances, shall not be affected by such a holding and shall continue in full force and effect. To this end, the provisions of this Chapter are severable. (Added by Proposition F, 11/7/2006)

SEC. 12W.16. AMENDMENT BY THE BOARD OF SUPERVISORS.

The Board of Supervisors may amend this Chapter with respect to matters relating to its implementation and enforcement (including but not limited to those matters addressed in Section 12W.8) and matters relating to employer requirements for verification or documentation of an employee's use of sick leave, but not with respect to this Chapter's substantive requirements or scope of coverage; provided, however, that, in the event any

provision in this Chapter is held legally invalid, the Board retains the power to adopt legislation concerning the subject matter that was covered in the invalid provision.
(Added by Proposition F, 11/7/2006)

ADMINISTRATIVE CODE

CHAPTER 16: OFFICERS AND EMPLOYEES GENERALLY

ARTICLE II VACATIONS

- SEC. 16.10. Definitions.
- SEC. 16.11. Calculation of Vacations.
- SEC. 16.12. Award and Accrual of Vacation.
- SEC. 16.13. Effect of Separation Upon Vacation.
- SEC. 16.14. Vacation Schedules.
- SEC. 16.15. Use of Partial Vacation to Supplement Disability Leave.
- SEC. 16.16. Vacation Charges Between Departments.
- Sec. 16.17. Paid Administrative Leave.

SEC. 16.10. DEFINITIONS.

- (a) "Continuous service" for vacation allowance purposes means paid service pursuant to a regular work schedule which is not interrupted by a breach in service and shall include periods of unpaid furlough in accordance with a Civil Service Rule governing voluntary and involuntary furloughs.
- (b) "Employee" means "Every person employed in the City and County service" which, as used in Charter Section 8.440 includes the classified employees of the City and County of San Francisco as provided in Section 3.661 of the Charter and classified personnel of the San Francisco Unified School District and Community College District, and officers, other than elected officers.
- (c) "Irregular work schedule" means a work schedule for which the frequency and length is determined solely by the immediate or imminent needs of the service and which is subject to change at any time. Service in an irregular schedule does not constitute continuous service for vacation purposes.
- (d) "Maximum vacation entitlement" means the maximum vacation allowance an employee may earn in any 12 month period. The amount is based on years of continuous service as follows:

Years of Continuous Service	Maximum Vacation Entitlement
1 through 5 years	80 hours
more than 5 through 15 years	120 hours
more than 15 years	160 hours

- (e) "Paid service" means service in paid status with the City and County of San Francisco, the San Francisco Unified School District or the Community College District, as applicable, and includes hours paid as sick leave, vacation, compensatory time-off and overtime for employees who are eligible for overtime pay under the administrative provisions of the Annual Salary Standardization Ordinance.

- (f) "Regular work schedule" means a work schedule consisting of a pre-determined and fixed number of hours to be worked on a routine basis and includes an authorized flex-time schedule.
 - (g) "Temporary disability" means temporary disability pursuant to the Worker's Compensation or State Disability Laws of the State of California or the industrial disability provisions of Charter Sections 8.515 or 8.516.
 - (h) "Vacation allowance" means the leave with pay for vacation purposes which an employee accrues or is awarded under the terms of this ordinance.
 - (i) "Vacation with pay" means the compensation the employee would have earned during the vacation period if the employee had worked during the same period, without the inclusion of overtime earnings or special pay.
 - (j) "Unpaid furlough" means voluntary or involuntary time off without pay imposed or approved in accordance with a Civil Service Rule governing unpaid furloughs in response to a projected budgetary shortfall.
- (Amended by Ord. 182-85, App. 4/12/85; amended by Ord. 54-93, App. 3/4/93)

SEC. 16.11. CALCULATION OF VACATIONS.

- (a) No employee is entitled to a vacation allowance until the employee has completed one year of continuous service.
- (b) For purposes of determining the vacation allowance the anniversary date for an employee shall be the first date of employment in the current period of continuous service.
- (c) Continuous service shall not be deemed to have been breached:
 - (1) By an employee because of absence from service due to duly authorized leave; or
 - (2) By a permanent employee laid off due to lack of work or funds, provided the employee is reappointed to a position in the service with a regular work schedule within five years of lay-off; or
 - (3) By a permanent school term employee because of a period when schools are not normally in session; or
 - (4) By a permanent employee who resigns in good standing and is reappointed to a position in the service with a regular work schedule within six months from the effective date of resignation; or
 - (5) By a temporary or provisional (noncivil service or limited tenure) employee who has completed one year of continuous service and resigns in good standing or is laid off and is reappointed to a position in the service with a regular work schedule within six months from the effective date of resignation or layoff; or
 - (6) By an employee who has resigned from a position with services certified as other than satisfactory by the appointing officer if the employee is granted reappointment rights by the Civil Service Commission and is reappointed to a position in the service with a regular work schedule within six months from the effective date of resignation; or
 - (7) By a period of voluntary or involuntary furlough without pay imposed or approved in accordance with a Civil Service Rule governing unpaid furloughs in response to a projected budgetary shortfall.
- (d) Without regard to any other provisions in this Section, no vacation allowance is earned for paid service in an irregular work schedule.
- (e) An employee who has completed one year of continuous service shall accrue vacation allowance at the rate of .0385 of an hour for each hour of qualifying service. An employee who has completed five years of continuous service shall accrue thereafter a vacation

allowance at a rate of .0577 of an hour for each hour of paid service. An employee who has completed 15 years of continuous service shall accrue a vacation allowance a rate of .077 of an hour for each hour of paid service.

(f) No employee shall be credited with more than 2080 hours of paid service in any 12 month period for purposes of computing the vacation allowance.

(g) The vacation allowance for an employee receiving temporary disability benefits shall be computed on the basis of the number of hours in the employee's regular work schedule; provided, however, that an employee not supplementing State Disability Insurance payments with earnings from paid service will not accrue a vacation allowance during the period of disability. An employee who has received a permanent disability award and who does not return to employment because of such disability is not entitled to accrue a vacation allowance.

(h) For members of the uniformed force of the Fire Department, the factors for earning vacation allowance, the maximum number of hours credited for vacation allowance purposes and the maximum number of vacation hours an employee may accrue shall be administered in a manner consistent with the intent of this ordinance and approved by the General Manager, Personnel. In addition, if necessary because of minimum daily staffing requirements and the financial and scheduling problems created in bringing the uniformed force into conformity with Section 16.12(e) and (f), the Fire Department may establish an alternative schedule or other means for decreasing in an equitable manner the maximum accrual of vacation allowance to an amount consistent with that permitted other City employees under Section 16.12(e) no later than December 31, 1989. If the Fire Department establishes an alternative schedule, it may not permit a member of the uniformed force to accrue vacation days or hours in excess of the following:

Years of Continuous Service	Maximum Accrual
1 through 5 years.....	50 days or 400 hours
more than 5 years through 15 years.	60 days or 480 hours
more than 15 years.....	70 days or 560 hours

(i) Any dispute over whether an employee is assigned to a regular or an irregular work schedule shall be finally decided by the Civil Service Commission.

(Amended by Ord. 182-85, App. 4/12/85; Ord. 54-93, App. 3/4/93)

SEC. 16.12. AWARD AND ACCRUAL OF VACATION.

(a) Beginning with the first full pay period after the effective date of this ordinance, an employee shall be awarded the employee's vacation allowance on the first day of the pay period following the pay period in which the allowance is accrued.

(b) An employee does not accrue vacation allowance in the first year of continuous service, however, at the end of one year of continuous service, an employee shall be awarded a vacation allowance computed at the rate of .0385 of an hour for each hour of paid service in the preceding year.

(c) At the end of five years of continuous service, an employee shall be awarded a one-time vacation allowance computed at the rate of .01924 of an hour for each hour of paid service in the preceding year except that the amount of the vacation allowance shall not exceed 40 hours.

(d) At the end of fifteen years of continuous service, an employee shall be awarded a one-time vacation allowance computed at the rate of .01924 of an hour for each hour of paid service in the preceding year except that the amount of the vacation allowance shall not exceed 40 hours.

(e) The maximum number of vacation hours an employee may accrue consists of 240 hours carried forward from prior years plus the employee's maximum vacation entitlement which is based on the number of years of service. The maximum number of vacation hours which an employee may accrue is as follows:

Years of Continuous Service	Maximum Accrual
1 through 5 years	320 hours
more than 5 through 15 years	360 hours
more than 15 years	400 hours

(f) On the first day of the second pay period following the effective date of this ordinance, employees shall be awarded any vacation allowance accrued between January 1, 1985, and the first day of the second pay period following the effective date of this ordinance. In order to prevent employees from unfairly losing accrued vacation allowance in the transition from an award date of January 1st of each year, the limitation on the number of vacation hours an employee may accrue as set forth in Subsection 16.12(e) shall not apply between the effective date of this ordinance and January 9, 1987. Vacation allowance hours in excess of those set forth in Section 16.12(e) will be lost if not used before January 9, 1987.

(Amended by Ord. 97-86, App. 3/27/86)

SEC. 16.13. EFFECT OF SEPARATION UPON VACATION.

An employee in the final year of service may with the approval of the appointing officer elect to receive a cash payment in lieu of vacation due at the time of separation, provided that the appointment and payment of a replacement for the period of time representing such cash payment in lieu of vacation is not required. In lieu of such cash payment an employee who separates from City and County service and who without interruption in service is appointed to any governmental agency whose employees are eligible for membership in the San Francisco City and County Retirement System may elect to transfer such accumulated vacation to such agency if the agency rule or regulation permits the crediting of such accumulated vacation. (Amended by Ord. 182-85, App. 4/12/85)

SEC. 16.14. VACATION SCHEDULES.

(a) Appointing officers are responsible for approving vacation schedules. In approving vacation schedules, the appointing officers shall give due regard to employee seniority and preference and the needs of the service. Unless an emergency situation exists requiring the immediate presence of an employee, an employee shall be allowed to begin a vacation on the day immediately following the employee's normal day off.

(b) With the approval of the appointing officer, an employee's vacation allowance may be taken in increments of not less than one hour.

(c) Except as requested by the employee to supplement disability benefits, the vacation allowance of an employee, who has started a vacation and who suffers a nonindustrial injury or illness or a recurrence of an industrial injury or illness during such vacation and who is

entitled to and receives temporary disability benefits, shall not be charged for periods in which the employee receives disability benefits.

(d) Every department shall maintain records which shall include, in addition to all other information required by the Civil Service Commission and Controller, the employee's accrued vacation allowance. When an employee accepts a permanent appointment to another department, the employee's vacation and sick leave records shall be transferred by the first department to the second department. Ninety calendar days after an automated payroll/personnel data system is fully implemented in a department, and, upon approval of the General Manager, Personnel, and the Controller, the maintenance of such records by the department shall no longer be required. All records shall, however, continue to be preserved according to present statutory requirements. (Amended by Ord. 182-85, App. 4/12/85)

SEC. 16.15. USE OF PARTIAL VACATION TO SUPPLEMENT DISABILITY LEAVE.

An employee who is absent from duty because of temporary disability may use his or her vacation allowance to supplement disability benefits; provided, that when the vacation allowance payment is added to the disability benefits payable under the Workers' Compensation or State Disability Insurance Laws, the employee's bi-weekly payment will not exceed the normal salary of the employee for the regular work schedule effective at the commencement of the disability. An employee desiring to use his or her vacation allowance to supplement State Disability Insurance benefits shall, within seven calendar days following the first day of absence, and on a form provided by the Civil Service Commission, so inform his or her appointing officer or designated representative. Notwithstanding the foregoing, an employee receiving temporary workers' compensation disability benefits may accrue vacation hours in excess of the maximum accrual permitted pursuant to Section 16.12(e). Upon the cessation of the employee's receipt of temporary disability benefits the employee shall receive a cash payment for any vacation hours accrued in excess of the number the employee was permitted to accrue pursuant to Section 16.12(e). (Amended by Ord. 182-85, App. 4/12/85)

SEC. 16.16. VACATION CHARGES BETWEEN DEPARTMENTS.

The Controller shall establish procedures for the method of payment of salaries to employees entitled to vacation from service in two or more departments of the City and County. (Added by Ord. 316-81, App. 6/19/81)

SEC. 16.17. PAID ADMINISTRATIVE LEAVE.

(a) Appointing Officers, as defined in Administrative Code Section 2A.30, in the City and County of San Francisco are authorized, but not required, to place any City employee in their department on paid administrative leave under the following circumstances:

(1) When the City has initiated an investigation relating to an employee's conduct, and the Appointing Officer determines that the employee should be placed on leave during some or all of the investigation in order to protect the legitimate interests of the City, including but not limited to, potential interference with the effectiveness of the investigation, or potential harm to employees, to the public interest or to the operation of the City, for a period of time beginning not earlier than the start of the investigation and ending not later than the date the investigation is completed, subject to a maximum of thirty (30) calendar days;

(2) When the City requires an employee to submit to drug and/or alcohol testing pursuant to the terms of a City or departmental policy, a Memorandum of Understanding between the City and a recognized employee organization, or local, state or federal law, for the period of time between the date the City directs the employee to submit to such testing until the employee refuses such testing or the testing is completed and the City is advised of the results of the testing, subject to a maximum of thirty (30) calendar days;

(3) When the City medically removes an employee pursuant to standards set forth by the California Occupational Safety and Health Administration in Title 8 of the California Code of Regulations;

(4) When the City requires an employee to undergo a fitness for duty examination pursuant to Civil Service Rules 116, 216, 316, 416, or any similar successor rules, for up to the period of time from the date the City directs the employee to undergo a fitness for duty examination until: (i) the date the examination is completed and the City is notified by the examining physician whether the employee is fit for duty; or (ii) the date the employee refuses examination. Paid administrative leave under this subsection is subject to a maximum of thirty (30) calendar days. In the event that the examining physician does not notify the City that the employee is fit for duty on the day of the examination, the Appointing Officer shall place the employee on compulsory sick leave pursuant to the Civil Service Rules starting on the business day following the examination. Should the examining physician thereafter declare the employee fit for duty, the City shall restore any sick leave deducted between the date of the examination and the date the City is so notified or, in the event the employee has no accrued sick leave, any lost compensation for the same period.

(b) While an employee is on paid administrative leave the employee shall receive the compensation he or she would have earned if the employee had worked during the same period, without the inclusion of overtime earnings or special pay.

(c) The Appointing Officer shall have the discretion to remove an employee from paid administrative leave at any time during the period of paid administrative leave.

(d) Subject to the prior written approval of the Director of the Department of Human Resources, the Appointing Officer may extend paid administrative leave one (1) time consistent with this Section for no more than an additional thirty (30) calendar days. For Service Critical Employees employed by the Municipal Transportation Agency, the Director of the Municipal Transportation Agency may extend paid administrative leave one (1) time consistent with this Section for no more than an additional thirty (30) calendar days. Under no circumstances may an employee be on paid administrative leave for more than sixty (60) calendar days relating to the same incident.

(e) The City's ability to place employees on paid administrative leave under this section is in addition to, not in lieu of, its right to place employees on unpaid administrative leave under Charter Section A8.341, or any similar successor Charter Section. The City may elect to place an employee on paid or unpaid administrative leave as permitted under this Section or under Charter Section A8.341. Further, the City may place an employee on paid administrative leave either before or after the employee is placed on unpaid administrative leave.

(f) Nothing herein shall limit or prohibit compliance with the regulations of the California Occupational Safety and Health Administration in Title 8 of the California Code of Regulations.

(Added by Ord. 174-11, File No. 110622, App. 9/12/2011, Eff. 10/12/2011)

ADMINISTRATIVE CODE**CHAPTER 16: OFFICERS AND EMPLOYEES GENERALLY****ARTICLE XI
DISABILITY BENEFITS**

SEC. 16.170. Entitlement Defined.

SEC. 16.170. ENTITLEMENT DEFINED.

Whenever any officer or employee of the City and County of San Francisco, other than an officer or employee to whom the disability benefit provisions of Section 8.515 of the Charter are applicable, is incapacitated for the performance of his or her duty by reason of bodily injury or illness received in the performance of his or her duty and caused by an act of criminal violence he or she shall become entitled, regardless of his or her period of service with the City and County, to disability benefits equal to and in lieu of his or her salary, while so disabled, for a period or periods not exceeding 12 months in the aggregate with respect to any one such injury or illness. The entitlement of such officer or employee to the disability benefits provided in this Section shall be determined by the Civil Service Commission.

Said disability benefits shall be reduced in the manner provided in Section 16.84 of this Code by the amount of any benefits, other than medical benefits, payable to such officer or employee under the Labor Code of the State of California concurrently with said disability benefits and because of the injury or illness resulting in said disability. Such disability benefits as are paid under this Section shall be considered as in lieu of any benefits, other than medical benefits, payable to such officer or employee under said Labor Code and shall be in satisfaction and discharge of the obligation of the City and County to pay such benefits.

Such disability benefits as are paid under this Section shall be considered as in lieu of any benefits payable to such employee by the City and County under any sick leave rule or other wage-continuation program provided by the City and County and shall be in satisfaction and discharge of the obligation of the City and County to pay such benefits.

(Added by Ord. 31-72, App. 2/16/72)

ADMINISTRATIVE CODE**CHAPTER 16: OFFICERS AND EMPLOYEES GENERALLY****ARTICLE XI-A: EMPLOYEE RELATIONS**

- SEC. 16.200. Title of Ordinance.
- SEC. 16.201. Statement of Purpose
- SEC. 16.202. Definitions.
- SEC. 16.203. Employee Relations Division
- SEC. 16.204. Powers and Duties of the Civil Service Commission
- SEC. 16.205. Utilization of Administrative Law Judges.
- SEC. 16.206. Management Rights.
- SEC. 16.207. Employee Rights.
- SEC. 16.208. Designation of Management, Supervisory and Confidential Employees.
- SEC. 16.209. Procedure for Registration of Employee Organizations.
- SEC. 16.210. Establishment of Bargaining Units.
- SEC. 16.211. Procedure for Recognition of Employee Organization as Exclusive Representative of a Bargaining Unit.
- SEC. 16.212. Decertification.
- SEC. 16.213. Unfair Labor Practices —Peace Officers and Management Employees Only.
- SEC. 16.214. Election of Remedies for Unfair Labor Practices and Other Related Violations—Peace Officers and Management Employees Only.
- SEC. 16.215. Procedures for Administratively Processing Unfair Labor Practices—Peace Officers and Management Employees Only.
- SEC. 16.216. Sanctions for Unfair Labor Practices—Peace Officers and Management Employees Only.
- SEC. 16.217. Meeting and Conferring in Good Faith.
- SEC. 16.218. Employees Meeting on City and County Time.
- SEC. 16.219. Dues Deduction.
- SEC. 16.220. Separability.

SEC. 16.200. TITLE OF ORDINANCE.

This Ordinance shall be known as the Employee Relations Ordinance of the City and County of San Francisco. (Amended by Ord. 313-76, App. 7/30/76; Ord. 296-10, File No. 101157, App. 12/3/2010; Ord. 17-12, File No. 111067, App. 2/7/2012, Eff. 3/8/2012)

SEC. 16.201. STATEMENT OF PURPOSE.

The purpose of this Ordinance is to promote full communication between the City and County of San Francisco and its employees, to promote the improvement of personnel management and employer employee relations within City and County government by implementing the recognition and other provisions of the Meyers-Milias-Brown Act ("MMBA"), California Government Code §§ 3500, et seq., to provide a uniform basis for recognizing the right of City and County employees to join employee organizations of their own choice, and to be represented by such organizations in their employment relationship with the City and County, and to provide a reasonable non-exclusive method of resolving

disputes between the City and County and those employees and employee organizations not subject to the jurisdiction of the California Public Employment Relations Board.

Nothing contained herein shall be deemed to supersede the provisions of the City and County Charter, ordinances, or Civil Service Commission rules establishing and regulating the civil service system; provided, however, that amendments to existing ordinances and Civil Service Commission rules may be proposed through utilization of the meeting and conferring process.

The provisions of this Ordinance shall be consistent with the terms of the MMBA and shall not supersede any conflicting provision of any collective bargaining agreement during its term.

(Amended by Ord. 313-76, App. 7/30/76; Ord. 296-10, File No. 101157, App. 12/3/2010; Ord. 17-12, File No. 111067, App. 2/7/2012, Eff. 3/8/2012)

SEC. 16.202. DEFINITIONS.

Unless the context requires otherwise, the words and phrases set forth in Sections 16.202.1 through 16.202.17 1, inclusive, shall have the meanings respectively ascribed to them in said sections.

SEC. 16.202.1.

"Confidential employee" means an employee who is privy to recommendations or decisions of City and County management affecting employee relations.

SEC. 16.202.2.

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

SEC. 16.202.3.

"Days" means calendar days.

SEC. 16.202.4.

"Employee organization" means any organization or joint council of organizations which includes employees of the City and County, and which has as one of its purposes representing such employees in their relations with the City and County.

SEC. 16.202.5.

"Bargaining unit" means a unit established pursuant to Section 16.210 of this Ordinance.

SEC. 16.202.6.

"Management employee" means any employee, as designated by the Human Resources Director or designee, who has a high degree of policymaking and managerial responsibility with respect to the formulation, coordination, interpretation and execution of policy, including but not limited to the direction and supervision of subordinates.

SEC. 16.202.7.

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

SEC. 16.202.8.

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

SEC. 16.202.9.

"Commission" means the Civil Service Commission of the City and County of San Francisco as established pursuant to Section 10.100 of the San Francisco Charter.

SEC. 16.202.10.

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

SEC. 16.202.11.

"Exclusive Representative" means an employee organization which, in accordance with the MMBA, has been:

- (a) chosen by the majority of employees in a bargaining unit to represent them, pursuant to Section 16.211 of this Ordinance; and
- (b) certified by the Civil Service Commission pursuant to Section 16.211

SEC. 16.202.12.

"Registered employee organization" means an employee organization which has been registered with the Human Resources Director or designee, as provided in Section 16.209 of this Ordinance.

SEC. 16.202.13.

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

SEC. 16.202.14.

"Supervisory employee" means any employee, as designated by the Human Resources Director or designee, who has authority to hire, assign, evaluate or discipline other employees, or to adjust their grievances, or effectively to recommend any such action.

SEC. 16.202.15.

"Peace Officer" means an individual elected, appointed, or employed to serve in the position of peace officer as defined in California Penal Code 830.1. (Amended by Ord. 313-76, App. 7/30/76; Ord. 296-10, File No. 101157, App. 12/3/2010; Ord. 17-12, File No. 111067, App. 2/7/2012, Eff. 3/8/2012)

CODIFICATION NOTE

1. So in Ord. 17-12 and previously; as of the passage of that ordinance, the highest numbered definition in this Article was 16.202.15.

SEC. 16.203. EMPLOYEE RELATIONS DIVISION.

(a) There is hereby created an Employee Relations Division, which shall be placed under the control of the Human Resources Director. The Human Resources Director or designee shall serve as the representative of the City and County of San Francisco in the implementation of those provisions of the MMBA applicable to the City and County of San Francisco and which are not specifically delegated by Charter provision and/or ordinance to a particular officer, board or commission of the City and County. To the extent the powers and duties of the Human Resources Director are transferred to the Municipal Transportation Agency by Charter for job classifications designated as performing service-critical functions or to another officer, board or commission of the City and County by operation of the Charter or ordinance, this Ordinance shall not apply.

(b) Nothing contained herein shall be deemed to prevent the City from contracting for the performance of functions carried out by, and/or required of the Employee Relations Division, pursuant to Charter Sections 8.300 and 8.300-1. 1
(Amended by Ord. 383-80, App. 8/22/80; Ord. 109-94, App. 3/11/94; Ord. 296-10, File No. 101157, App. 12/3/2010; Ord. 17-12, File No. 111067, App. 2/7/2012, Eff. 3/8/2012)

SEC. 16.204. POWERS AND DUTIES OF THE CIVIL SERVICE COMMISSION.

In addition to such other powers and duties as it has under the Charter and this ordinance and as may be conferred upon it from time to time by law, the Civil Service Commission shall have the power and duty:

(1) To certify as the exclusive representative of a bargaining unit that employee organization which has been selected by the employees in such bargaining unit pursuant to Section 16.211 of this Ordinance;

(2) To conduct elections to ascertain which employee organization represents a majority of the employees in a particular bargaining unit, or to arrange for the election to be conducted by a mutually agreed upon third party;

(3) To decertify as the exclusive representative an employee organization which has been found by election no longer to be the majority representative in a particular bargaining unit;

(4) To adopt rules and regulations for the conduct of its business and the carrying out of its powers and duties;

(5) To administratively process all matters which require or permit a hearing before an administrative law judge and to the extent necessary make all arrangements for said hearings. The Commission, after review of the facts in any particular dispute, may attempt to obtain the agreement of the parties involved on the disputed issue(s) before the matter is submitted to an administrative law judge.

(Amended by Ord. 313-76, App. 7/30/76; Ord. 296-10, File No. 101157, App. 12/3/2010; Ord. 17-12, File No. 111067, App. 2/7/2012, Eff. 3/8/2012)

SEC. 16.205. UTILIZATION OF ADMINISTRATIVE LAW JUDGES.

The City and County is hereby authorized to enter into an agreement or contract with the Office of Administrative Hearings, California State Personnel Board, for the purpose of obtaining the services of an administrative law judge. Such agreement or contract shall provide that said administrative law judge shall be responsible for the duties as hereinafter set forth in this Ordinance.

The costs involved in obtaining the services of an administrative law judge as necessitated by this Ordinance shall be borne by the City and County of San Francisco, provided, however, that all expenses incurred by the City and County in utilizing the administrative law judge in processing unfair labor practice complaints shall be divided equally among the parties involved.

The authority of the administrative law judge shall be to the extent as set forth in this Ordinance and in no event shall any decision of the administrative law judge conflict with, alter or attempt to alter the provisions of the Charter or rules and regulations of the Civil Service Commission.

Any costs incurred in transcribing and reporting the proceedings shall be borne by the party requesting such transcribing or reporting, unless a contrary agreement is reached by mutual consent.

(Amended by Ord. 313-76, App. 7/30/76; Ord. 296-10, File No. 101157, App. 12/3/2010; Ord. 17-12, File No. 111067, App. 2/7/2012, Eff. 3/8/2012)

SEC. 16.206. MANAGEMENT RIGHTS.

The City and County of San Francisco retains all rights as set forth in the provisions in the Charter of the City and County of San Francisco, existing ordinances and civil service rules establishing and regulating the Civil Service System; provided, however, that amendments to said existing ordinances, and civil service rules may be proposed through the meeting and conferring process. The exercise of City and County rights does not preclude employees or exclusive representatives from consulting or raising grievances on decisions which affect wages, hours and other terms and conditions of employment. The City and County reserves the right to take whatever action may be necessary in an emergency situation; however, an exclusive representative affected by the action shall be promptly notified.

(Amended by Ord. 313-76, App. 7/30/76; Ord. 109-94, App. 3/11/94; Ord. 296-10, File No. 101157, App. 12/3/2010; Ord. 17-12, File No. 111067, App. 2/7/2012, Eff. 3/8/2012)

SEC. 16.207. EMPLOYEE RIGHTS.

Employees of the City and County shall have the right to form, join and participate in the activities of employee organizations of their own choosing for the purpose of representation on all matters of employee relations. Employees of the City and County shall also have the right to refuse to join or participate in the activities of employee organizations. Employees shall also have the right to represent themselves individually in their employment relations with the City and County, consistent with Government Code section 3502. No employee shall be interfered with, intimidated, restrained, coerced or discriminated against because of his or her exercise of those rights.

(Amended by Ord. 313-76, App. 7/30/76; Ord. 296-10, File No. 101157, App. 12/3/2010; Ord. 17-12, File No. 111067, App. 2/7/2012, Eff. 3/8/2012)

SEC. 16.208. DESIGNATION OF MANAGEMENT, SUPERVISORY AND CONFIDENTIAL EMPLOYEES.

(a) The Human Resources Director or designee, in consultation with department heads, shall specify the employees who are to be designated as management, supervisory or

confidential for the purpose of this Ordinance. Each such person shall be notified by his or her department head of his or her management, supervisory or confidential status. A list of the employees so designated shall be maintained in the office of the Human Resources Director.

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

(c) Confidential employees may not represent an employee organization which represents other than confidential employees on matters within the scope of representation. (Amended by Ord. 313-76, App. 7/30/76; Ord. 109-94, App. 3/11/94; Ord. 296-10, File No. 101157, App. 12/3/2010; Ord. 17-12, File No. 111067, App. 2/7/2012, Eff. 3/8/2012)

SEC. 16.209. PROCEDURE FOR REGISTRATION OF EMPLOYEE ORGANIZATIONS.

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

- (1) Name and address of the employee organization.
- (2) Names and titles of its officers, as well as designation of the officials authorized to act as representatives of the organization in employer-employee relations with the City and County.
- (3) A statement of whether or not the organization is a chapter or local of, or affiliated with, a regional or state, or national or international organization, and, if so, the name and address of each such regional, state, national or international organization.
- (4) A copy of its constitution or by-laws, and a statement signed by an officer of the employee organization to the effect that the organization has as one of its purposes representing employees of the City and County in employment relations.
- (5) Verification of employee membership in the employee organization which may be shown by employee organization payroll dues deductions or authorization cards signed and dated by employees not more than six months prior to submission.
- (6) A designation of those persons residing in California, not exceeding three in number, to whom notice sent by United States mail would be deemed sufficient by the organization for any purpose.
- (7) A statement that the organization recognizes and is aware of Government Code Section 3509.
- (8) A statement that the organization agrees to abide by all of the provisions of this Ordinance, except that this shall not preclude the right of the organization to challenge by court action any provision it deems to be invalid.

(b) Upon receipt of the petition, the Human Resources Director or designee shall verify that the petition complies with the requirements of this Section and, provided the requirements are met, notify the employee organization within 14 days that it is registered.

(c) The City and County is under no obligation to consult with any employee organizations that do not satisfactorily comply with the requirements of Paragraph (a) of this Section or that have not been certified by the Civil Service Commission as the exclusive representative of a bargaining unit.

(d) Employee organizations must re-register every three years, provided, however, that the exclusive representative of a bargaining unit need not do so.

(e) Should any of the information in subsections (a)(1)-(8) change, the employee organization must update said information with the Civil Service Commission within 30 days.

(Amended by Ord. 313-76, App. 7/30/76; Ord. 109-94, App. 3/11/94; Ord. 296-10, File No. 101157, App. 12/3/2010; Ord. 17-12, File No. 111067, App. 2/7/2012, Eff. 3/8/2012)

SEC. 16.210. ESTABLISHMENT OF BARGAINING UNITS.

(a) The Employee Relations Director shall make determinations as to appropriate bargaining units. In the event an employee or employee organization disagrees with the Employee Relations Director's determination, the aggrieved party may, within 60 days from the date of the Employee Relations Director's determination, submit a protest to the Civil Service Commission. The Civil Service Commission will select an administrative law judge who will schedule the matter for a hearing and final determination. In arriving at said determination, the administrative law judge shall consider the factors described in subsection (b) immediately below.

(b) The criteria for determining the appropriateness of bargaining units shall include: the community of interest among employees; the history of employee representation in the unit; the extent to which employees have common knowledge, skill and abilities, working conditions, job duties or similar educational requirements; the need to avoid undue fragmentation of bargaining units; the wishes of the affected employees; and any impact on the City and County's ability to effectively and efficiently deliver services.

(c) All employees throughout the City and County of San Francisco within any of the following categories shall constitute an appropriate representation unit:

- Bargaining Unit 1. Operating Engineers
- Bargaining Unit 2. Painters
- Bargaining Unit 3. Electrical Workers
- Bargaining Unit 4. BrickLayers
- Bargaining Unit 5. Soft Floor Covering Employees
- Bargaining Unit 6. Theatrical Stage Employees
- Bargaining Unit 7. Professional and Technical
- Bargaining Unit 8. Professional and Technical, SFAPP
- Bargaining Unit 9. Pile Drivers
- Bargaining Unit 10. Hod Carriers
- Bargaining Unit 11. Plumbers
- Bargaining Unit 12. Stationary Engineers
- Bargaining Unit 13. Roofers
- Bargaining Unit 14. Plasterers
- Bargaining Unit 15. Sheet Metal Workers
- Bargaining Unit 16. Automotive Mechanics
- Bargaining Unit 17. Supervising Physician/Dentists
- Bargaining Unit 18. Physician/Dentists
- Bargaining Unit 19. Miscellaneous Transit
- Bargaining Unit 20. Truck Drivers
- Bargaining Unit 21. Carpenters

Bargaining Unit 22. Administrative/Clerical
Bargaining Unit 23. Allied Health
Bargaining Unit 24. Security and Investigative
Bargaining Unit 25. Service/Maintenance
Bargaining Unit 26. Specialists/Technical
Bargaining Unit 27. Supervisory
Bargaining Unit 28. Environmental and Natural Sciences
Bargaining Unit 29. Automotive Service Workers
Bargaining Unit 30. Laborers
Bargaining Unit 31. Attorneys
Bargaining Unit 32. Managers
Bargaining Unit 33. Fire Dept. Managers
Bargaining Unit 34. Police Department Managers
Bargaining Unit 35. Iron Workers
Bargaining Unit 36. District Attorney Investigators
Bargaining Unit 37. Deputy Sheriffs
Bargaining Unit 38. Sheriff's Dept. Supervisors
Bargaining Unit 39. Cement Masons
Bargaining Unit 40. Probation Officers
Bargaining Unit 41. Glaziers
Bargaining Unit 42. Registered Nurses
Bargaining Unit 43. H-1 Paramedics
Bargaining Unit 44. Firefighters
Bargaining Unit 45. Fire Dept. Supervisors
Bargaining Unit 46. Professional and Technical, Animal Services
Bargaining Unit 47. Supervising Registered Nurses
Bargaining Unit 48. Police Officers
Bargaining Unit 49. Police Command Staff
Bargaining Unit 50. Chief Building Inspectors
Bargaining Unit 51. Building Inspectors
Bargaining Unit 52. Supervising Probation Officers
Bargaining Unit 53. Supervising Institutional Police Officer
Bargaining Unit 54. Interns and Residents
Bargaining Unit 55. Redevelopment Architects & Engineers – RD1
Bargaining Unit 56. Redevelopment Management & Supervisory – RD3
Bargaining Unit 57. Redevelopment Professional & Technical – RD2
Bargaining Unit 58. Redevelopment Miscellaneous – RD4
Bargaining Unit 59. Police Supervisors

(d) Bargaining Units in effect as of the effective date of this Ordinance shall remain unchanged and treated as separate bargaining units unless modified by action of the Employee Relations Director as provided herein. In determining any appropriate representation unit, separate representation shall be granted to any building trade or other craft or group which has historically established separate bargaining units in private industry or the journeymen of which normally attain status through the completion of a substantial period of apprenticeship. In establishing any such craft or group unit, there shall be included

all apprentices, journeymen, foremen and general foremen that are customarily included in such craft or group units in negotiated contracts in private industry and shall also include within the separate craft or group unit those positions that have historically been represented by the craft or group organization in the handling of grievances and determination of wages and working conditions with the City and County of San Francisco.

(Amended by Ord. 295-83, App. 5/27/83; Ord. 109-94, App. 3/11/94; Ord. 296-10, File No. 101157, App. 12/3/2010; Ord. 17-12, File No. 111067, App. 2/7/2012, Eff. 3/8/2012; Ord. 155-12, File No. 120635, App. 6/29/2012, Eff. 7/29/2012)

SEC. 16.211. PROCEDURE FOR RECOGNITION OF EMPLOYEE ORGANIZATION AS EXCLUSIVE REPRESENTATIVE OF A BARGAINING UNIT.

(a) Any registered employee organization determined by Section 16.209 of this Ordinance may request recognition as the exclusive representative of a bargaining unit by filing with the Civil Service Commission a written statement indicating verification of employee approval in the form of a signed petition, authorization cards, or union membership cards signed and dated by employees not more than six months prior to submission of 30 percent of the employees in the particular bargaining unit.

(b) Unless the provisions of Government Code section 3507.1(c) have been satisfied, the Civil Service Commission shall give written notice to the other registered employee organizations having members in the bargaining unit for which recognition is sought. Within 30 calendar days from the date of such notice, an employee organization with membership in the particular bargaining unit may file a challenging petition seeking to become the exclusive representative of said unit. The challenging statement shall contain verification, in the form of a signed petition, authorization cards, or union membership cards signed and dated by employees not more than six months prior to submission of 30 percent of the employees in the bargaining unit. Upon submission of such verification the challenging employee organization shall be placed on the ballot.

(c) If a challenging petition has been filed, the Civil Service Commission Department shall, within 30 days after the period for filing a challenging petition expires or as soon thereafter as practicable, cause to be conducted a secret ballot election within the bargaining unit to determine which organization, if any, shall be recognized as the exclusive representative of the bargaining unit.

(d) If no challenging petition has been filed, and provided that the provisions of Government Code section 3507.1(c) are not applicable, the Civil Service Commission shall, within 30 days after the period for filing a challenging petition expires or as soon thereafter as is practicable, cause to be conducted a secret ballot election within the bargaining unit to determine which organization, if any, shall be recognized as the exclusive representative of the bargaining unit.

(e) The ballot in any such election shall contain the choice of "no organization." Where there are three or more choices and no one receives a majority of the valid ballots cast, a run-off election shall be conducted between the two choices receiving the largest number of ballots cast.

(f) Employees entitled to vote in a representation election shall be those employees within the bargaining unit with permanent status whose names appear on the last payroll bearing a date which is no less than 30 calendar days prior to the date on which the election

is to be held or such other date within the discretion of the Civil Service Commission as may be practicable under the circumstances.

(g) There shall be no more than one valid representation election in a 12 month period within the same bargaining unit.

(h) As an alternative to the procedures outlined above, the provisions of MMBA, Government Code section 3507.1(c) may be employed to the extent that the requirements of that section are met. The Civil Service Commission will certify an organization as the exclusive representative upon verification that all such requirements are met. A determination as to whether the requirements have been met shall be made in accordance with the provisions of Government Code section 3507.1(c).

(Amended by Ord. 313-76, App. 7/30/76; Ord. 296-10, File No. 101157, App. 12/3/2010; Ord. 17-12, File No. 111067, App. 2/7/2012, Eff. 3/8/2012)

SEC. 16.212. DECERTIFICATION.

A decertification petition may be filed with the Civil Service Commission by employees or by an employee organization to determine whether or not the exclusive representative continues to represent a majority of the employees in the bargaining unit. Such petition must be accompanied by proof of employee approval in the form of a signed petition, authorization cards, or union membership cards signed and dated by employees not more than six months prior to submission equal to at least 30 percent of the employees within the bargaining unit, and must be filed within the period between the 90th and 60th day immediately preceding the expiration date of the exclusive representative's existing memorandum of understanding, provided that the existing memorandum of understanding does not exceed a two year period. In the event the existing memorandum of understanding does exceed a two year period, the decertification petition may also be filed within the period between the 90th and 60th day immediately preceding the expiration of the second year of the memorandum of understanding. When such a petition has been filed, the Civil Service Commission shall cause to be conducted a secret ballot election to determine whether the incumbent exclusive representative shall be decertified and whether another organization shall be recognized. If the challenging employee organization receives a majority of the valid votes cast, the present exclusive representative will be decertified and the employee organization receiving a majority of the valid votes cast will become the exclusive representative. There shall be no more than one decertification election in a 12 month period, and no more than one decertification election during the first three years of the term of a memorandum of understanding, within the same bargaining unit.

(Amended by Ord. 313-76, App. 7/30/76; Ord. 296-10, File No. 101157, App. 12/3/2010; Ord. 17-12, File No. 111067, App. 2/7/2012, Eff. 3/8/2012)

SEC. 16.213. UNFAIR LABOR PRACTICES - PEACE OFFICERS AND MANAGEMENT EMPLOYEES ONLY.

(a) This section shall apply only to peace officers as defined in Penal Code section 830.1 and management employees, as well as their exclusive representatives.

(b) It shall be an unfair labor practice for the City and County to:

(1) Interfere with, restrain, or coerce employees in the exercise of the rights recognized or granted in this Ordinance, or guaranteed by Government Code section 3502 or by any local rule adopted pursuant to Government Code section 3507;

(2) Dominate or interfere with the formation or administration of any employee organization, or contribute financial or other support to it, or in any way encourage employees to join any organization in preference to another in violation of rights guaranteed by Government Code section 3502 or 3508(c) or any local rule adopted pursuant to Government Code section 3507;

(3) Refuse to meet and confer in good faith as required by Government Code section 3505 or any local rule adopted pursuant to Government Code section 3507 at reasonable times, places and frequencies when the employee organization involved is an exclusive representative;

(4) Refuse or fail to cooperate and exercise good faith in any impasse procedure mutually agreed to pursuant to Government Code section 3505 or 3505.2, or required by any local rule adopted pursuant to Government Code section 3507, including the City Charter;

(5) Adopt or enforce a local rule that is not consistent with MMBA; or

(6) In any other way violate MMBA or any reasonable local rule for the administration of employer-employee relations adopted pursuant to Government Code section 3507 and in compliance with State or local meet and confer requirements.

(c) It shall be an unfair labor practice for any officer of the City and County to meet and confer, or attempt to meet and confer, over matters within the scope of representation with someone other than the exclusive representative.

(d) It shall be an unfair labor practice for an employee, an employee organization, an employee representative, or any agent thereof to:

(1) Interfere with, restrain, or coerce employees in the exercise of the rights recognized or granted in this Ordinance;

(2) Refuse to meet and confer in good faith at reasonable times, places and frequencies when the employee organization involved is an exclusive representative;

(3) Refuse or fail to cooperate and exercise good faith in any impasse procedure mutually agreed to pursuant to Government Code section 3505 or 3505.2, or required by any other local rule adopted pursuant to Government Code section 3507, including the City Charter;

(4) Engage in a strike, slowdown or work stoppage of any kind against the City and County of San Francisco in violation of Charter sections A8.345 and A8.346;

(5) Cause or attempt to cause the City and County to engage in conduct prohibited by MMBA, City Charter or any other reasonable local rule for the administration of employer-employee relations adopted pursuant to Government Code section 3507 and in compliance with State or local meet and confer requirements; and

(6) In any other way violate MMBA or any reasonable local rule for the administration of employer-employee relations adopted pursuant to Government Code section 3507 and in compliance with State or local meet and confer requirements.

(e) It shall be an unfair labor practice for any employee, an employee organization, an employee representative, or any agent thereof, to meet and confer, or attempt to meet and confer, over matters within the scope of representation with someone other than the Human Resources Director or a duly authorized designee.

The provisions of this subsection shall not apply to an employee, an employee organization, an employee representative, or any agent thereof, who desires to communicate with the Board of Supervisors during the meeting and conferring process and does so in writing and addresses said communication to the Clerk of the Board of Supervisors with the

request that all members of the Board of Supervisors be provided with copies of the communication.

(Amended by Ord. 415-76, App. 10/15/76; Ord. 109-94, App. 3/11/94; Ord. 296-10, File No. 101157, App. 12/3/2010; Ord. 17-12, File No. 111067, App. 2/7/2012, Eff. 3/8/2012)

SEC. 16.214. ELECTION OF REMEDIES FOR UNFAIR LABOR PRACTICES AND OTHER RELATED VIOLATIONS - PEACE OFFICERS AND MANAGEMENT EMPLOYEES ONLY.

Nothing in this ordinance requires peace officers as defined in Penal Code section 830.1, or management employees, or their exclusive representatives, or the City and County to exhaust any local procedure or administrative remedy prior to filing a legal action in Superior Court asserting that a party covered by this section has violated any provision of this Ordinance, the City Charter, or any provision of the MMBA.

(Added by Ord. 296-10, File No. 101157, App. 12/3/2010; amended by Ord. 17-12, File No. 111067, App. 2/7/2012, Eff. 3/8/2012)

SEC. 16.215. PROCEDURES FOR ADMINISTRATIVELY PROCESSING UNFAIR LABOR PRACTICES - PEACE OFFICERS AND MANAGEMENT EMPLOYEES ONLY.

For charges filed administratively, Civil Service Commission Unfair Labor Practice Procedures:

(a) Processing Violations. Unfair practice charges may be filed by an employee, employee organization, or the City and County.

(b) Contents of Charge. A charge may be filed alleging that an unfair practice or practices have been committed. The charge shall be in writing, signed under penalty of perjury by the party or its agent with a declaration that the charge is true, and complete to the best of the charging party's knowledge and belief, and contain the following information:

- (1) The name and address of the party alleged to have engaged in an unfair practice;
- (2) The name, address, and telephone number of the charging party;
- (3) The name, address, and telephone number of an authorized agent of the charging party to be contacted;
- (4) The sections of the Government Code, this Ordinance, or other local rule alleged to have been violated;
- (5) A clear and concise statement of the facts and conduct alleged to constitute an unfair practice;
- (6) A statement whether or not an agreement or memorandum of understanding exists between the parties, and the date and duration of such agreement or memorandum of understanding;
- (7) A statement of the extent to which and the inclusive dates during which the parties have invoked any grievance machinery provided by an agreement, or, where applicable, have invoked procedures provided by the employer for resolving public notice complaints;
- (8) A statement of the remedy sought by the charging party;
- (9) Proof of service on the respondent.

(c) Processing of Case.

- (1) When a charge is filed, it shall be assigned to a Civil Service Commission designee for processing.
 - (2) The powers and duties of such designee shall be to:
 - (A) Assist the charging party to state in proper form the information required by section 16.215(b);
 - (B) Answer procedural questions of each party regarding the processing of the case;
 - (C) Facilitate communication and the exchange of information between the parties;
 - (D) Within 30 days of the filing of a charge, schedule the charge for determination by an administrative law judge.
 - (3) The respondent shall be apprised of the allegations, and may state its position on the charge during the course of the inquiries. Any written response must be signed under penalty of perjury by the party or its agent with the declaration that the response is true and complete to the best of the respondent's knowledge and belief. Service and proof of service pursuant to Section 16.215(b) are required.
 - (4) Withdrawal of Charge. Any request for withdrawal of the charge shall be in writing, signed by the charging party or its agent, and state whether the party desires the withdrawal to be with or without prejudice. Request for withdrawal of the charge before a hearing has been scheduled shall be granted. Repeated withdrawal and refile of charges alleging substantially identical conduct may result in refusal to schedule a charge for hearing. If the hearing has been scheduled, the designee shall determine whether the withdrawal shall be with or without prejudice. If, during hearing, the respondent objects to withdrawal, the hearing officer may refuse to allow it. Service and proof of service of the withdrawal pursuant to Section 16.215(b) are required.
- (Added by Ord. 296-10, File No. 101157, App. 12/3/2010; amended by Ord. 17-12, File No. 111067, App. 2/7/2012, Eff. 3/8/2012)

SEC. 16.216. SANCTIONS FOR UNFAIR LABOR PRACTICES - PEACE OFFICERS AND MANAGEMENT EMPLOYEES ONLY.

Solely as it pertains to employees that are peace officers as defined in Penal Code section 830.1 and managers and their exclusive representatives, charges of committing any unfair labor practices may be initiated by the City or an authorized representative thereof, by a representative of an employee organization, or by an individual employee or group of employees. Such charges may be filed in writing with the Civil Service Commission. Each charge so filed shall be processed in accordance with the rules and regulations of this Ordinance and the Civil Service Commission. Such charges must be initiated within six months of the occurrence of the events upon which the charges are based.

(a) If the administrative law judge's decision is that the City and County or a management employee has engaged in an unfair labor practice, the administrative law judge shall issue cease and desist orders which are not in conflict with the Charter or other provisions of law, and/or shall recommend to the appropriate body that corrective action be taken. Such corrective action shall be taken within five days of the administrative law judge's notification and recommendation.

(b) If the decision is that an employee or employee organization or its agents have engaged in an unfair labor practice, the administrative law judge shall instruct the offending party to take appropriate corrective action. The powers and duties of the administrative law judge shall be consistent with those of the Public Employment Relations Board. If

compliance with the administrative law judge's instruction is not obtained within five days, the administrative law judge shall instruct the appropriate officer, board or commission to take appropriate action.

(Amended by Ord. 113-77, App. 3/31/77; Ord. 296-10, File No. 101157, App. 12/3/2010; Ord. 17-12, File No. 111067, App. 2/7/2012, Eff. 3/8/2012)

SEC. 16.217. MEETING AND CONFERRING IN GOOD FAITH.

(a) Meeting and conferring in good faith between management representatives and the representatives of recognized employee organizations shall take place on all matters relating to wages, hours, and other terms and conditions of employment within the scope of representation. The meet and confer process, whether in the context of bargaining for a successor memorandum of understanding or during the term of an existing memorandum of understanding, shall be conducted in accordance with the City Charter and State law. Nothing contained herein shall be deemed to supersede the provisions of the Charter, ordinances, and rules and regulations of the City and County of San Francisco which establish and regulate the Civil Service System.

(Amended by Ord. 426-76, App. 10/29/76; Ord. 296-10, File No. 101157, App. 12/3/2010; Ord. 17-12, File No. 111067, App. 2/7/2012, Eff. 3/8/2012)

SEC. 16.218. EMPLOYEES MEETING ON CITY AND COUNTY TIME.

Official representatives of an exclusive representative shall be allowed time off from their duties without loss of pay for the purpose of meeting and conferring in good faith or consulting with representatives of the City and County on matters within the scope of representation, provided that the number of representatives shall not exceed two without the approval of the Human Resources Director. The use of official time for this purpose shall be reasonable and shall not interfere with the performance of City and County services. Official representatives shall receive approval from their department head in advance of the proposed time away from their work station or assignment.

(Amended by Ord. 313-76, App. 7/30/76; Ord. 109-94, App. 3/11/94; Ord. 296-10, File No. 101157, App. 12/3/2010; Ord. 17-12, File No. 111067, App. 2/7/2012, Eff. 3/8/2012)

SEC. 16.219. DUES DEDUCTION.

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

(Amended by Ord. 313-76, App. 7/30/76; Ord. 296-10, File No. 101157, App. 12/3/2010; Ord. 17-12, File No. 111067, App. 2/7/2012, Eff. 3/8/2012)

SEC. 16.220. SEPARABILITY.

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

(Amended by Ord. 313-76, App. 7/30/76; Ord. 296-10, File No. 101157, App. 12/3/2010; Ord. 17-12, File No. 111067, App. 2/7/2012, Eff. 3/8/2012)

ADMINISTRATIVE CODE**CHAPTER 88: PERFORMANCE AND REVIEW
ORDINANCE OF 1999**

- Sec. 88.1. Title.
- Sec. 88.2. Findings and Purposes.
- Sec. 88.3. Definitions.
- SEC. 88.4. Efficiency Plans.
- SEC. 88.11. Training.

SEC. 88.1. TITLE.

This Chapter shall be known and may be cited as the "San Francisco Performance and Review Ordinance of 1999." (Added by Ord. 1-00, File No. 991879, App. 1/13/2000)

SEC. 88.2. FINDINGS AND PURPOSES.

(a) **Findings.** Waste and inefficiency in City programs undermine the confidence of San Francisco residents and reduce the City's ability to adequately address vital public needs. The City is seriously disadvantaged in its efforts to improve program efficiency and effectiveness because of insufficient articulation of program vision, mission and goals, including inadequate information on program performance. And the Board of Supervisors' policy making, spending decisions, and program oversight are seriously handicapped by insufficient attention to program performance and results.

(b) **Purposes.** This ordinance is adopted to implement the mandate of Charter Section 16.120, requiring each department of the City and County to adopt an annual Customer Service Plan, in a format to be determined by the Board of Supervisors by ordinance.

The purposes of this ordinance are to:

1. Improve program effectiveness and public accountability by promoting a new focus on fiscal management, capital management, human resources, managing for results, information technology, service quality, and customer satisfaction;
2. Help the City improve service delivery by requiring that it identify program objectives and by providing it with management tools to evaluate service quality; and,
3. Assist Board of Supervisors' decision-making by providing more objective information on performance and customer satisfaction and on the relative effectiveness and efficiency of City programs and spending. (Added by Ord. 1-00, File No. 991879, App. 1/13/2000)

SEC. 88.3. DEFINITIONS.

For the purposes of this Chapter:

- (a) "Performance goal" means a target level of performance expressed as a tangible, measurable objective, against which actual achievement can be compared, including a goal expressed as a quantitative standard, value, or rate;
- (b) "Performance indicator" means a particular value or characteristic used to measure output or outcome;
- (c) "Program activity" means a specific activity or project as listed in the program and financing schedules of the annual budget of the City and County of San Francisco;
- (d) "Program evaluation" means an assessment through objective measurement and systematic analysis of the manner and extent to which city programs achieve intended objectives; and

(e) "Department" means an executive department, which does not include offices within departments. (Added by Ord. 1-00, File No. 991879, App. 1/13/2000)

SEC. 88.4. EFFICIENCY PLANS.

(a) Beginning 2007 and each year thereafter, the head of each department shall prepare and submit to the Mayor and to the Board of Supervisors by February 1st a departmental efficiency plan. Each plan shall address the following elements and each plan shall cover a period of not less than three years forward from the fiscal year in which it is submitted.

1. Strategic Planning. This element shall include: a comprehensive mission statement as required by Section 3.5 of the San Francisco Administrative Code; a description of the department's major program areas or operational functions; outcome-related goals and objectives for each; and a discussion of how current resource levels and resource levels requested for the coming fiscal year impact the department's ability to achieve stated objectives.

2. Customer Service. This element, which shall satisfy the requirements of Charter Section 16.120, shall include: identification of internal and external customers; defined benchmarks of quality customer service provision; and a discussion of the department's success in meeting stated benchmarks.

3. Performance Evaluation. This element shall include: clearly defined performance measurements for each departmental objective; prior fiscal year targets and actual performance for each measure; current fiscal year targets and year to date actual performance; proposed budget year performance targets; and a discussion of any variance between targets and actual performance.

(b) In developing its efficiency plan, the department shall solicit and consider the views and suggestions of those persons and entities potentially affected by or interested in the plan. Departments are encouraged to conduct town meetings, open houses, or other public forums during the development of the plan to solicit public comments and information.

(c) The Board of Supervisors may, with the concurrence of the Director of the Mayor's Budget Office, excuse a department from particular requirements of this Chapter where compliance would be inappropriate or impractical.

(Added by Ord. 1-00, File No. 991879, App. 1/13/2000; Ord. 307-06, File No. 061427, App. 12/18/2006)

SEC. 88.11. TRAINING.

The Civil Service Commission shall, in consultation with the Director of the Mayor's Budget Office and the Controller of the City and County of San Francisco, develop a strategic planning and performance measurement training component for its management training program and otherwise provide managers with an orientation on the development and use of strategic planning and program performance measurement.

(Added by Ord. 1-00, File No. 991879, App. 1/13/2000)

CAMPAIGN AND GOVERNMENTAL CONDUCT CODE

ARTICLE III: CONDUCT OF GOVERNMENT OFFICIALS AND EMPLOYEES

CHAPTER 1: CONFLICT OF INTEREST CODE: FINANCIAL DISCLOSURE

SEC. 3.1-102.	Filing Requirements.
SEC. 3.1-102.5.	Failure to File.
SEC. 3.1-103.	Filing Officers.
SEC. 3.1-104.	Filing Officer Reports.
SEC. 3.1-105.	Notice of Appointment and Resignation.
SEC. 3.1-106.	Disclosure Categories.
SEC. 3.1-185.	Civil Service Commission.

SEC. 3.1-102. FILING REQUIREMENTS.

(a) Officers and Employees. Each officer and employee of the City and County of San Francisco holding a position designated in this Chapter, other than those officials identified in Section 3.1-500, shall file statements disclosing the information required by the disclosure categories set forth in this Chapter, on such forms as may be specified by the Fair Political Practices Commission (Form 700 unless otherwise provided by the Commission), and at such times required by Regulation 18730. A copy of the forms to be used shall be supplied by the Ethics Commission to each filing officer. Every officer and employee holding a position designated in this Chapter shall retain his or her filing obligations, notwithstanding any reclassification or title change that may occur in the future as to the same job duties.

(b) Candidates. Each candidate for City elective office, as that term is defined in Chapter 1 of Article I of this Code, shall file no later than the final filing date for a declaration of candidacy, a statement disclosing the information required by the disclosure category for the City elective office sought by the candidate. Candidates shall file such statements with the Department of Elections on the same forms as used by filers under subsection (a) of this Section. This statement shall not be required if the candidate has filed, within 60 days prior to the filing of his or her declaration of candidacy, a statement for the same jurisdiction pursuant to this Chapter or Sections 87202 or 87203 of the California Government Code.

(Added by Ord. 71-00, File No. 000358, App. 4/28/2000; Ord. 98-06, File No. 051876, App. 5/19/2006)

(Derivation: Former Administrative Code Section 58.3; added by Ord. 3-90, App. 1/5/90; amended by Ord. 311-92, App. 10/9/92; Ord. 386-95, App. 12/14/95; Ord. 340-99, File No. 992046, App. 12/30/99)

SEC. 3.1-102.5. FAILURE TO FILE.

(a) Subject to the removal and Civil Service provisions of the Charter as well as any applicable Civil Service Rules, any officer or employee of the City and County of San Francisco who fails to file any statement required by Sections 3.1-101 and 3.1-102 of the Campaign and Governmental Conduct Code within 30 days after receiving notice from the Ethics Commission of a failure to file may be subject to disciplinary action by his or her appointing authority, including removal from office or termination of employment.

(b) The Ethics Commission may issue a letter to an appointing authority recommending removal of any City officer or termination of any City employee who has failed to file a statement required by Sections 3.1-101 and 3.1-102 of the Campaign and Governmental

Conduct Code if the City officer or employee has not filed the required statement within 30 days of receiving notice from the Ethics Commission of his or her failure to file.

(c) [*Reserved.*]

(Added by Proposition E, 11/4/2003; Ord. 80-07, File No. 070122, App. 4/19/2007)

SEC. 3.1-103. FILING OFFICERS.

Persons holding designated positions shall file the specified statements, declarations, and certificates with the filing officers designated in this Section.

(a) **MEMBERS OF BOARDS AND COMMISSIONS.**

(1) Members of the following boards and commissions shall file their Form 700 Statements of Economic Interests, Sunshine Ordinance Declarations, and Certificates of Ethics Training with the Ethics Commission:

- Access Appeals Commission
- Aging and Adult Services Commission
- Airport Commission
- Arts Commission
- Asian Art Museum Commission
- Assessment Appeals Board
- Board of Appeals
- Board of Examiners
- Board of Supervisors
- Building Inspection Commission
- Children and Families First Commission
- Citizen's General Obligation Bond Oversight Committee
- Civil Service Commission
- Commission on the Status of Women
- Elections Commission
- Entertainment Commission
- Environment Commission
- Ethics Commission
- Film Commission
- Fine Arts Museums Board of Trustees
- Fire Commission
- Golden Gate Park Concourse Authority Board of Directors
- Health Commission
- Health Service System Board
- Historic Preservation Commission
- Human Rights Commission
- Human Services Commission
- Juvenile Probation Commission
- Library Commission
- Local Agency Formation Commission
- Municipal Transportation Agency Board of Directors
- Parking Authority
- Planning Commission
- Police Commission
- Port Commission
- Produce Market Corporation Board of Directors
- Public Health Commission
- Rate Fairness Board
- Recreation and Park Commission
- Remote Access Network Board

Residential Rent Stabilization and Arbitration Board
 Residential Users Appeal Board
 Retiree Health Care Trust Fund Board
 Retirement Board
 Revenue Bond Oversight Committee
 San Francisco Public Utilities Commission
 Small Business Commission
 Sunshine Ordinance Task Force
 Treasure Island Development Authority Board of Directors
 War Memorial and Performing Arts Center Board of Trustees
 Workforce Investment Board

(2) Members of the following boards and commissions shall file their Form 700 Statements of Economic Interests with the Ethics Commission:

Community College District Board of Trustees
 Health Authority Board
 Housing Authority Commission
 Law Library Board of Trustees
 Redevelopment Agency Commission
 San Francisco Unified School District Board of Education

(b) DEPARTMENT HEADS.

(1) The following department heads of City agencies shall file their Form 700 Statements of Economic Interests, Sunshine Ordinance Declarations, and Certificates of Ethics Training with the Ethics Commission:

Aging and Adult Services, Executive Director
 Airport Director
 Asian Art Museum, Director
 Arts Commission, Director of Cultural Affairs
 Assessor-Recorder
 Board of Supervisors, Clerk
 Building Inspection, Director
 Child Support Services, Director
 Children and Families First Commission, Executive Director
 Children, Youth and Their Families, Executive Director
 Citizen Complaints, Director
 City Administrator
 City Attorney
 City Librarian
 Civil Service Commission, Executive Officer
 Commission on the Status of Women, Executive Director
 Controller
 District Attorney
 Economic Workforce and Development, Executive Director
 Elections, Director
 Emergency Management, Executive Director
 Entertainment Commission, Executive Director
 Environment, Executive Director
 Ethics Commission, Executive Director
 Film Commission, Executive Director
 Finance Corporation, Chief Financial Officer, President, and Secretary
 Fine Arts Museums, Director
 Fire Chief
 Golden Gate Park Concourse Authority, Chief Executive Officer

Health Service System, Director
 Human Resources, Director
 Human Rights Commission, Executive Director
 Human Services Commission, Executive Director
 Juvenile Probation Commission, Chief Probation Officer
 Local Agency Formation Commission, Executive Officer
 Mayor
 Municipal Transportation Agency, Executive Director/CEO
 Parking Authority, Director
 Planning, Director
 Police Chief
 Port, Director
 Produce Market Corporation, Executive Director
 Public Defender
 Public Health, Director
 Public Works, Director
 Recreation and Park, General Manager
 Residential Rent Stabilization and Arbitration Board, Executive Director
 Retirement System, Executive Director
 San Francisco Public Utilities Commission, General Manager
 Sheriff
 Small Business, Director
 Technology, Executive Director
 Transportation Authority, Executive Director
 Treasurer
 War Memorial and Performing Arts Center, Managing Director

(2) The following department heads shall file their Form 700 Statements of Economic Interests with the Ethics Commission:

Community College District, Chancellor
 Health Authority, Chief Executive Officer
 Housing Authority, Executive Director
 Law Librarian-Secretary
 Redevelopment Agency, Executive Director
 San Francisco Unified School District, Superintendent

(c) Members of the Civil Grand Jury shall file their Form 700 Statements of Economic Interests with the Executive Officer of the Superior Court.

(d) All other persons holding designated positions shall file their Form 700 Statements of Economic Interests with their respective department head or the executive director of the agency.

(e) In instances where the proper filing officer for a particular, designated position is unclear, the Ethics Commission may designate the filing officer.

(Added by Ord. 71-00, File No. 000358, App. 4/28/2000; Ord. 320-10, File No. 101272, App. 12/23/2010)

(Derivation: Former Administrative Code Section 58.4; added by Ord. 3-90, App. 1/5/90; amended by Ord. 311-92, App. 10/9/92; Ord. 386-95, App. 12/14/95; Ord. 345-98, App. 11/19/98)

SEC. 3.1-104. FILING OFFICER REPORTS.

On or before April 10th of each year, every filing officer shall submit a written report to the Ethics Commission setting forth the names of those persons who are required to file an annual statement with that filing officer under this Chapter but have failed to do so, or a report stating that all such persons have filed.

(Added by Ord. 71-00, File No. 000358, App. 4/28/2000)

(Derivation: Former Administrative Code Section 58.5; added by Ord. 3-90, App. 1/5/90; amended by Ord. 386-95, App. 12/14/95)

SEC. 3.1-105. NOTICE OF APPOINTMENT AND RESIGNATION.

(a) Every appointing authority whose appointees file statements required by Sections 3.1-101 and 3.1-102 of the Campaign and Governmental Conduct Code with the Ethics Commission shall provide written notice to the Ethics Commission of the name of any appointee who has assumed or left office or employment. Such notice shall be provided within 15 days of the City officer or employee assuming or leaving office or employment. Failure to provide such notice may constitute official misconduct.

(b) Whenever the Mayor or a board or commission appoints a department head, or receives the resignation or retirement notice of a department head, the official or the secretary to the board or commission who makes the appointment or receives the resignation or retirement notice, shall inform the department head of the necessity to file within 30 days of assuming office or leaving office a statement of economic interests. Upon receiving notice of the appointment, or the resignation or retirement, of the department head, the Ethics Commission shall perform the required duties of the filing officer and obtain the required statement of economic interests.

(Added by Ord. 71-00, File No. 000358, App. 4/28/2000; Ord. 80-07, File No. 070122, App. 4/19/2007)

(Derivation: Former Administrative Code Section 58.6; added by Ord. 3-90, App. 1/5/90; amended by Ord. 386-95, App. 12/14/95; Ord. 287-96, App. 7/12/96; Ord. 56-97, App. 3/6/97)

SEC. 3.1-106. DISCLOSURE CATEGORIES.

For each agency of the City and County of San Francisco, disclosure categories shall include Category 1 as specified in Section 3.1-107, and such additional categories as may be included in the Sections of this Chapter applicable to each such agency.

(Added by Ord. 71-00, File No. 000358, App. 4/28/2000)

(Derivation: Former Administrative Code Section 58.7; added by Ord. 3-90, App. 1/5/90; amended by Ord. 340-99, File No. 992046, App. 12/30/99)

SEC. 3.1-185. CIVIL SERVICE COMMISSION.

Disclosure Category 2. Persons in this category shall disclose all investments and business positions in business entities and income from any source which provides, or contracts with the City and County of San Francisco and its Civil Service Commission to provide, services, supplies, materials, machinery or equipment to the Civil Service Commission.

Designated Positions Disclosure Categories	
Civil Service Commissioner.....	2
Executive Officer.....	2

(Added by Ord. 71-00, File No. 000358, App. 4/28/2000)

(Derivation: Former Administrative Code Section 58.175; added by Ord. 3-90, App. 1/5/90; amended by Ord. 380-94, App. 11/01/94; Ord. 340-99, File No. 992046, App. 12/30/99)

CAMPAIGN AND GOVERNMENTAL CONDUCT CODE**ARTICLE III: CONDUCT OF GOVERNMENT OFFICIALS AND EMPLOYEES****CHAPTER 2: CONFLICT OF INTEREST AND OTHER PROHIBITED ACTIVITIES**

SEC. 3.200.	Findings and Purpose.
SEC. 3.202.	Construction.
SEC. 3.204.	Amendment or Repeal of this Chapter.
SEC. 3.206.	Financial Conflicts of Interest.
SEC. 3.208.	Appointments and Nominations.
SEC. 3.210.	Voting on Own Character or Conduct.
SEC. 3.212.	Decisions Involving Family Members.
SEC. 3.214.	Disclosure of Personal, Professional and Business Relationships.
SEC. 3.216.	Gifts.
SEC. 3.218.	Incompatible Activities.
SEC. 3.220.	Prohibition on Dual Office Holding.
SEC. 3.222.	Prohibiting Officers From Contracting With the City and County.
SEC. 3.224.	Prohibition on Representing Private Parties before Other City Officers and Employees--Compensated Advocacy.
SEC. 3.226.	Referrals.
SEC. 3.228.	Disclosure or Use of Confidential City Information.
SEC. 3.230.	Prohibition on Political Activity.
SEC. 3.232.	Prohibition on Use of Public Funds for Printed Greeting Cards.
SEC. 3.234.	Post-Employment and Post Service Restrictions.
SEC. 3.236.	Aiding and Abetting.
SEC. 3.238.	Filing of False Charges.
SEC. 3.240.	Provision of False or Misleading Information; Withholding of Information; and Duty to Cooperate and Assist.
SEC. 3.242.	Penalties and Enforcement.
SEC. 3.244.	Severability.

(a) The people of the City and County of San Francisco declare that public office is a public trust and all officers and employees of the City and County shall exercise their public duties in a manner consistent with this trust. To assure that the governmental processes of the City and County promote fairness and equity for all residents and to maintain public trust in governmental institutions, the people of the City and County declare that they have a compelling interest in creating laws regulating conflicts of interest and outside activities of City officers and employees.

(b) The proper operation of the government of the City and County of San Francisco requires that public officers and employees be independent, impartial, and responsible to the people and that public office and employment not be used for personal gain. The public interest, therefore, requires that officers and employees of the City and County be prohibited from making, participating in making or otherwise seeking to influence governmental decisions in which they have a financial interest or accepting gifts and other things of value from regulated sources.

(c) In order to maintain the public's confidence in the integrity of governmental decisions related to the appointment and discipline of public officers and employees, public officers and employees must not give or receive anything of value in consideration of their appointment or accept anything of value from their subordinates, and must not participate in decisions related to their own character or conduct or that of their family members.

(d) City and County contracts should be, and should appear to be, awarded on a fair and impartial basis. The practice of members of Boards and Commissions of the City and County contracting with the City and County creates the potential for, and the appearance of, favoritism or preferential treatment by the City and County. Prohibiting members of Boards and Commissions of the City and County from contracting with the City and County will eliminate both actual and perceived favoritism or preferential treatment without creating unnecessary barriers to public service.

(e) Government decisions of officers and employees of the City and County should be, and should appear to be, made on a fair and impartial basis. The practice of former officers and employees communicating with their former colleagues on behalf of private interests and the practice of current officers of the City and County communicating with other officers and employees on behalf of any other person for compensation creates the potential for, and the appearance of, undue influence, favoritism or preferential treatment. Prohibiting former officers and employees from communicating orally, in writing, or in any other manner with their former colleagues for specified periods of time and prohibiting current officers from communicating orally, in writing, or in any other manner with other officers and employees of the City and County on behalf of any other person for compensation will eliminate both actual and perceived undue influence, favoritism or preferential treatment without creating unnecessary barriers to public service. (Added by Proposition E, 11/4/2003) (Former Section 3.200 added by Ord. 71-00, File No. 000358, App. 4/28/2000; repealed by Proposition E, 11/4/2003. Derivation: Former Administrative Code Section 16.980; added by Ord. 374-96, App. 9/30/96)

SEC. 3.202. CONSTRUCTION.

This Chapter shall be liberally construed in order to effectuate its purposes, provided that nothing in this Chapter shall be interpreted or applied to prohibit officers, members and representatives of employee organizations from engaging in organizational activities that are protected by the California Meyers-Milias-Brown Act, the First Amendment to the United States Constitution or any other federal, state or local law. No error, irregularity, informality, neglect or omission of any officer in any procedure taken under this Chapter which does not directly affect the jurisdiction of the Board of Supervisors or the City and County to control the ethical conduct of its officers and employees shall avoid the effect of this Chapter. (Added by Proposition E, 11/4/2003)

SEC. 3.204. AMENDMENT OR REPEAL OF THIS CHAPTER.

The voters may amend or repeal this Chapter. The Board of Supervisors may amend this Chapter if all of the following conditions are met:

- (a) The amendment furthers the purposes of this Chapter;
- (b) The Ethics Commission approves the proposed amendment by at least a four-fifths vote of all its members;
- (c) The proposed amendment is available for public review at least 30 days before the amendment is considered by the Board of Supervisors or any committee of the Board of Supervisors; and

(d) The Board of Supervisors approves the proposed amendment by at least a two-thirds vote of all its members. (Added by Proposition E, 11/4/2003)

SEC. 3.206. FINANCIAL CONFLICTS OF INTEREST.

(a) Incorporation of the California Political Reform Act. No officer or employee of the City and County shall make, participate in making, or seek to influence a decision of the City and County in which the officer or employee has a financial interest within the meaning of California Government Code Section 87100 et seq. and any subsequent amendments to these Sections.

(b) Incorporation of California Government Code 1090, et seq. No officer or employee of the City and County shall make a contract in which he or she has a financial interest within the meaning of California Government Code Section 1090 et seq. and any subsequent amendments to these Sections.

(c) Future Employment. No officer or employee of the City shall make, participate in making, or otherwise seek to influence a governmental decision, affecting a person or entity with whom the officer or employee is discussing or negotiating an agreement concerning future employment. (Added by Proposition E, 11/4/2003)

SEC. 3.208. APPOINTMENTS AND NOMINATIONS.

No person shall give or promise, and no officer or employee of the City and County may solicit or accept, any money or other valuable thing in consideration for (i) the person's nomination or appointment to any City and County office or employment, or promotion or other favorable City and County employment action, or (ii) any other person's nomination or appointment to any City and County office or employment or promotion or other favorable City and County employment action. (Added by Proposition E, 11/4/2003)

SEC. 3.210. VOTING ON OWN CHARACTER OR CONDUCT.

(a) Prohibition. No officer or employee of the City and County shall knowingly vote on or attempt to influence a governmental decision involving his or her own character or conduct, or his or her appointment to any office, position, or employment.

(b) Exceptions. Nothing in this Section shall prohibit an officer or employee from (i) responding to allegations, applying for an office, position, or employment, or responding to inquiries; or (ii) participating in the decision of his or her board, commission, or committee to choose him or her as chair, vice chair, or other officer of the board, commission, or committee. (Added by Proposition E, 11/4/2003)

SEC. 3.212. DECISIONS INVOLVING FAMILY MEMBERS.

(a) Prohibition. No officer or employee of the City and County may make, participate in making, or otherwise seek to influence a decision of the City and County regarding an employment action involving a relative. Nothing in this Section shall prohibit an officer or employee from acting as a personal reference or providing a letter of reference for a relative who is seeking appointment to a position in any City department, board, commission or agency other than the officer or employee's department, board, commission or agency or under the control of any such department, board, commission or agency.

(b) Delegation. A Department Head who is prohibited under Subsection (a) from participating in an employment action involving a relative shall delegate in writing to an employee within the department any decisions regarding such employment action.

(c) **Definitions.** For purposes of this Section, the term "employment action" shall be limited to hiring, promotion, or discipline, and the term "relative" shall mean a spouse, domestic partner, parent, grandparent, child, sibling, parent-in-law, aunt, uncle, niece, nephew, first cousin, and includes any similar step relationship or relationship created by adoption. (Added by Proposition E, 11/4/2003)

SEC. 3.214. DISCLOSURE OF PERSONAL, PROFESSIONAL AND BUSINESS RELATIONSHIPS.

(a) **Disclosure.** A City officer or employee shall disclose on the public record any personal, professional or business relationship with any individual who is the subject of or has an ownership or financial interest in the subject of a governmental decision being made by the officer or employee where as a result of the relationship, the ability of the officer or employee to act for the benefit of the public could reasonably be questioned. For the purposes of this Section, the minutes of a public meeting at which the governmental decision is being made, or if the governmental decision is not being made in a public meeting, a memorandum kept on file at the offices of the City officer or employee's department, board, commission or agency shall constitute the public record.

(b) **Penalties.** A court may void any governmental decision made by a City officer or employee who fails to disclose a relationship as required by Subsection (a) if the court determines that: (1) the failure to disclose was willful; and (2) the City officer or employee failed to render his or her decision with disinterested skill, zeal, and diligence and primarily for the benefit of the City. No other penalties shall apply to a violation of this Section, provided that nothing in this Section shall prohibit an appointing authority from imposing discipline for a violation of this Section.

(c) **Regulations.** The Ethics Commission may adopt regulations setting forth the types of personal, professional and business relationships that must be disclosed pursuant to this Section. (Added by Proposition E, 11/4/2003)

SEC. 3.216. GIFTS.

(a) **Prohibition on Bribery.** No person shall offer or make, and no officer or employee shall accept, any gift with the intent that the City officer or employee will be influenced thereby in the performance of any official act.

(b) **General gift restrictions.** In addition to the gift limits and reporting requirements imposed by the Political Reform Act and this Code and any subsequent amendments thereto, no officer or employee of the City and County shall solicit or accept any gift or loan from a person who the officer or employee knows or has reason to know is a restricted source, except loans received from commercial lending institutions in the ordinary course of business.

(1) **Restricted Source.** For purposes of this section, a restricted source means: (A) a person doing business with or seeking to do business with the department of the officer or employee; or (B) a person who during the prior 12 months knowingly attempted to influence the officer or employee in any legislative or administrative action.

(2) **Gift.** For purposes of this subsection, the term gift has the same meaning as under the Political Reform Act, California Government Code Section 81000 et seq., and the regulations adopted thereunder, including any subsequent amendments. Gifts exempted from the limits imposed by California Government Code Section 89503 and Section [3.1-101](#) of the Campaign and Governmental Conduct Code shall also be exempted from the prohibition set forth in this subsection.

(3) **Regulations.** The Ethics Commission shall issue regulations implementing this section, including regulations exempting voluntary gifts that are nominal in value such as gifts that are given by vendors to clients or customers in the normal course of business.

(c) **Gifts from Subordinates.** No officer or employee shall solicit or accept any gift or loan, either directly or indirectly, from any subordinate or employee under his or her supervision or from any candidate or applicant for a position as a subordinate or employee under his or her supervision. The Ethics Commission shall issue regulations implementing this Section, including regulations exempting voluntary gifts that are given or received for special occasions or under other circumstances in which gifts are traditionally given or exchanged.

(d) **Gifts of Travel.**

(1) **Gifts to Elected Officers.** In addition to the gift limits and reporting requirements imposed by the Political Reform Act and this Code, no elected officer may accept a gift of transportation, lodging, or subsistence for any out-of-state trip paid for in part by an individual or entity other than the City and County of San Francisco, another governmental body, or a bona fide educational institution, defined in Section 203 of the Revenue and Taxation Code, unless the officer has first disclosed on a form filed with the Ethics Commission:

(A) the name of the individual or entity and the total amount that will be paid by the individual or entity to fund the trip, including but not limited to the amount directly related to the cost of the elected officer's transportation, lodging, and subsistence;

(B) the name, occupation and employer of any contributor who has contributed more than \$500 to the individual or entity funding the trip and whose contributions were used in whole or in part to fund the trip;

(C) a description of the purpose of the trip and the itinerary; and

(D) the name of any individual accompanying the official on the trip who is:

(i) a City employee required to file a Statement of Economic Interests,

(ii) a lobbyist or campaign consultant registered with the Ethics Commission,

(iii) an employee of or individual who has any ownership interest in a lobbyist or campaign consultant registered with the Ethics Commission, or

(iv) the individual funding the trip, or an employee or officer of the entity funding the trip.

(2) **Reimbursement of Gifts of Travel.** In addition to any other reporting requirements imposed by the Political Reform Act or local law, an elected officer who reimburses an individual or entity for a gift of transportation, lodging or subsistence related to out-of-state travel and thereby avoids having received or accepted the gift shall file a form with the Ethics Commission within 30 days of such reimbursement disclosing:

(A) the name of the individual or entity that originally paid for the transportation, lodging or subsistence;

(B) the amount paid by the individual or entity for the elected officer's transportation, lodging or subsistence;

(C) the amount reimbursed by the elected officer to the individual or entity and the process used to determine that amount; and

(D) a description of the purpose of the trip and the itinerary.

(3) **Format.** The Ethics Commission shall provide forms for the disclosure required by this subsection and shall make the completed forms available on its website.

(4) **Definition.** For the purpose of this subsection, the term "elected officer" means the Mayor, member of the Board of Supervisors, City Attorney, District Attorney, Public Defender, Assessor, Treasurer, and Sheriff.

(e) **Restrictions.** Nothing in this section shall prohibit a City department, agency, board or commission from imposing additional gift restrictions on its officers or employees. (Added by Proposition E, 11/4/2003; amended by Ord. 128-06, File No. 060217, App. 6/22/2006; Ord. 301-06, File No. 061333, App. 12/18/2006; Ord. [107-11](#), File No. 110335, App. 6/20/2011, Eff. 7/20/2011)

SEC. 3.218. INCOMPATIBLE ACTIVITIES.

(a) **Prohibition.** No officer or employee of the City and County may engage in any employment, activity, or enterprise that the department, board, commission, or agency of which he or she is a member or employee has identified as incompatible in a statement of incompatible activities adopted under this Section. No officer or employee may be subject to discipline or penalties under this Section unless he or she has been provided an opportunity to demonstrate that his or her activity is not in fact inconsistent, incompatible or in conflict with the duties of the officer or employee.

(b) **Statement of Incompatible Activities.** Every department, board, commission, and agency of the City and County shall, by August 1 of the year after which this Section becomes effective, submit to the Ethics Commission a statement of incompatible activities. No statement of incompatible activities shall become effective until approved by the Ethics Commission after a finding that the activities are incompatible under the criteria set forth in Subsection (c). After initial approval by the Ethics Commission, a department, board, commission or agency of the City and County may, subject to the approval of the Ethics Commission, amend its statement of incompatible activities. The Ethics Commission may, at any time, amend the statement of incompatible activities of any department, board, commission or agency of the City and County.

(c) **Required Language.** Each statement of incompatible activities shall list those outside activities that are inconsistent, incompatible, or in conflict with the duties of the officers and employees of the department, board, commission, or agency of the City and County. This list shall include, but need not be limited to, activities that involve: (1) the use of the time, facilities, equipment and supplies of the City and County; or the badge, uniform, prestige, or influence of the City and County officer or employee's position for private gain or advantage; (2) the receipt or acceptance by an officer or employee of the City and County of any money or other thing of value from anyone other than the City and County for the performance of an act that the officer or employee would be required or expected to render in the regular course of his or her service or employment with the City and County; (3) the performance of an act in a capacity other than as an officer or employee of the City and County that may later be subject directly or indirectly to the control, inspection, review, audit or enforcement of the City and County officer or employee's department, board, commission or agency; and (4) time demands that would render performance of the City and County officer or employee's duties less efficient. The Ethics Commission may permit City boards and commissions to exclude any required language from their statement of incompatible activities if their members, by law, must be appointed in whole or in part to represent any profession, trade, business, union or association.

(d) **Meet and Confer.** No statement of incompatible activities or any amendment thereto shall become operative until the City and County has satisfied the meet and confer requirements of State law.

(e) Notice. Every department, board, commission and agency of the City and County shall annually provide to its officers and employees a copy of its statement of incompatible activities.

(f) Existing Civil Service Rules. Rules and Regulations relating to outside activities previously adopted or approved by the Civil Service Commission shall remain in effect until statements of incompatible activities are adopted pursuant to this Section.

(Added by Proposition E, 11/4/2003)

SEC. 3.220. PROHIBITION ON DUAL OFFICE HOLDING.

Any person holding an office under the City and County with an annual salary in excess of \$2,500, whether by election or by appointment, who shall, during his or her term of office, hold or retain any other office with such a salary under the government of the United States, the State of California, or the City and County shall be deemed to have thereby vacated the office held by him or her under the City and County. For the purposes of this Section, the term salary does not include: (1) a stipend, per diem, or other payment provided for attendance at meetings; or (2) health, dental or vision insurance, or other non-cash benefits. (Added by Proposition E, 11/4/2003)

SEC. 3.222. PROHIBITING OFFICERS FROM CONTRACTING WITH THE CITY AND COUNTY

(a) **Definitions.** For purposes of this Section, the following definitions shall apply:

- (1) **Business.** The term "business" means any corporation, partnership, sole proprietorship, firm, enterprise, franchise, association, organization, or other legal entity or undertaking organized for economic gain.
- (2) **City and County.** The term "City and County" includes any commission, board, department, agency, committee, or other organizational unit of the City and County of San Francisco.
- (3) **Contract.** The term "contract" means any agreement other than a grant or an agreement for employment in exchange for salary and benefits.
- (4) **Subcontract.** The term "subcontract" means a contract to perform any work that a primary contractor has an agreement with the City and County, the San Francisco Redevelopment Agency, the San Francisco Housing Authority, the San Francisco Unified School District, or the San Francisco Community College District to perform.

(b) **Prohibition.** During his or her term of office, no officer shall enter, submit a bid for, negotiate for, or otherwise attempt to enter, any contract or subcontract with the City and County, the San Francisco Redevelopment Agency, the San Francisco Housing Authority, the San Francisco Unified School District, or the San Francisco Community College District, where the amount of the contract or the subcontract exceeds \$10,000.

(c) **Exceptions.** This Section shall not apply to the following contracts or subcontracts:

- (1) A contract or subcontract with a nonprofit organization;
- (2) A contract or subcontract with a business with which an officer is affiliated unless the officer exercises management and control over the business. A member exercises management and control if he or she is:
 - (A) An officer or director of a corporation;
 - (B) A majority shareholder of a closely held corporation;
 - (C) A shareholder with more than five percent beneficial interest in a publicly traded corporation;
 - (D) A general partner or limited partner with more than 20 percent beneficial interest in the partnership; or
 - (E) A general partner regardless of percentage of beneficial interest and who occupies a position of, or exercises management or control of the business;
- (3) A contract or subcontract entered into before a member of a board or commission commenced his or her service;
- (4) An agreement to provide property, goods or services to the City and County at substantially below fair market value; or
- (5) A settlement agreement resolving a claim or other legal dispute.

(d) **Waiver.** The Ethics Commission may waive the prohibitions in this section for any officer who, by law, must be appointed to represent any profession, trade, business, union or association.

- (e) **Limitation.** Failure of an officer to comply with this Section shall not be grounds for invalidating any contract with the City and County. (Added by Proposition E, 11/4/2003; Ord. 244-09, File No. 091013, App. 12/3/2009)

SEC. 3.224. PROHIBITION ON REPRESENTING PRIVATE PARTIES BEFORE OTHER CITY OFFICERS AND EMPLOYEES--COMPENSATED ADVOCACY.

(a) **Prohibition.** No officer of the City and County shall directly or indirectly receive any form of compensation to communicate orally, in writing, or in any other manner on behalf of any other person with any other officer or employee of the City and County with the intent to influence a government decision.

(b) **Exceptions.** This section shall not apply to any communication by: (1) an officer of the City and County on behalf of the City and County; (2) an officer of the City and County on behalf of a business, union, or organization of which the officer is a member or full-time employee; (3) an associate, partner or employee of an officer of the City and County, unless it is clear from the totality of the circumstances that the associate, partner or employee is merely acting as an agent of the City and County officer; or (4) a City officer in his or her capacity as a licensed attorney engaged in the practice of law, which includes representing clients in communications with the City Attorney's Office, District Attorney's Office, Public Defender's Office, attorneys in the Tax Collector's Office or Sheriff's Office, outside legal counsel hired by the City, representatives of the City who are named in a pending litigation matter or witnesses or potential witnesses in a pending litigation matter.

(c) **Waiver.** The Ethics Commission may waive the prohibitions in this section for any officer who, by law, must be appointed to represent any profession, trade, business, union or association. (Added by Proposition E, 11/4/2003; Ord. 97-06, File No. 051837, App. 5/19/2006; Ord. 244-09, File No. 091013, App. 12/3/2009)

SEC. 3.226. REFERRALS.

No officer or employee of the City and County shall: (a) receive any money, gift or other thing of economic value from a person or entity other than the City and County for referring a member of the public to a person or entity for any advice, service or product related to the processes of the City and County; or (b) condition any governmental action on a member of the public hiring, employing, or contracting with any specific person or entity. The Ethics Commission may waive the restriction in Subsection (b) if the Commission determines that granting a waiver is necessary for the proper administration of a governmental program or action. (Added by Proposition E, 11/4/2003)

SEC. 3.228. DISCLOSURE OR USE OF CONFIDENTIAL CITY INFORMATION.

No current or former officer or employee of the City and County shall: (a) willfully or knowingly disclose any confidential or privileged information, unless authorized or required by law to do so; or (b) use any confidential or privileged information to advance the financial or other private interest of himself or herself or others. Confidential or privileged information is information that at the time of use or disclosure was not subject to disclosure under the Sunshine Ordinance or California Public Records Act. (Added by Proposition E, 11/4/2003)

SEC. 3.230. PROHIBITION ON POLITICAL ACTIVITY.

(a) **Solicitation of Contributions.** No City officer or employee shall knowingly, directly or indirectly, solicit political contributions from other City officers or employees or from persons on employment lists of the City. Nothing in this Section shall prohibit a City officer or employee from communicating through the mail or by other means requests for political contributions to a significant segment of the public which may include City officers or employees.

(b) **Political Activities in Uniform.** No City officer or employee shall participate in political activities of any kind while in uniform.

(c) **Political Activities on City Time or Premises.** No City officer or employee may engage in political activity during working hours or on City premises. For the purposes of this Subsection, the term "City premises" shall not include City owned property that is made

available to the public and can be used for political purposes. (Added by Proposition E, 11/4/2003)

SEC. 3.232. PROHIBITION ON USE OF PUBLIC FUNDS FOR PRINTED GREETING CARDS.

(a) **Definitions.** The term "greeting card" means any printed card that celebrates or recognizes a holiday.

(b) **Prohibition.** No public funds may be used to design, produce, create, mail, send, or deliver any printed greeting card. The Controller of the City and County of San Francisco shall, in the Controller's sole discretion, determine whether a payment is prohibited under this Section.

The Controller's decision regarding whether a payment is prohibited under this Section is final. (Added by Proposition E, 11/4/2003)

SEC. 3.234. POST-EMPLOYMENT AND POST SERVICE RESTRICTIONS.

(a) **All Officers and Employees.**

(1) **Permanent Restriction on Representation In Particular Matters.**

(A) **Prohibition.** No former officer or employee of the City and County, after the termination of his or her service or employment with the City, shall, with the intent to influence, act as agent or attorney, or otherwise represent, any other person (except the City and County) before any court, or before any state, federal, or local agency, or any officer or employee thereof, by making any formal or informal appearance or by making any oral, written, or other communication in connection with a particular matter:

(i) in which the City and County is a party or has a direct and substantial interest;

(ii) in which the former officer or employee participated personally and substantially as a City officer or employee; and

(iii) which involved a specific party or parties at the time of such participation.

(B) **Restriction on assisting others.** No former officer or employee of the City and County, after the termination of his or her service or employment with the City, shall aid, advise, counsel, consult or assist another person (except the City and County) in any proceeding in which the officer or employee would be precluded under Subsection (A) from personally appearing.

(C) **Exception for testimony.** The prohibitions in Subsections A and B do not prohibit a former officer or employee of the City and County from testifying as a witness, based on the former officer's or employee's personal knowledge, provided that no compensation is received other than the fees regularly provided for by law or regulation of witnesses.

(2) **One-Year Restriction on Communicating with Former Department.** No current or former officer or employee of the City and County, for one year after termination of his or her service or employment with any department, board, commission, office or other unit of the City, shall, with the intent to influence a government decision, communicate orally, in writing, or in any other manner on behalf of any other person (except the City and County) with any officer or employee of the department, board, commission, office or other unit of government, for which the officer or employee served.

(3) **Employment With Parties That Contract With The City.** No current or former officer or employee of the City shall be employed by or otherwise receive

compensation from a person or entity that entered into a contract with the City within the preceding 12 months where the officer or employee personally and substantially participated in the award of the contract.

(b) **Mayor, Members of the Board of Supervisors, and their Senior Staff Members.**

(1) **One year restriction on communicating with City departments.** For purposes of the one-year restriction under subsection (a)(2), the "department" for which a former Mayor, a former member of the Board of Supervisors, or a former senior staff member to either the Mayor or a member of the Board of Supervisors served shall be the City and County and the prohibition in subsection (a)(2) shall extend to communications with:

- (A) a board, department, commission or agency of the City and County;
- (B) an officer or employee of the City and County;
- (C) an appointee of a board, department, commission, agency, officer, or employee of the City and County; or
- (D) a representative of the City and County.

For the purposes of this subsection, "a former senior staff member to either the Mayor or a member of the Board of Supervisors" means an individual employed in any of the following positions at the time the individual terminated his or her employment with the City: the Mayor's Chief of Staff, the Mayor's Deputy Chief of Staff, a Legislative Aide to a member of the Board of Supervisors or a position that the Ethics Commission determines by regulation is an equivalent position based on an analysis of the functions and duties of the position.

(2) **City service.**

(A) Except as provided in Subsection (B), no former Mayor or member of the Board of Supervisors shall be eligible for a period of one year after the last day of service as Mayor or member of the Board of Supervisors, for appointment to any full time, compensated employment with the City and County. This restriction shall not apply to a former Mayor or Supervisor elected to an office of the City and County, appointed to fill a vacancy in an elective office of the City and County, or appointed to a board or commission in the executive branch.

(B) Notwithstanding the one-year restriction in Subsection (A), a former Mayor who was appointed to that office under Charter Section [13.101.5](#) to fill a vacancy shall be eligible for appointment to any City employment, provided that (i) the former Mayor did not file a declaration of candidacy for election to the office of Mayor after being appointed to that office, (ii) the former Mayor was employed by the City immediately prior to assuming the office of Mayor, and (iii) the salary in the first year of the new employment shall not exceed the salary received by the former Mayor in the City employment that he or she held immediately prior to assuming office as Mayor.

(c) **Waiver.**

(1) At the request of a current or former City employee or officer, the Ethics Commission may waive any of the restrictions in Subsections (a)(1) and (a)(2) if the Commission determines that granting a waiver would not create the potential for undue influence or unfair advantage.

(2) At the request of a current or former City employee or officer, the Ethics Commission may waive any of the restrictions in Subsections (a)(1) and (a)(2) for members of City boards and commissions who, by law, must be appointed to represent any profession, trade, business union or association.

(3) At the request of a current or former City officer or employee, the Ethics Commission may waive the prohibition in Subsection (a)(3) if the Commission determines that imposing the restriction would cause extreme hardship for the City officer or employee.

(4) The Ethics Commission may adopted regulations implementing these waiver provisions.

(Added by Proposition E, 11/4/2003; amended by Ord. 218-07, File No. 070505, App. 9/21/2007; Ord. 208-09, File No. 090219, App. 9/25/2009; Ord. [86-11](#), File No. 110023, App. 5/31/2011, Eff. 6/30/11)

SEC. 3.236. AIDING AND ABETTING.

No person shall knowingly and intentionally provide assistance to or otherwise aid or abet any other person in violating any of the provisions of this Chapter. (Added by Proposition E, 11/4/2003)

SEC. 3.238. FILING OF FALSE CHARGES.

No person shall knowingly and intentionally file with the Ethics Commission, the District Attorney or the City Attorney any false charge alleging a violation of this Chapter. (Added by Proposition E, 11/4/2003)

SEC. 3.240. PROVISION OF FALSE OR MISLEADING INFORMATION; WITHHOLDING OF INFORMATION; AND DUTY TO COOPERATE AND ASSIST.

(a) Prohibition. No person shall knowingly and intentionally furnish false or fraudulent evidence, documents, or information to the Ethics Commission, District Attorney or City Attorney, or knowingly and intentionally misrepresent any material fact, or conceal any evidence, documents, or information relevant to an investigation by the Ethics Commission, District Attorney or City Attorney of an alleged violation of this Chapter.

(b) Duty to Cooperate and Assist. The Ethics Commission, District Attorney or City Attorney may request and shall receive from every City officer and employee cooperation and assistance with an investigation into an alleged violation of this Chapter.

(Added by Proposition E, 11/4/2003)

SEC. 3.242. PENALTIES AND ENFORCEMENT.

(a) Criminal Penalties. Any person who knowingly or willfully violates any of the City's conflict of interest and governmental ethics laws shall be guilty of a misdemeanor and upon conviction thereof shall be punished by a fine of not more than \$10,000 for each violation or by imprisonment in the County jail for a period of not more than one year in jail or by both such fine and imprisonment.

(b) Civil Penalties. Any person who intentionally or negligently violates any City conflict of interest or governmental ethics law shall be liable in a civil action brought by the City Attorney for an amount up to \$5,000 for each violation.

(c) Injunctive Relief. The City Attorney or any resident may bring a civil action on behalf of the people of San Francisco to enjoin violations of or compel compliance with a conflict of interest or governmental ethics law. No resident may commence a civil action under this Section without first notifying the City Attorney in writing of the intent to file a civil action under this Section. If the City Attorney fails to notify the resident within 120 days of receipt of the notice that the City Attorney has filed or will file a civil action, the complainant may file the action. No resident may file an action under this Section if the City Attorney responds within 120 days that the City Attorney intends to file an action or has

already filed a civil action. No resident may bring an action under this Section if the Ethics Commission has issued a finding of probable cause arising out of the same facts, the District Attorney has commenced a criminal action arising out of the same facts, or another resident has filed a civil action under this Section arising out of the same facts. A court may award reasonable attorney's fees and costs to any resident who obtains injunctive relief under this Section.

(d) Administrative Penalties. Any person who violates any of the City's conflict of interest or governmental ethics laws shall be liable in an administrative proceeding before the Ethics Commission held pursuant to the Charter. In addition to the administrative penalties set forth in the Charter, the Ethics Commission may issue warning letters to City officers and employees.

(e) Statute of Limitations. No person may bring a criminal, civil or administrative action under this Section against any other person more than four years after the date of the alleged violation.

(Added by Proposition E, 11/4/2003)

SEC. 3.244. SEVERABILITY.

If any provision of this Chapter, or the application thereof to any person or circumstance, is held invalid, the validity of the remainder of the Chapter and the applicability of such provisions to other persons and circumstances shall not be affected thereby.

(Added by Proposition E, 11/4/2003)

CAMPAIGN AND GOVERNMENTAL CONDUCT CODE

ARTICLE IV: PROTECTION OF WHISTLEBLOWERS

CHAPTER 1: REPORTING IMPROPER GOVERNMENT ACTIVITY; PROTECTION OF WHISTLEBLOWERS

SEC. 4.100.	Findings.
SEC. 4.105.	Complaints of Improper Government Activity; Investigation Procedures; Referral to Other Agencies
SEC. 4.107.	Complaints by Citizens and Employees; Whistleblower Program.
SEC. 4.110.	Definitions.
SEC. 4.115.	Protection of Whistleblowers.
SEC. 4.120.	Confidentiality.
SEC. 4.123.	Confidentiality Protection for Whistleblower Program Complainants and Investigations
SEC. 4.125.	Furnishing False or Misleading Information; Duty to Cooperate.
SEC. 4.130.	Reports to the Board of Supervisors.
SEC. 4.135.	Limitation of Liability.

SEC. 4.100. FINDINGS.

The City and County of San Francisco has a paramount interest in protecting the integrity of its government institutions. To further this interest, individuals should be encouraged to report to the City's Ethics Commission, Controller, District Attorney, City Attorney and the complainant's department possible violations of laws, regulations and rules governing the conduct of City officers and employees.

This Chapter protects all City officers and employees from retaliation for filing a complaint with, or providing information to, the Ethics Commission, Controller, District Attorney, City Attorney or complainant's department about improper government activity by City officers and employees.

This Chapter ensures that complaints that do not allege a violation of law over which the Ethics Commission or Controller has jurisdiction are directed to the appropriate agency for investigation and possible disciplinary or enforcement action.

Finally, this Chapter implements Charter Appendix Section F1.107. Section F1.107 directs the Controller, as City Services Auditor, to administer a whistleblower program and investigate reports of complaints concerning the misuse of City funds, improper activities by City officers and employees, deficiencies in the quality and delivery of government services, and wasteful and inefficient City government practices.

(Added by Ord. 71-00, File No. 000358, App. 4/28/2000; amended by Ord. 29-02, File No. 020017, App. 3/15/2002; Ord. 205-08, File No. 080019, 9/18/2008)

SEC. 4.105. COMPLAINTS OF IMPROPER GOVERNMENT ACTIVITY; INVESTIGATION PROCEDURES; REFERRAL TO OTHER AGENCIES.

(a) **COMPLAINTS.** Any person may file a complaint with the Ethics Commission, Controller, District Attorney or City Attorney, or a written complaint with the complainant's department alleging that a City officer or employee has engaged in improper government activity by: violating local campaign finance, lobbying, conflicts of interest or governmental ethics laws, regulations or rules; violating the California Penal Code by misusing City

resources; creating a specified and substantial danger to public health or safety by failing to perform duties required by the officer or employee's City position; or abusing his or her City position to advance a private interest.

(b) **ETHICS COMMISSION COMPLAINT PROCEDURES.** The Ethics Commission shall investigate complaints filed under this Section that allege violations of local campaign finance lobbying, conflicts of interest and governmental ethics laws pursuant to the procedures specified in Charter Section C3.699-13 and the regulations adopted thereunder. Nothing in this subsection shall preclude the Ethics Commission from referring any matter to any other City department, commission, board, officer or employee or to other government agencies for investigation and possible disciplinary or enforcement action. The Ethics Commission may require that any City department, commission, board, officer or employee report to the Ethics Commission on the referred matter.

(c) **REFERRAL.** The Ethics Commission shall refer complaints that do not allege a violation of law, regulation or rule that is within the Ethics Commission's jurisdiction to the appropriate agency for investigation and possible disciplinary or enforcement action. The Commission may conduct preliminary investigations into such complaints to determine whether the complaint contains sufficient information to warrant referral. The Ethics Commission may require that any City department, commission, board, officer or employee report to the Ethics Commission on the referred matter. (Added by Ord. 71-00, File No. 000358, App. 4/28/2000; amended by Ord. 29-02, File No. 020017, App. 3/15/2002)

SEC. 4.107. COMPLAINTS BY CITIZENS AND EMPLOYEES; WHISTLEBLOWER PROGRAM.

(a) **WHISTLEBLOWER PROGRAM.** The Controller shall administer and publicize a whistleblower and citizen complaint program for citizens and employees to report the misuse of City funds, improper activities by City officers and employees, deficiencies in the quality and delivery of government services, and wasteful and inefficient City government practices. The Controller shall investigate and otherwise attempt to resolve complaints reported to the Whistleblower Program. The Controller shall administer a hotline telephone number and website and publicize the hotline and website through press releases, public advertising and communications to City employees.

(b) **REFERRAL OF CERTAIN COMPLAINTS.** The Controller shall refer the following complaints as set forth in this Section:

- (i) Those which another City agency is required by federal, state, or local law to adjudicate: To that agency;
- (ii) Those which may be resolved through a grievance mechanism established by collective bargaining agreement or contract: To the official or agency designated in the agreement or contract;
- (iii) Those which involve allegations of conduct which may constitute a violation of criminal law: To the District Attorney or other appropriate law enforcement agency;
- (iv) Those which are subject to an existing, ongoing investigation by the District Attorney, City Attorney, or Ethics Commission, where the applicable official or Commission states in writing that investigation by the Controller would substantially impede or delay his, her or its own investigation of the matter: To the investigating office; and
- (v) Those which allege conduct that may constitute a violation of governmental ethics law: to the Ethics Commission and the City Attorney.

Where the conduct that is the subject of the complaint may violate criminal law and any civil or administrative law, statute, ordinance or regulation, the Controller may take

action on the noncriminal aspects of the matter under this Section even if a referral has been made to another agency under this Section.

If a complaint is referred under this Section, the Controller shall inform the complainant of the appropriate procedure for the resolution of the complaint.

(c) **TRACKING AND INVESTIGATION.** The Controller shall receive, track and investigate complaints made or referred to the Whistleblower Program. The investigation may include all steps that the Controller deems appropriate, including the review of the complaint and any documentary or other evidence provided with it, the gathering of any other relevant documents from any City department or other source, and interviews of the complainant and other persons with relevant information.

(d) **INFORMATION PROVIDED UNDER PENALTY OF PERJURY.** In those instances in which the Controller deems it appropriate, the Controller may require that persons making complaints or providing information swear to the truth of their statements by taking an oath administered by the Controller, or an agent of the Controller, or through written declarations made under penalty of perjury under the laws of the State of California,

(e) **REFERRAL AND RECOMMENDATION BY CONTROLLER.** The Controller may refer the complaint to a City department for investigation, either before conducting an initial investigation or after doing so, and may recommend that a City department take specific action based on the Controller's initial investigation. Within 60 days of receiving a complaint for investigation or a recommendation by the Controller for specific action, or such other time as the Controller shall specify, the City department shall report to the Controller in writing the results of the department's investigation and any action that the department has taken in response to a recommendation by the Controller that the department take specific action.

(f) **REPORT BY DEPARTMENT AND FURTHER ACTION BY CONTROLLER.** If the Controller has recommended that a City department take disciplinary or other corrective action that the department has declined to take, the department shall report to the Controller its reasons for failing to do so within the timeframe that the Controller specifies for reporting on its investigation of the complaint. If the Controller determines that the department's reasons are inadequate and that further investigation may be appropriate, the Controller may refer the matter to the Mayor, City Attorney or District Attorney or to any officer or agency that has jurisdiction over the matter.

(g) **RESPONSIBILITY OF DEPARTMENTS.** The department head shall be responsible for compliance by his or her department with these duties. If department staff fail to comply with the duties to investigate complaints referred by the Controller and to make the reports required by this Section, the Controller shall notify the department head. If the department head fails to take action to obtain the department's compliance with these duties, the Controller may refer the matter to the Mayor, City Attorney or District Attorney or to any officer or agency that has jurisdiction over the matter. (Added by Ord. 205-08, File No. 080019, 9/18/2008)

SEC. 4.110. DEFINITIONS.

For purposes of this Chapter, the following words and phrases shall have the following meanings:

(a) The term "City" means the City and County of San Francisco, its departments, commissions and boards.

(b) The term "complainant's department" includes the complainant's supervisor, the executive director or highest ranking officer in the complainant's department, and the board or commission overseeing the complainant's department.

(c) The term "preliminary investigation" shall be limited to, but need not include: review of the complaint and any documentary evidence provided with the complaint; interview of the complainant; interview of the respondent, counsel to respondent and any witnesses who voluntarily agree to be interviewed for this purpose; review of any relevant public documents and documents provided voluntarily to the Commission. (Added by Ord. 71-00, File No. 000358, App. 4/28/2000; amended by Ord. 29-02, File No. 020017, App.3/15/2002)

SEC. 4.115. PROTECTION OF WHISTLEBLOWERS.

(a) **RETALIATION PROHIBITED.** No City officer or employee may terminate, demote, suspend or take other similar adverse employment action against any City officer or employee because the officer or employee has in good faith (i) filed a complaint with the Ethics Commission, Controller, District Attorney or City Attorney, or a written complaint with the complainant's department, alleging that a City officer or employee engaged in improper government activity by: violating local campaign finance, lobbying, conflicts of interest or governmental ethics laws, regulations or rules; violating the California Penal Code by misusing City resources; creating a specified and substantial danger to public health or safety by failing to perform duties required by the officer or employee's City position; or abusing his or her City position to advance a private interest, (ii) filed a complaint with the Controller's Whistleblower Program, or (iii) provided any information or otherwise cooperated with any investigation conducted under this Chapter.

(b) COMPLAINTS OF RETALIATION FOR HAVING FILED A COMPLAINT ALLEGING IMPROPER GOVERNMENT ACTIVITY.

(i) **Administrative Complaints.** Any city officer or employee, or former city officer or employee, who believes he or she has been the subject of retaliation in violation of Subsection (a) of this Section may file a complaint with the Ethics Commission. The complaint must be filed no later than two years after the date of the alleged retaliation.

The Ethics Commission shall investigate complaints of violations of Subsection (a) of this Section pursuant to the procedures specified in San Francisco Charter Section C3.699-13 and the regulations adopted thereunder. The Ethics Commission may decline to investigate complaints alleging violations of Subsection (a) if it determines that the same or similar allegations are pending with or have been finally resolved by another administrative or judicial body. Nothing in this Subsection shall preclude the Ethics Commission from referring any matter to any other City department, commission, board, officer or employee, or to other government agencies for investigation and possible disciplinary or enforcement action. The Ethics Commission may refer matters to the Department of Human Resources with a recommendation. The Ethics Commission may require that any City department, commission, board, officer or employee report to the Ethics Commission on the referred matter.

(ii) **Civil Complaints.** Any City officer or employee who believes he or she has been the subject of retaliation in violation of Subsection (a) of this Section may bring a civil action against the City officer or employee who committed the violation. Such action must be filed no later than two years after the date of the retaliation.

(iii) **Burden of Establishing Retaliation.** In order to establish retaliation under this Section, a complainant must demonstrate by a preponderance of the evidence that the complainant's engagement in activity protected under Subsection (a) was a substantial motivating factor for

the adverse employment action. The employer may rebut this claim if it demonstrates by a preponderance of the evidence that it would have taken the same employment action irrespective of the complainant's participation in protected activity.

(c) **PENALTIES.**

(i) **Charter Penalties.** Any City officer or employee who violates Subsection (a) of this Section may be subject to administrative penalties pursuant to Charter Section C3.699-13.

(ii) **Discipline by Appointing Authority.** Any City officer or employee who violates Subsection (a) of this Section shall be subject to disciplinary action up to and including dismissal by his or her appointing authority. If no disciplinary action is taken by the appointing authority, the Ethics Commission may refer the matter to the Civil Service Commission for action pursuant to Charter Section A8.341.

(iii) **Civil Penalties.** Any City officer or employee who violates Subsection (a) of this Section may be personally liable in a civil action authorized under Subsection (b)(ii) of this Section for a civil penalty not to exceed \$5,000.

(d) **RESERVATION OF AUTHORITY.**

(i) **Civil Service Commission.** Nothing in this Section shall interfere with the powers granted to the Civil Service Commission by the San Francisco Charter.

(ii) **Appointing Authority.** Nothing in this Section shall interfere with the power of an appointing officer, manager, or supervisor to take action with respect to any City officer or employee, provided that the appointing officer, manager, or supervisor reasonably believes that such action is justified on facts separate and apart from the fact that the officer or employee filed a complaint with, or cooperated with, an Ethics Commission investigation of such complaint; or filed a complaint with or provided information to the Controller, District Attorney, City Attorney or the complainant's department.

(e) **NOTICE OF WHISTLEBLOWER PROTECTIONS.** The Controller shall prepare, and each City department shall post a notice of whistleblower protections. The notice shall be posted in a location that is conspicuous and accessible to all employees.

(Added by Ord. 71-00, File No. 000358, App. 4/28/2000; amended by Ord. 29-02, File No. 020017, App. 3/15/2002; Ord. 205-08, File No. 080019, 9/18/2008)

SEC. 4.120. CONFIDENTIALITY.

(a) **WHISTLEBLOWER IDENTITY.** Any individual who files a complaint under Section 4.105 of this Chapter may elect to have his or her identity kept confidential as provided by Charter Section C3.699-13(a). Such election must be made at the time the complaint is filed.

(b) **COMPLAINTS AND INVESTIGATIONS.** The Ethics Commission shall treat as confidential complaints made under Section 4.105 of this Chapter, and related information, including but not limited to materials gathered and prepared in the course of investigation of such complaints, and deliberations regarding such complaints, as provided by Charter Section C3.699-13(a).

(c) **EXCEPTIONS.**

(i) **Conduct of Investigations.** Nothing in this Section shall preclude the Ethics Commission from disclosing the identity of an individual or other information to the extent necessary to conduct its investigation.

(ii) **Referrals.** Nothing in this Section shall preclude the Ethics Commission from referring any matter to any other City department, commission, board, officer or employee, or to other government agencies for investigation and possible disciplinary or enforcement action.

(Added by Ord. 71-00, File No. 000358, App. 4/28/2000)

SEC. 4.123. CONFIDENTIALITY PROTECTION FOR WHISTLEBLOWER PROGRAM COMPLAINANTS AND INVESTIGATIONS.

(a) WHISTLEBLOWER IDENTITY AND INVESTIGATIONS. Every officer and employee of the City shall keep confidential: Controller

(i) The identity of any person who makes a complaint to the Whistleblower Program under Section 4.107 of this Chapter, and any information that would lead to the disclosure of the person's identity, unless the person who made the complaint provides written authorization for the disclosure.

(ii) Complaints or reports to the Whistleblower Program and information related to the investigation of the matter, including drafts, notes, preliminary reports, working papers, records of interviews, communications with complainants and witnesses, and any other materials and information gathered or prepared in the course of the investigation.

The protection of confidentiality set forth in this Section applies irrespective of whether the information was provided in writing and whether the information was provided or is maintained in electronic, digital, paper or any other form or medium.

(b) INQUIRY REGARDING IDENTITY PROHIBITED. In order to assure effective implementation of the provisions of this Section providing confidentiality to whistleblowers, City officers and employees may not use any City resources, including work time, to ascertain or attempt to ascertain directly or indirectly the identity of any person who has made a complaint to the Whistleblower Program, unless such person has provided written authorization for the disclosure. Nothing in this Section shall preclude an officer or employee assigned to investigate a complaint under this Chapter from ascertaining the identity of a complainant to the extent necessary to conduct the investigation.

(c) EXCEPTIONS. Nothing in this Section shall preclude the Controller from (i) disclosing the identity of a person or other information to the extent necessary to conduct a civil or criminal investigation or to take any enforcement action, including any action to discipline an employee or take remedial action against a contractor, or (ii) releasing information as part of a referral when referring any matter to another City department, commission, board, officer or employee, or to other governmental agencies, for investigation and possible disciplinary, enforcement or remedial action, or (iii) releasing information to the Citizens Audit Review Board so that it may carry out its duty to provide advisory input to the Controller on the Whistleblower Program, provided that information is prepared so as to protect the confidentiality of persons making complaints and of investigations, or (iv) releasing information to inform the public of the nature of the actions taken by the Controller in the operation of the Whistleblower Program provided that information is prepared so as to protect the confidentiality of persons making complaints and of investigations. (Added by Ord. 205-08, File No. 080019, 9/18/2008)

SEC. 4.125. FURNISHING FALSE OR MISLEADING INFORMATION; DUTY TO COOPERATE.

(a) FURNISHING FALSE OR MISLEADING INFORMATION PROHIBITED. When making or filing a complaint pursuant to this Chapter or participating in an investigation conducted by the Controller, Ethics Commission, District Attorney, City Attorney or any other department or commission, or any of their agents, as authorized under this Chapter, City officers and employees may not knowingly and intentionally furnish false or fraudulent evidence, documents, or information, misrepresent any material fact, or conceal any evidence, documents or information for the purpose of misleading any officer or employee or any of their agents.

(b) **COOPERATION REQUIRED.** All City departments, commissions, boards, officers and employees shall cooperate with and provide full and prompt assistance to the Controller, Ethics Commission, District Attorney, City Attorney, and all other commissions and departments, and any of their agents, in carrying out their duties under this Chapter. (Added by Ord. 71-00, File No. 000358, App. 4/28/2000; Ord. 205-08, File No. 080019, 9/18/2008)

SEC. 4.130. REPORTS TO THE BOARD OF SUPERVISORS.

The Ethics Commission shall provide an annual report to the Board of Supervisors which shall include the following:

- (1) The number of complaints received;
- (2) The type of conduct complained about;
- (3) The number of referrals to the Civil Service Commission, other City departments, or other government agencies;
- (4) The number of investigations the Ethics Commission conducted;
- (5) Findings or recommendations on policies or practices resulting from the Ethics Commission's investigations;
- (6) The number of disciplinary actions taken by the City as a result of complaints made to the Ethics Commission; and
- (7) The number and amount of administrative penalties imposed by the Ethics Commission as a result of complaints made to the Commission. (Added by Ord. 71-00, File No. 000358, App. 4/28/2000)

SEC. 4.135. LIMITATION OF LIABILITY.

In adopting and enforcing this Chapter, the City undertakes to promote the general welfare. The City is not assuming, nor is it imposing on its officers and employees, an obligation for breach of which it is liable in money damages. (Added by Ord. 71-00, File No. 000358, App. 4/28/2000)