# BAY AREA RAPID TRANSIT DISTRICT

# AGREEMENT

# WITH

# DIVISION 1555

# AMALGAMATED TRANSIT UNION

# Effective

# July 1, 2021 – June 30, 2025

# AGREEMENT

# BETWEEN

# SAN FRANCISCO BAY AREA RAPID TRANSIT DISTRICT

# AND

# AMALGAMATED TRANSIT UNION LOCAL 1555

## REPRESENTING EMPLOYEES IN THE TRANSPORTATION SUBUNIT OF THE JOINT COUNCIL

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## 0.0 GENERAL UNDERSTANDING

The parties agree that whenever the word “will” and/or “shall” is used in the Agreement, they are synonymous.

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## 1.0 MUTUAL AGREEMENTS

## 1.1 MUTUAL RIGHTS & RESPONSIBILITIES

The Unions and Management agree that both have obligations and responsibilities to see that the statutory objective of the Bay Area Rapid Transit District law is attained and the public receives a rapid and efficient transit system. Management has the duty to execute the traditional responsibilities of Management to attain this goal and the Unions recognize the Management responsibilities. Management, in turn, recognizes its responsibility to treat employees fairly and equitably.

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## 1.2 TERM OF AGREEMENT

The term of this Agreement shall be from and including the first day of July 2021 up to and including the 30th day of June 2025 or one hundred (100) days following receipt of notice of a desire to modify or terminate this Agreement, whichever occurs later. Each party shall comply with the provisions of California Government Code Section 3611. In the event either party serves notice upon the other party of a desire to modify or terminate the Agreement, the parties shall meet and make all reasonable efforts to reach agreement on the subject matters of such proposed modifications.

The parties shall respond to any requests for information reasonably necessary for intelligent negotiations and the standards and guidelines in accordance with California Government Code Section 3611. Each party shall supply to the other party such reasonable data as are requested by the other party.

To the fullest extent possible the parties shall endeavor to complete their negotiations at least seven (7) days prior to the date any lawful economic action may be taken in connection with any dispute concerning any proposed changes in any Collective Bargaining Agreement.

Commencing in 2020, the District implemented a 7-point plan intended to address budgetary concerns facing the District. As that plan progresses during the term of this agreement, the District may determine that a reduction-in-force is necessary, in accordance with the relevant section of the unit-specific Labor Agreement. If a reduction-in-force is anticipated, the Parties may, with mutual agreement, open the contract and commence negotiations to identify potential cost savings to reduce or avoid the need for such reduction in force.

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## 1.3 AGREEMENTS FURNISHED

The District will ensure that copies of this Agreement are printed within seventy-five (75) days of signing, will pay the full cost of printing such Agreements, and will ensure the Allied printing label appears. The Union will provide a list of Allied printing establishments in the Bay Area within three (3) days of signing.

The District will provide two hundred (200) copies of the Agreement to each of the signatory Unions for the term of this Agreement.

The District will provide a copy of the Agreement to all current employees within two (2) weeks of receipt of printed copies. New employees will be provided a copy of the Agreement upon employment.

The Agreement shall be provided on pocket size paper. Removable binders shall be replaced when worn out.

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## 1.4 SUCCESSOR RIGHTS

In the event the operations of the District, in whole or in part, are assumed by any other entity, public or private, the successor organization or organizations shall agree, as a condition precedent of said assumption, to all terms and conditions of this Agreement as though said Agreement were more fully set forth in the assumption agreement by and between District and the assuming party or parties.

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## 1.5 BENEFICIAL PRACTICES

A. Rules or regulations or practices within the scope of representation affecting employees beneficially will not be changed without mutual agreement, provided that District Management has accepted the past practice over a reasonable period of time as an established practice that is unequivocal, clearly enunciated and acted upon. For purposes of this provision, “District Management” does not include any individuals represented by SEIU/ATU.

B. Notwithstanding Section 1.5(A), and provided that there is no conflict with the Labor Agreement, if the District proposes to change technology and/or equipment, it shall provide thirty (30) days advance written notification to the Union(s) about the proposed change(s), the reasons for the proposed change(s) and the effects of the change(s). The parties will then meet and confer in good faith over (i) the nature of the proposed change, (ii) the effects of the change on bargaining unit members, (iii) appropriate training for bargaining unit members and (iv) potential safety issues arising from the change. Unresolved disputes regarding the impacts of the change shall be subject to binding arbitration in which the arbitrator may provide such relief as would be fair and equitable that may include but not be limited to additional compensation. Unresolved safety

issues may be submitted to expedited arbitration. Other matters may be submitted to expedited arbitration, depending upon the circumstances.

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## 1.6 NO STRIKES AND NO LOCKOUTS

A. It is the intent of the District and the Unions to assure uninterrupted transit service to the public during the life of this Agreement. Accordingly,

1. No employee or Unions signatory hereto shall engage in, cause or encourage any strike, slowdown, picketing, concerted refusal to work, or other interruption of the District's operations for the duration of this Agreement as a result of any labor dispute;

2. The District shall not lockout any employee covered by this Agreement during its term as a result of any labor dispute;

3. It shall not be a violation and shall not be cause for discipline for a District employee voluntarily to refuse to enter upon any property involved in a primary bona fide labor dispute. It shall not be a violation of this Section and shall not be cause for discipline of any employee by any party or other employee subject to this Agreement, should any employee voluntarily enter District property at a time when the District is involved in a primary labor dispute; provided, however, such employees shall not perform, nor be assigned, any work of any BART employee represented by the employee organization in such dispute.

   For purposes of this Section, a primary labor dispute is defined as a dispute between BART and other BART employee organizations. (Reference R. E. Burns Arbitration Award of 7/2/74 for other specifics.)

4. In any case where employee conduct occurs in violation of this Section, the Unions will promptly take all necessary action to bring about a termination of such conduct, and where so requested by the District, will give individual notification to the employees involved to cease such conduct.

B. In the event of any alleged violation of Paragraph A of this Section, either the District or the Unions may seek immediate arbitration before one of the named arbitrators to be selected in accord with the arbitration procedures set forth in the appropriate Subunit supplemental provisions. The party seeking such arbitration shall use its best efforts to notify the other party of the referral to arbitration by means of telephone or written notice including telegraphic, delivered to the principal office of the party against whom the award is being sought. The question in such arbitration shall be whether either party or any employee covered by this Agreement has engaged or is engaging in activities in violation of this Section. The arbitrator shall have full equitable power to resolve the dispute, including the power to immediately issue an order to terminate

the activities in violation of this Section. Such award shall be binding on both parties and employees. The expenses of the arbitration shall be borne by the party against whom the award is entered. Unless the parties agree that the arbitrator shall retain jurisdiction to decide the underlying dispute at the same hearing, he/she shall refer the dispute leading to or determined to be the cause of the alleged violation of Paragraph A of Section 1.6 to the appropriate grievance and arbitration procedure provided under this Agreement. If either party raises an issue of arbitrability of the dispute allegedly causing the violation of Paragraph A of Section 1.6, said preliminary issue of arbitrability shall be decided by the same arbitrator selected to hear the underlying dispute on the merits.

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## 1.7 WAGE GUIDELINES

Both parties recognize this Agreement is the result of negotiations between the parties for represented employees and, in the event any wage increase or other benefit or condition provided in this Agreement results in any challenge or determination by any governmental agency, the parties agree to use their best efforts in a joint appeal to such governmental agency to uphold the validity and propriety of such provision.

Pending exhaustion of such appeal, the challenged provision shall be suspended except that, the parties may commence negotiations within thirty (30) days of such challenge to ensure that the superseded portion(s) shall be rewritten to conform legally as nearly as possible to the original intent.

In the alternative, the parties may negotiate an alternate provision not exceeding the cost of the provision challenged.

Should the parties fail to agree, the grievance procedure may be invoked in its entirety by either party.

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## 1.8 CONTRACTING WORK *

It is in the intent of the parties that work connected with the operation and maintenance of the system be performed by the bargaining unit employees, consistent with the basic Bay Area Rapid Transit District operations and maintenance philosophy.

Should it become necessary to deviate from this practice, the Unions shall be informed of the reason work is being contracted. The District shall fax a Contract Notification Form to the President of the ATU, or the BART Chapter President, the President of the Professional Chapter, and the Chair of the SEIU Contracting Out Committee, whichever Union is directly affected, prior to submitting the Contract Notification Form to the Procurement Department. The Contract Notification Form will identify the date it is faxed. The Union shall have seven (7) workdays after the

Contract Notification Form is faxed to provide any comments to the department manager. If comments are received within the seven (7) workday period, the Department Manager will consider the comments before making his or her final decision to contract.

It is agreed that prior to contracting work, the District will give consideration to whether adequate numbers of qualified employees are available to perform the necessary work within time limits available, whether sufficient and suitable equipment is available within the District to perform the work, whether shop capacity is adequate, whether the use of District employees shall involve extra cost to the District, or whether the performance of the work presents added hazards to existing employees which are not present in their normal assignments. Temporary work load, over and above normal positions, including overtime, may be contracted out. Suppliers' personnel performing work related to their equipment and clearly not bargaining unit work will not be prohibited.

Contracts in effect at the time of this Agreement will not be voided by terms of this Agreement.

*** Minute Clarification**

District procedures regarding contracting out work which include prior notice to the Unions at the commencement of the contracting process shall continue during the term of this Agreement.

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## 1.9 DOMESTIC PARTNERS

All benefits and considerations afforded to spouses of employees/retirees shall be provided to eligible domestic partners on a substantially equivalent basis subject to any statutory constraints.

Domestic Partner Definition: Domestic partners are two adults who have chosen to share one another's lives in an intimate and committed relationship of mutual caring. A domestic partnership shall be established in California when both persons file a Declaration of Domestic Partnership with the Secretary of State and their relationship is recognized by state law or BART policy, whichever is broader.

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## 2.0 UNION SECURITY

## 2.1 UNION RECOGNITION *

Pursuant to an election conducted April 18, 1973, by the State Conciliation Service, the District recognizes United Public Employees Local 1021 of the Service Employees International Union, AFL-CIO, as the sole and exclusive bargaining agent for employees in the Clerical and Maintenance Subunits and Local 1555 of the Amalgamated Transit Union International, AFL-CIO, as the sole and exclusive bargaining agent for employees in the

Transportation Subunit, as described in the Decision of the Director of the California Department of Industrial Relations, dated March 6, 1973, In the Matter of Bargaining Units of the San Francisco Bay Area Rapid Transit District, as amended.

The District recognizes Local 1555 of the Amalgamated Transit Union International, AFL-CIO, as the sole and exclusive bargaining agent for Emergency Procedures Assistants (EPA) employees in the Transportation Subunit, as described in the decision of the Director of California Department of Industrial Relations, dated July 11, 1980.

*** Minute Clarification**

The parties agree that the inclusion of the language recognizing Amalgamated Transit Union - Local 1555 as representative for the EPAs in Section 2.1 of the Agreement does not alter the agreement between the District and ATU 1555 that the only terms and conditions governing EPAs will be those set forth in the Article of the Collective Bargaining Agreement specifying such terms and conditions.

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## 2.2 UNION MEMBERSHIP

Employees within the scope of this Agreement shall become members of the Union and remain members in good standing as a condition precedent to continued employment with the District.

Present employees who are members shall be required to continue their membership in the appropriate Union. All other employees shall be required to become members of the applicable Union to their Subunit within thirty-one (31) days of the signing of this Agreement or thirty-one (31) calendar days following employment, whichever occurs later, except those employees in classifications or positions subsequently excluded from the bargaining unit by mutual agreement. In the event of such an agreement, exclusions shall be set forth by Side Letter.

All employees covered by this Agreement, within thirty-one (31) days of the execution of this Agreement, or for new hires, within thirty-one (31) days following the date of employment, shall execute a payroll deduction authorization. The timely execution of such authorization shall be a condition precedent to continued employment with the District.

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## 2.3 UNION ACCESS TO WORK LOCATIONS *

Non-employee business agents and employee Union officials will be permitted access to District facilities for the purpose of conducting Union business. Where reasonable and practical, they will provide notification in advance to the area supervisors as to the general purpose of said visit, the anticipated time involved, and employees to be contacted. District will provide an area for meeting purposes. Such agents or officials will be

permitted entry upon presentation of acceptable identification to the supervisor in charge of the shop, whenever possible, and will be required to observe all safety and other rules and regulations of the District.

*** Minute Clarification**

The understanding of the parties regarding changes in Section 2.3, Union Access to Work Locations, is that outside Union officials who have contacted a shop to advise of a visit shall, upon arrival at the shop, contact the person in charge of the shop and advise of their arrival. They will then decide where the meeting is to be held, as appropriate.

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## 2.4 DUES DEDUCTION

The District agrees to make payroll deductions as hereafter indicated from the pay of employees covered by the Agreement. Such deductions shall commence upon submission of a written authorization satisfactory to the District by the employee as forwarded by the Union. Deductions shall include monthly membership dues, assessments, insurance premiums, initiation fees, and contributions and shall be forwarded monthly to the appropriate Union in an agreed upon electronic format. Dues and assessments shall be uniformly applicable to all employees in the same job classification or pay level in the applicable subunit.

No fines or penalty imposed on an individual by the Union shall be collected by means of payroll deduction under this Section. The Unions agree to furnish the District with written notice of changes in amounts to be deducted by the tenth of the month in which such changes are to be effected.

The Unions shall hold the District harmless from any and all claims, and will indemnify it against any unusual costs in implementing these provisions.

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## 2.5 BULLETIN BOARDS

Clear covered bulletin boards with locks and keys will continue to be provided in Maintenance, Transportation, Stations, and office facilities for the sole use of the Amalgamated Transit Union Local 1555 and Service Employees International Union Local 1021 notices of meetings or other business pertaining to the Unions. Any additional number of boards and their locations shall be mutually agreed upon by the parties.

Due to relocation of District offices, the parties agree to meet within 180 days of signing this contract to establish bulletin board locations.

The Unions agree that the Labor Relations Department shall be furnished a copy of any material being displayed on any bulletin board at the time of posting. Said material shall be authenticated by the signature of the

designated representative of the Union. Such Union bulletin boards shall be maintained by the Unions.

If a copy of posted material is not provided to the District within twenty-four (24) hours, it may be removed from all bulletin boards.

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## 2.6 VENDING MACHINES *

ATU Local 1555 and SEIU Local 1021 are authorized to establish vending machines in the District employees' work areas, and the District shall approve any reasonable plan with respect to such machines.

The Unions shall have the responsibility of contracting for the installation of such machines, along with maintenance.

Proceeds shall be deposited in a special fund under the direction and control of a representative of ATU Local 1555 and SEIU Local 1021, and shall be divided on a basis established by the Unions, allocated for the exclusive benefit of the employee's welfare and recreation as determined by the Unions.

The Unions will hold the District harmless from any expense or claim relating to the establishment and maintenance or distribution of such vending machines. The Unions shall indemnify the District in any contract entered into by Unions for the vending machines.

*** Minute Clarification**

A. The parties have reached the following agreements with respect to vending machines in the Regional Administration Facility (RAF):

> ATU Local 1555 and SEIU Local 1021 are authorized to establish vending machines in the portions of the RAF Building exclusively owned and controlled by the District (District's "condominium unit") except for the cafeteria. The District shall approve any reasonable plan with respect to vending machines in the District's unit other than the cafeteria.

The Unions may also establish vending machines in portions of the RAF Building which are not exclusively owned and controlled by the District if the other owners/occupiers do not object.

The District shall have complete discretion over the administration and operation of the cafeteria, including design and placement of equipment, selection of vendors, and installation of vending machines, if any. Any proceeds from the operation of the cafeteria, including vending machines located therein, shall accrue to the District.

B. The deletion from this Section the language "and shall be in accordance with the current practice for vending machines in passenger stations" in the 1985-88 Agreement, is only to reflect the current practice of not

maintaining or using vending machines in stations.

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## 3.0 EMPLOYEE AFFAIRS

### 3.1 INVESTIGATION OF EMPLOYEES

Employees shall cooperate fully in any investigation of misconduct, operational difficulties, etc. made by Management, subject to the provisions of the grievance/discipline procedure. Failure on the part of employees to cooperate during such investigation may result in disciplinary action. The District shall not initiate any investigations of its employees without reasonable cause.

The District reserves the right to conduct District-wide investigations. The District shall seek the prior cooperation and assistance of the Union and must provide all the findings that relate to Union Members to the Union no later than five (5) days after completion of said investigations. The Union shall, in such cases, cooperate fully and take whatever action necessary to bring about a cessation of the activity that gave rise to the investigation.

District lockers may be periodically inspected as determined by Management, but such routine locker checks will not be initiated without prior notification to a Union representative to include an offer to be present during such inspection. Inspections deemed necessary as part of an investigation to determine a violation of criminal law shall not be subject to restriction.

The District shall not utilize or involve Police Services in the investigation of any incidents initially involving industrial relations, including accidents of an industrial nature. However, after an initial investigation of an incident involving industrial relations or such accidents, Police Services may be utilized if and when a violation of criminal law is indicated.

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### 3.2 ACCESS TO PERSONNEL FILES *

Each employee shall be provided a copy of all matters placed in their official personnel file. Upon written request of the employee, matters as referenced in the Supplemental Provision shall be removed from the file.

An employee shall be permitted at any time during regular office hours to inspect his/her personnel file. He/she may also authorize in writing the Union Representative to also inspect his/her personnel file. Such reviews shall be made in the Employee Relations Department subject to the presence of a member of the Employee Relations staff or its designee.

Suspended or terminated employees (and their Union Representative), pending final disposition of the case, shall have similar access rights.

Material in personnel files shall be regarded as confidential and disclosed only in accordance with provisions of law.

*** Minute Clarification**

The parties agree that this first paragraph of this Section is intended to conform to the practice of maintaining the confidentiality of the employees' personnel files and that the employees shall receive copies of all matters placed in their file with the exception of personnel transaction forms, medical reports and reference checks. Employees wishing to access their medical files may do so upon written request.

The District agrees that personnel transaction forms will not be accessible to supervisory personnel who review qualifications of employees for promotional consideration.

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## 3.3 PERSONAL APPEARANCE

Employees will maintain an appropriate appearance.

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## 3.4 CREDIT UNION

The District will continue to participate in The Golden One Credit Union, Provident Central Credit Union, and Metro 1 Credit Union. Employees may select only one of the three (3) Credit Unions for utilization of payroll deduction. The District will make brochures and application forms available to employees upon request.

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## 3.5 EDUCATIONAL ASSISTANCE PROGRAM

The District's Educational Assistance Program will be continued during the life of this Agreement. Employees who wish to enroll in job-related and promotion oriented courses which will improve their job knowledge and performance will be compensated by the District for expenses as follows:

A. When an employee is in the process of acquiring a sixty (60) semester unit or a ninety (90) quarter unit degree (e.g., Associate of Arts, Certificate of Achievement), or when an employee is properly authorized to enroll in a Certificate of Achievement Program, correspondence course and/or a specific course of study that may not result in a degree, said employee shall be reimbursed as follows: In fiscal year 2014, a maximum of nine hundred fifty dollars ($950.00); in fiscal year 2015, a maximum of eleven hundred fifty dollars ($1,150.00); in fiscal year 2016, a maximum of one thousand three hundred fifty dollars ($1,350.00); and in fiscal year 2017, a maximum of one thousand five hundred dollars ($1,500.00).

B. When an employee exceeds sixty (60) semester units or ninety (90) quarter units and is enrolled in upper division course work, said employee shall be reimbursed as follows: In fiscal year 2014, a maximum of one thousand two hundred fifty dollars ($1250.00); in fiscal

year 2015, a maximum of one thousand five hundred dollars ($1,500.00); in fiscal year 2016, a maximum of one thousand seven hundred fifty dollars ($1,750.00); and in fiscal year 2017, a maximum of two thousand dollars ($2,000.00).

C. The maximum amount that an employee may be reimbursed under this program in any fiscal year is two thousand dollars ($2,000.00).

D. Language Programs will also be covered by these provisions or employees wishing to learn another language.

Out-of-pocket expenses for required textbooks and course materials may be included for reimbursement within the above dollar limits. Textbooks may be retained by the employee upon completion of the course.

Courses must be taken at an accredited institution, or through correspondence courses or other approved vendors, whether training is delivered in-person or on-line, if comparable courses are not available in local schools or of the work assignment of the individual is such that it does not permit regular classroom attendance. Approval of other vendors under this Section and the establishment of criteria for successful completion, when those listed below are inapplicable shall be at the discretion of the Department Manager of Training and Development.

Except for unusual circumstances, employees will not be granted time off from their regular work schedule to attend courses taken under this Section.

Approval for said courses must be granted by the department head prior to enrollment. Reimbursement shall be made upon presentation of proper receipts and upon completion of the course with at least a grade “C” or its equivalent.

At the employee’s option, an advance may be secured from the District against tuition costs by agreeing to payroll deduction of the amount of the advance if:

1. satisfactory evidence of completion of the course taken is not provided to the District within thirty (30) days following completion of the course; or

2. the course is not completed with at least a grade “C” or its equivalent; or

3. the course is failed; or

4. the employee voluntarily drops the course for any reason, including voluntary shift change or termination of employment with the District.

If the employee’s course is not completed due to a District required shift change or reduction in force, repayment of the advance will not be required.

E. The District will periodically provide the Union with a report of Union members who have applied for District course compensation, the course

subject and status of the course application.

F. **Definitions**

1. **District required shift change:** a reorganization or District mandated classification rebid resulting in an involuntary shift change due to the seniority of an employee.

2. **District required reduction in force:** reduction in force actions as described in SEIU 1021 Article S25 and ATU 1555 Article S31, resulting in employee being placed in lay-off status with recall rights.

3. **Voluntary shift change:** any shift change in which the individual has the ability to control movement affecting him/her adversely, i.e., advance bid, promotion, reverting to his/her former position, system bids, line/yard bids, lateral bids, etc.

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## 3.6 LOST ARTICLES

All lost property shall be handled in accordance with the following procedures:

A. If given to an employee by other than another employee, the name and address of the finder shall be obtained and he/she shall be notified of the procedures under this Section.

B. If found by an employee, it will be returned without delay to the owner or, if unable to do so, turned into the District not later than the following day. When an employee is of the opinion such property is valuable, he/she shall immediately report the same to the supervisor, and it shall be properly identified and turned over by the supervisor to the Lost and Found office.

C. The District Lost and Found office will maintain a record of such property, including the name of the employee turning in the property, and if unclaimed after a prescribed period, the property shall be sold at public auction pursuant to regulations established by the District not in conflict with this Section. Employees shall be permitted to bid at such auction.

D. The Union shall be provided a copy of the public notice of auction at the time such notice is published.

E. Lost property turned in by an employee may be returned to the employee finding same following the prescribed retention period if such return is permitted by law.

F. The District agrees to furnish any information to the employee finding lost property as to its final disposition upon request from the employee.

G. Any property found that is suitable for an employee welfare or recreation program, or for other District purposes, shall be retained by the District after the period of retention has expired and allocated to such purpose.

## 4.0 VACATION & LEAVES OF ABSENCE

### 4.1 VACATION

The District will grant three (3) weeks of vacation following one (1) year of service, four (4) weeks of vacation after eight (8) years of service, five (5) weeks' vacation after fifteen (15) years of service and six (6) weeks' vacation after twenty (20) years of service. Employees may carry over up to sixty (60) days (up to forty-eight [48] days for employees on a 4-10 Plan) of vacation. Employees with four (4) or more weeks of accumulated vacation will be allowed to buy back up to forty (40) hours of such vacation. The election of such buy-back shall be made in December with determination of the four (4) week eligibility threshold to be made in December the following year with payment made in the second February following the election. Subject to applicable law and policies applicable to the MPPP Program, employees may elect to have such payment deposited in their MPPP account on a post-tax basis. This shall take effect when BAP Phase I goes live.

Employees will select their vacation in accordance with the applicable seniority provisions consistent with the scheduling ability of their department, division or section.

In the event an employee terminates or retires, he/she shall be granted pro rata vacation compensation based upon his/her accrued credits.

Vacation allocation will be scheduled throughout the calendar year; however, to the maximum extent possible, consideration consistent with operating requirements will be given to allow employees to take their vacation during the summer months.

Should a contractual holiday fall within the employee's vacation period, compensation will be applied consistent with holiday provisions of this Agreement.

Years of service shall be based upon the employee's date of employment by the Bay Area Rapid Transit District or in the case of 13(c) employees, in accordance with the 13(c) Award.

Vacation accrual will not be continued beyond thirty-one (31) days in the event an employee is in a non-pay status.

*** Minute Clarification**

For employees hired after June 30, 2022, the District will end its past practice of allowing ATU bargaining unit employees to carry over from one calendar year to the next more than sixty (60) days (up to forty-eight [48] days for employees on the 4-10 Plan) of vacation. The past practice of permitting employees to carry over from one calendar year to the next limitless accrued vacation shall remain in effect for all employees hired on

or before June 30, 2022. Those employees hired after June 30, 2022, who exceed the maximum annual carry-over limit as of December 31 of each calendar year will be paid their accrued vacation in excess of the carry-over limit in a lump sum at the rate of pay in effect for the employee as of December 31st.

Upon separation, for whatever reason, all employees shall receive compensation for all accrued and unused vacation, including in the "Carry-Over" account, at the rate of pay in effect for the employee at the time of separation.

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## 4.2 BEREAVEMENT

When a death occurs or appears imminent in the immediate family of an employee, the employee shall be granted up to a total of five (5) days for death of the employee's current spouse or eligible domestic partner per Board Resolutions 4455 and 4757, or other members of the employee's immediate family if the employee is on a five (5) day per week work week schedule or a nine-eighty (9/80) work schedule, four (4) days if the employee is on a four (4) day per week work week schedule. Such leave shall not be deducted from any other leave accrual. To be eligible for compensation for bereavement pay, the employee, upon his/her return, must provide written verification by the attending physician of death or imminence and indication of relationship of the member of the immediate family involved. False information given concerning the death, imminence, or relationship shall be cause for discharge. The immediate family of an employee is defined as spouse or an employee's eligible domestic partner, child, or a child of an employee's domestic partner; parent, brother, sister, grandparent, grandchild; and current, parent/step-parent of spouse/eligible domestic partner, step-parent, step-child and legal guardian.

"Domestic Partner" is defined in Section 1.9.

Only one (1) bereavement leave within a twelve (12) month period shall be granted an employee for each member of the immediate family.

In agreeing to continue existing language in this Section, the parties understand that alternate forms of leave, e.g., vacation, floating holidays, leaves of absence without pay, are available to employees who may wish to extend the bereavement period and such reasonable request for said extensions have been granted in the past and shall continue to be considered and granted in the same manner.

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## 4.3 MILITARY LEAVE

Employees of the District, who are ordered to active duty with the Armed Forces for a period not to exceed one hundred eighty (180) calendar days, including travel time, will be granted a temporary military leave of absence for time required to meet military obligations as established by State and

Federal law. Employees must furnish the District with a copy of the orders as early as possible prior to such leave.

During such military leave, employees with one (1) year of District service will be eligible for their existing straight time rate of pay for the first thirty (30) calendar days of any such absence during a fiscal year (July 1 - June 30).

For purposes of this Section, weekend military training sessions shall not be considered as Military Leave; however, employees who have military training sessions on weekends (Saturday and Sunday), and whose assigned work week includes Saturday or Sunday, or both, may request adjustment of their scheduled rest day or days off where work is available which they are qualified to perform in order to attend such sessions without loss of pay. Employees must request such arrangements in writing as far in advance as possible and provide verification of attendance upon return to work. No additional compensation, shift premiums, or other extra costs to the District shall result from such adjustments.

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## 4.4 PREGNANCY AND BONDING LEAVE

Pregnancy disability leave will be granted to employees who are disabled by pregnancy, childbirth, or related medical conditions, in accordance with the California Fair Employment and Housing Act. Such leave will begin no later than the date the employee's doctor states in writing she should discontinue working due to pregnancy disability, and will continue until the date on which the employee's doctor states in writing that she is capable of returning to work. An employee who is granted pregnancy disability leave will be required to exhaust any accrued sick leave before taking unpaid leave or using any accrued vacation leave or floating holidays. During a pregnancy disability leave, employees may, to the extent possible, use the Disability Insurance provided by the District.

Bonding leave will be granted to each employee covered by this Agreement upon the birth or adoption of the employee's child, or the placement of the child with the employee for foster care, in accordance with the Family and Medical Leave Act and the California Family Rights Act. An employee who is granted bonding leave will be required to exhaust any accrued vacation leave, floating holidays or compensatory time before taking unpaid leave. Upon exhaustion of any accrued vacation, floating holidays or compensatory time, the employee may, at his or her option use accrued sick leave.

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## 4.5 LEAVE OF ABSENCE *

Employees may occasionally be required to request time off without pay. When such time off becomes necessary, it must be requested through the employee's immediate supervisor.

A leave of absence, for the purposes of this Section, is defined as an absence from work requested in writing by a District employee and approved in writing by the employee's Department Head and by the Department Manager of the Employee Relations Department. Such leaves must specify an agreed-upon period of time normally longer than two (2) days but not to exceed six (6) calendar months.

Leaves of absence generally fall into the following categories:

A. **Emergency Leave:** To assist an employee in taking care of crisis circumstances or conditions which cannot normally be handled while working full time?

B. **Vocational/Educational Leave**: To assist an employee in preparation for possible upward mobility in the District. (The District makes no representation that leave for such purpose will result in promotions or transfers.)

C. **Leave for Personal Matters:** To allow employees time off to attend to such matters which are not urgent and are purely personal in nature, but which are of such character as to require a short absence from work.

D. **Voluntary Service Leave:** To allow employees time off who are volunteer members of a federal, state, or local certified fire department, police department, or American Red Cross.

The District will determine the length of time it will grant for such leave in each individual case.

The District reserves the right to extend a given leave if it deems it desirable to do so.

During the period of time in which an employee is on leave of absence, he/she shall accumulate service with the District.

Any employee who fails to return to work upon conclusion of the agreed-upon leave of absence shall be considered to have voluntarily terminated his/her employment with the District, subject to the terms of Section 22.4 of the SEIU agreement or 39.7 of the ATU agreement for non-probationary employees.

Employees on leave of absence shall have the option to pay any costs involved into and continue to participate in Health & Welfare Programs and life insurance.

*** Minute Clarification**

The parties agree that requests for leaves of two (2) days or less shall continue to be made through the employee's immediate or appropriate supervisor without the involvement of the Employee Relations Department.

The District further agrees to continue its practice of notifying the Union on approved leaves of absence in excess of thirty (30) days. The District also agrees that in the event it considers a request for extension of a leave of

absence beyond a six (6) month period, it shall advise the Union prior to approving such leave.

However, the District is not precluded from approving such extended leave in the event the Union objects.

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## 4.6 JURY DUTY *

Pursuant to State law, an employee shall be excused from work on a workday on which he/she performs jury service, providing he/she gives prior notification to his/her supervisor. During such excused absence, an employee shall be paid up to an amount of the difference between jury fees and his/her existing shift earnings, exclusive of reimbursable travel expenses.

No such payment will be made to an employee excused for jury service unless a statement is provided to the District showing the amount of fees paid or payable and the time spent in jury service.

When an employee has served five (5) consecutive days on jury duty under the 5-8 work week plan or four (4) consecutive days under the 4-10 work week plan and that service conflicts with one or more of the employee's RDOS, the employee has the option to reschedule their RDOs with his/her supervisor without additional cost to the District.

*** Minute Clarification**

The parties agree exercise of this option shall be within the work week in which the Jury Duty occurs. If the court recesses for the day without discharging the employee from jury duty or discharges the employee from jury duty, the employee may use a floating holiday or accumulated vacation for the next scheduled shift.

Also, if the employee's active jury duty encompasses a portion of his or her normally scheduled (i.e. non-jury duty) days off, he or she shall receive the following Saturday and/or Sunday as a day(s) off. If the employee performs active jury duty on the first normally scheduled RDO, Saturday shall be a substitute RDO. If the employee performs active jury duty on his or her second normally scheduled RDO (or third in the case of four-ten employees) Sunday shall be a substitute RDO.

The employee shall notify his or her supervisor of his or her election to work or use holiday or vacation time as provided above in accordance with his or her department's normal departmental reporting procedures.

***Minute Clarification**

The split RDOs will be used in the case of jury duty only on a non-precedent setting basis.

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## 4.7 WITNESS DUTY

An employee shall be excused from work on a work day on which he/she is subpoenaed as a witness in court, before a Grand Jury or for a deposition, providing he/she gives prior notification to his/her supervisor. During such excused absence, an employee shall be paid up to an amount of the difference between the witness fees and his/her existing shift earnings, exclusive of reimbursable travel expenses.

If an employee is subpoenaed as witness in court, before a Grand Jury or for a deposition on his/her regular day off on a matter related to his/her employment with the District, the employee shall be paid up to an amount of the difference between the witness fees and his/her applicable rate exclusive of reimbursable travel expenses. In such cases, the employee must provide to his/her supervisor a copy of the subpoena and a statement of the witness fees paid or payable as a condition of being paid.

The pay provisions of this Section shall not apply when an employee is required to appear in Court or at a deposition in any matter in which he/she is the plaintiff or as a result of any activities related to other employment.

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# 5.0 INSURANCE BENEFITS

## 5.1 GROUP INSURANCE & DISTRICT SELF-FUNDED PLANS-GENERAL *

The terms, conditions and provisions of all current group insurance policies issued by insurance companies to the District, or hereafter negotiated between the parties, and of all self-funded employee benefits plans, exclusive of the Money Purchase Pension Plan and Deferred Compensation Plan, under which individual employees are to receive benefits, are incorporated by reference herein and shall be controlling in all matters pertaining to benefits hereunder.

The District agrees that it will not change, or seek to change, the benefits under the group insurance policies, or under the self-funded benefit plans or fail to provide reasonable and customary claims services under which individual employees are to receive benefits, without mutual agreement of the parties to this Agreement.

The District agrees that it will promptly notify the Unions of any proposed changes to group insurance policies or self-funded benefit plans which may be mandated by law or required by insurers, or proposed by the District.

Married employees and employees in an eligible domestic partnership who both work for the District shall receive full coverage under group insurance policies and self-funded benefit plans. They shall each receive their allotted employee and dependent coverage. In no event will these employees or their dependents be entitled to such combined coverage in excess of their actual expenses.

Employees who are on non-job-related disability for two (2) continuous years or longer shall not be eligible for District-paid medical benefit plans while on such leave. The definition of a dependent for purposes of District-paid medical benefit plans shall be as follows:

A. The covered employee's legally wedded spouse or domestic partner per Board Resolutions 4455 and 4757 and BART and health plan eligibility guidelines.

B. The unmarried, a) natural born child, b) legally adopted child, c) step child, or d) child of the employee or the employee's domestic partner for whom the covered employee or employee's domestic partner became the legal guardian before age 19, who is under age 19 and dependent on the covered employee for their principal support and maintenance. This also includes any such child as listed above who is under age 23 (or under age 24 in accordance with the individual health plan) provided they are attending school on a continuous, full-time basis (12 units or more), at an accredited academic or vocational institution.

   This also includes any such child as listed above who is incapable of sustaining employment by reason of mental retardation or physical handicap, if such was incurred prior to age 19 (or prior to age 23, or prior to age 24 in accordance with the individual health plan, if the child was attending school as a full-time student as defined above), provided the child resides in the covered employee's household or a custodial facility.

C. Any unmarried child (including the eligible child of an employee's domestic partner) under age 19 (or prior to age 23, or prior to age 24 in accordance with the individual health plan, if attending school as a full-time student as previously defined) for whom the covered employee is mandated by court decree to provide health benefits.

   Proof of dependency and/or incapacity must be furnished annually during the period specified by BART.

*** Minute Clarification**

The parties agree that for the purposes of the above Section, an employee's return to work would constitute a termination of the two-year disability termination of benefits as defined below:

Two or more periods of disability due to the same or a related injury or sickness shall be considered one period of disability unless separated by the person's return to the full-time duties of his regular occupation for a continuous period of at least ninety (90) days.

The District will notify the employee after twenty-one (21) months of continuous disability of the pending termination of benefits.

*** Minute Clarification**

The parties agree that the second paragraph of this Section means that the District will not make changes to current group insurance policies which

adversely affect the level of benefits without agreement of the parties.

This Section shall not apply to benefits which are provided pursuant to Section 5.2, PERS-Medical & Prescription Drug Benefits, and Section 5.8, Survivor Benefits. Section 5.2, PERS-Medical & Prescription Drug Benefits and the PERS rules, regulations and plan documents shall control on all issues concerning medical and prescription drug benefits.

*** Minute Clarification**

Living Trust - An employee who is diagnosed as terminally ill and is on disability shall have the option to collect his/her life insurance benefits subject to the terms, conditions and provisions of the Principal Financial Group's "Accelerated Benefits" plan.

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## 5.2 PERS-MEDICAL & PRESCRIPTION DRUG BENEFITS *

A. **PERS Medical and Prescription Drug Benefits**

The District will provide group medical and prescription drug benefits, as provided below, through the Public Employees' Retirement System (PERS). The PERS rules, regulations and plan documents will control on all issues concerning benefits, including the types and levels of benefits offered and eligibility for those benefits.

The Unions acknowledge that they understand these benefits may not equate to benefits previously available to employees and retirees through the various optional medical plans and the prescription drug plan. Because coverage will be provided through PERS, the District and the Unions understand that PERS may terminate or change covered expenses, benefit payments and co-payments on covered benefits, deductibles, lifetime and/or annual maximums and may implement various cost control features.

Except for Survivors Benefits, as provided for in Section 5.8, the Unions waive the right to any group medical or prescription drug benefit granted expressly or impliedly under other sections of this Agreement, or by any other agreement between the parties or by any District guideline, policy or practice if that benefit is not offered through the PERS medical plan.

B. **Employee and Retiree Contributions for Health Insurance**

All employees eligible for PERS medical benefits who enroll for such benefits shall be responsible for a premium contribution in the amount of twenty-five dollars ($25.00) per month, except as provided below.

1. The employee's twenty-five dollar ($25.00) monthly employee contribution toward the medical insurance premium shall increase by fifty dollars ($50) on January 1, 2006. Each January 1 thereafter, the monthly employee contribution shall increase by an escalator amount of three percent (3%). For example, the total monthly employee contribution on January 1, 2007 will be seventy-seven dollars and

twenty-five cents per month. (The calculation that arrives at this number is as follows: $25 + $50 = $75 x 1.03 = $77.25.) The employee contribution amounts provided below shall be in addition to any costs for coverage in excess of the amounts specified in paragraph C below.

| Date | Maximum Employee Monthly Contribution |
|---|---|
| 01 Jan. – 06 | $75.00 |
| 01 Jan. – 07 | $77.25 |
| 01 Jan. – 08 | $79.57 |
| 01 Jan. – 09 | $81.95 |
| 01 Jan. – 10 | $84.41 |
| 01 Jan. – 11 | $86.95 |
| 01 Jan. – 12 | $89.55 |
| 01 Jan. – 13 | $92.24 |
| 01 Jan. – 14 | $95.01 |
| 01 Jan. – 15 | $97.86 |
| 01 Jan. – 16 | $100.79 |
| 01 Jan. – 17 | $103.82 |
| 01 Jan. – 18 | $106.93 |
| 01 Jan. – 19 | $110.14 |
| 01 Jan. – 20 | $113.44 |
| 01 Jan. – 21 | $116.85 |
| 01 Jan. – 22 | $120.35 |
| 01 Jan. – 23 | $123.96 |
| 01 Jan. – 24 | $127.68 |
| 01 Jan. – 25 | $131.51 |
| 01 Jan. – 26 | $135.46 |
| 01 Jan. – 27 | $139.52 |
| 01 Jan. – 28 | $143.70 |
| 01 Jan. – 29 | $148.02 |
| 01 Jan. – 30 | $152.46 |
| 01 Jan. – 31 | $157.03 |
| 01 Jan. – 32 | $161.74 |
| 01 Jan. – 33 | $166.60 |
| 01 Jan. – 34 | $171.59 |

2. During the term of this Agreement, the employees' premium contribution shall be increased by thirty seven dollars ($37) per month as follows: 2014 - $132.01; 2015 - $134.86; 2016 - $137.79; 2017 - $140.82; 2018 - $143.93; 2019 - $147.14; 2020 - $150.44; 2021 - $153.85; 2022 - $157.35; 2023 - $160.96; and 2024 - $164.68. For active employees the additional thirty-seven dollars ($37) per month shall be deducted from the one and six hundred and twenty seven one thousandth percent (1.627%) money purchase pension plan contribution.

3. Each eligible retiree shall pay the same premium contribution as

active employees. Employees' premium contributions will be paid for through tax-exempt payroll deductions. Retiree premium contributions will be deducted from the retirement allowance paid by PERS. If a retiree's retirement allowance is not sufficient to pay the entire contribution, the retiree must pay the balance due on such premium contribution directly to PERS. If such payment is not received by the due date, health care coverage will automatically, immediately and permanently cease. These rules are intended to comply with the premium contribution procedures established by PERS, which may be modified by PERS. The District, Unions and employees shall comply with the PERS procedures in effect from time to time.

C. **Maximum District Contributions for Health Insurance**

Beginning on January 1, 2010, the District shall contribute an amount up to the applicable level of plan participation (i.e. one party, two party, or family) and the same Medicare status as elected by the eligible employee or retiree equal to the Bay Area Basic Premium Rates for the PERS HMO Blue Shield Access + or PERS HMO Kaiser Plan, whichever is greater, less the employee and retiree contributions provided for in 5.2B above. This District contribution shall be the District's maximum payment toward employee health insurance premiums. Employees and retirees electing coverage with a cost greater than the District's maximum contribution shall have the difference deducted automatically from the unit member's pay or as set forth in 5.2 B 2. above, in addition to amounts to be deducted in accordance with subsection B above.

D. **Retiree Insurance Funding**

1. Beginning July 1, 2007, the District shall contribute into its Retiree Health Benefit Trust ("RHBT") amounts that, at minimum, reflect an eight (8) year "ramp up" to District payment of the full Government Accounting Standards Board ("GASB") compliant Annual Required Contribution ("ARC") beginning July 1, 2013 using an open group valuation method with a closed 30 year amortization schedule for unfunded liability ending June 30, 2034. Except as provided in paragraph 3 below, each pay period the District shall contribute to the RHBT an amount equal to the below-listed percentages of straight time bargaining unit base pay paid to bargaining unit members in that pay period into the RHBT. (For example, if base pay in the pay period in FY 07 is one million dollars [$1,000,000], the District will contribute $34,900 into the RHBT for that pay period).

| Date | Percentage |
|---|---|
| July 1, 2007 (FY 08) | 3.49% |
| July 1, 2008 (FY 09) | 3.64% |
| July 1, 2009 (FY 10) | 3.79% |
| July 1, 2010 (FY 11) | 3.94% |
| July 1, 2011 (FY 12) | 4.10% |
| July 1, 2012 (FY 13) | 4.27% |

2. In addition, on or before June 30, 2009 the District shall, at minimum, contribute into the RHBT an amount equal to three and twenty-two one-hundredths percent (3.22%) of straight time bargaining unit base pay paid in FY 06 and three and thirty-six one-hundredths percent (3.36%) of straight time bargaining unit base pay paid in FY 07. These figures represent the "ramp up" percentages for those fiscal years.

3. The District shall perform an actuarial study of the retiree medical insurance plan liabilities and funding needs (including the Annual Required Contribution – "ARC") after the end of each fiscal year. For each fiscal year beginning with FY 2007, the actuaries shall adjust the above ramp up percentages for the fiscal year for which the study was prepared and for each remaining fiscal year in the ramp up period. The last such adjustment will be in the study performed prior to July 1, 2013 for FY 2013. The revised percentages shall be the percentages contributed by the District to the RHBT for those years, except that the District shall pay no less than the percentages specified in subsections 1 and 2 above.

4. Beginning July 1, 2013, the District shall, at minimum, contribute to the RHBT each pay period an amount equal to the full GASB compliant Annual Required Contribution (ARC) percentage of straight time base pay paid to bargaining unit members during that pay period using an open group valuation method with a closed thirty (30) year amortization schedule for unfunded liability ending June 30, 2034. (For example, if the base pay during the pay period is one million dollars [$1,000,000] and the ARC percentage is fourteen percent [14%], the District will contribute one hundred forty thousand dollars [$140,000] to the RHBT for that pay period.)

5. During the term of this Agreement, the District shall retain .0888% of the one and six hundred twenty-seven one-thousandths percent (1.627%) of the Money Purchase Plan contribution in addition to the $37/month to be used as specified in Paragraph B2, above.

6. Effective July 1, 2013, the District shall retain the remainder of the 1.627% MPPP contribution, to the extent necessary to compensate the District for paying the difference between the actual ARC and the baseline ARC described below. The District shall retain this amount through June 30, 2034. In any year in which the actual ARC does not exceed the baseline ARC by an amount equal to the amount of the retained 1.627% MPPP contribution, the District shall pay the appropriate portion of the 1.627% into the employees' MPPP accounts, but only to the extent that the difference between the actual ARC and the baseline ARC is less than the dollar value of the retained MPPP 1.627%.

   EXAMPLE: Assume that the actual ARC is fifteen percent (15%) in the particular year, the baseline ARC is fourteen percent (14%) in the particular year, and that the difference between the two is one million

dollars ($1,000,000). Assume further that the value of the retained 1.627% is one million five hundred thousand dollars ($1,500,000). The District would then pay a total of five hundred thousand dollars ($500,000) into the employees' collective MPPP accounts. These payments would be prorated in the same manner as would result from full payment of the 1.627% into the employee accounts.

The baseline ARC is as follows:

| FY Year Beginning | Baseline ARC |
|---|---|
| 07/1/13 | 11.88% |
| 07/1/14 | 11.94% |
| 07/1/15 | 12.00% |
| 07/1/16 | 12.06% |
| 07/1/17 | 12.12% |
| 07/1/18 | 12.18% |
| 07/1/19 | 12.24% |
| 07/1/20 | 12.30% |
| 07/1/21 | 12.36% |
| 07/1/22 | 12.42% |
| 07/1/23 | 12.48% |
| 07/1/24 | 12.54% |
| 07/1/25 | 12.60% |
| 07/1/26 | 12.66% |
| 07/1/27 | 12.72% |
| 07/1/28 | 12.78% |
| 07/1/29 | 12.84% |
| 07/1/30 | 12.90% |
| 07/1/31 | 12.96% |
| 07/1/32 | 13.02% |
| 07/1/33 | 13.08% |

7. Effective July 1, 2013 the District shall direct the Trustee of the RHBT to pay retiree health insurance premiums from the RHBT. No premiums will be paid from the RHBT prior to July 1, 2013.

E. **In Lieu of Medical Payments**

During any open enrollment period after July 1, 2009, an eligible employee who has medical coverage under a spousal or other alternate plan may elect, in accordance with procedures established by the District to opt out of the group medical and prescription drug benefits covered under Section 5.2(A) ("5.2A Coverage").

The District shall make a monthly payment of three hundred and fifty dollars ($350.00) "in lieu of medical" to each eligible employee who opts out of 5.2A coverage.

Tax treatment of these payments will be subject to applicable Internal Revenue Code ("IRC") and Internal Revenue Service ("IRS") rules. The

payments will be made in a manner that will not impact the income tax status of medical premiums under IRC requirements and to allow an employee to receive the amounts as cash monthly payments.

An eligible employee who opts out of 5.2(A) coverage may subsequently enroll in such coverage as permitted under the terms of the plan(s) described in Section 5.2(A).

F. **Trust Review Committee**

1. The District's five (5) unions shall each appoint one (1) member to serve on a trust review committee ("TRC"). The District Labor Relations Manager and Human Resources Manager shall serve on the TRC for the District. The TRC shall meet quarterly. Employee members of the TRC will be released from regularly scheduled duty with pay for quarterly TRC meetings.

2. The District will direct the Trustee of the Trust to provide the Unions with quarterly reports of all RHBT operations, including audited and unaudited financial statements and investment performance reports, and other consultant reports in advance of the quarterly TRC meeting. (The parties acknowledge that audited financial statements are performed only once per year.)

3. The Trustee will attend the TRC meeting to answer questions concerning the information provided to the TRC. However, the TRC shall in no way attempt to assist, direct, or otherwise involve itself in matters concerning the investment of Trust assets. However, the TRC may advise the Trustee on other Trust matters to the extent such advisory activity does not affect the legal status of the Trust. It shall be within the sole discretion of the Trustee whether to follow or not follow such advice.

4. The TRC members shall be released from regularly scheduled duty with pay to attend meetings of the Human Resources Manager and Labor Relations Manager with the District's actuaries and other professionals to discuss assumptions to be included in annual GASB valuation studies, the preliminary and final results of such studies, etc. Such studies shall include ARC projections through at least 2035. The District will provide the unions with a copy of the final version of such study on or before February 1 each year or as soon thereafter as is practicable.

G. **Retiree Health Benefits Trust**

Within one hundred twenty (120) days after the signing of this agreement by the parties hereto, the District shall amend the Trust Agreement to provide that:

1. Trust assets shall be held for the sole and exclusive purpose of providing health benefits to eligible BART retirees and to defray the reasonable expenses of administering the RHBT.

2. The only District benefit plans for which payments may be made from the RHBT shall be those retiree health benefit plans offered to eligible District retirees as a result of its collective bargaining agreements, or District policy which extends such plans to non-represented employees. In addition, for District personnel on a District plan that is no longer generally offered to District employees, payments may be made from the RHBT. However, the District shall ensure sufficient separate funding and the Trustee shall separately account for benefits paid for such personnel.

3. The District may terminate the RHBT, subject to its duty to bargain in good faith to agreement or impasse over such termination with the union. If the District gives the Unions notice of the termination of the RHBT, the Trust shall not terminate until the assets then remaining are exhausted. Such assets shall be used only as provided in paragraph 1 above.

The District reserves the right to terminate or change any part or all of the health benefits program at any time with respect to active or retired employees, however, any such action will be taken only after the District has satisfied its obligations under applicable Collective Bargaining Agreements. The District's contractual obligation to provide health benefits coverage to retired employees shall terminate upon the expiration of this Agreement. By providing benefits to retirees, the parties do not intend to vest retirees with such benefits.

H. **Retiree Medical Insurance Eligibility**

The parties agree that with respect to District employees first hired after January 1, 2014, the District shall make no contribution for postretirement health benefits on behalf of such individuals with less than ten years of credited service with the District, and that the full District contribution for postretirement health benefits shall be made only on behalf of individuals who have completed a minimum of fifteen (15) years of credited service with the District. Eligibility for this benefit is, in addition to the specified criteria, subject to current provision which require that the employee retire from CalPERS within one hundred and twenty (120) days of separation from the District.

The parties agree that:

1. This provision applies to unrepresented employees, members of the Board of Directors to the extent they are eligible under existing law, and members of any unit of employees whose terms and conditions of employment are determined through collective bargaining and who agree that it should apply to its members.

2. Contributions shall be subject to:

   a. Credited years of District service

   b. An Agreement with all represented employees mutually agreed upon through collective bargaining;

3. The District contribution shall be a percentage of the employer contribution for applicable credited years of service as follows:

   10 years – 50%; 11 years – 60%; 12 years – 70%; 13 years –80%; 14 years – 90% and 15 years 100%.

4. The full contribution level shall be available for post retirement health benefits for those employees who are approved for and exercise a disability retirement with at least five years of credited service with the District.

5. This Section shall only apply to District employees or Board members who are first hired by the District or newly elected to the Board and first serve on or after January 1, 2014.

6. Any agreement to adopt these provisions by any collective bargaining unit shall apply only if the agreement is expressly incorporated into or made a part of a memorandum of understanding.

7. This provision shall not apply to any employee who retires before the effective date of the memorandum of understanding referenced above. In the event that the memorandum of understanding establishes a retroactive effective date, this Section will govern, limiting its applicability only to prospective retirements.

8. The District shall provide, in the manner prescribed by CalPERS, a notification of each agreement established pursuant to this Section and any additional information necessary to implement it.

The Parties recognize that implementation of this agreement requires statutory changes to the California Government Code and agree to jointly seek a sponsor for and support the passage and signing into law of the provisions as set forth herein. If the law is not successfully passed, then the Parties agree to mutually agree on alternative provisions.

*** Minute Clarification**

Members who would like to realize the benefit of the in lieu payment as a pre-tax contribution to their deferred compensation accounts can accomplish this result by increasing their deferral amount for the deferred compensation plan by the amount of the in lieu payment, subject to Internal Revenue Code limitations on maximum annual contributions.

*** Minute Clarification**

The parties mutually understand that the only obligation to continue the health benefits of active employees after the expiration of the Agreement is that which may arise from the general legal duty to bargain in good faith.

***See Letter of Understanding Dated 10/23/13 and Side Letter 10-1**

## 5.3 DENTAL PLAN *

Present coverage for preventative care, restorative care, prosthodontics care and orthodontic care will continue. Coverage will be as follows:

A. **Preventative Care:** Insurance will pay one hundred percent (100%) of Usual and Customary charges.

B. **Restorative Care:** Insurance will pay ninety percent (90%) of the Usual and Customary charges, with the employee paying the balance.

C. **Prosthodontics:** Insurance will pay ninety percent (90%) of the Usual and Customary charges, with the employee paying the balance.

D. **Orthodontics:** Insurance will pay seventy five percent (75%) of the Usual and Customary charges, with the employee paying the balance.

Maximum benefit payable for a combination of preventative, restorative and prosthodontic care is two thousand dollars ($2,000) for each calendar year. Each calendar year, the employee may place the maximum benefit payable for preventative, restorative and prosthodontic care for each employee and dependent in a family bank. Maximum benefit payable for orthodontic care is three thousand five hundred dollars ($3,500) lifetime maximum with fifty dollars ($50) deductible for employees and dependents.

Retirees shall have the option to purchase the same dental coverage as listed in this Section at no cost to the District.

*** Minute Clarification**

Employees shall have the option to purchase, at their own expense, an enhanced dental plan. Benefits and premiums shall be established by the District annually based on plan experience. Premiums for this benefit will be paid through payroll deduction.

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## 5.4 VISION CARE *

The District will continue to provide a Vision Care Plan for employees, an employee's eligible domestic partner (per Board Resolutions 4455 and 4757) and their eligible dependents providing the following:

| Coverage | Intervals |
|---|---|
| Visual Examinations | 12 months |
| Lens Replacement | 12 months |
| Frames Replacement | 24 months |

There shall be a ten dollar ($10) deductible. The District shall pay the full premium for all employees and eligible dependents.

Retirees shall have the option to purchase the same vision coverage as listed in this Section at no cost to the District.

*** Minute Clarification**

Employees shall have the option to purchase, at their own expense, an enhanced Vision Care Plan. Benefits and premiums shall be established by the District annually based on plan experience. Premiums for this benefit will be paid through payroll deduction.

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## 5.5 GROUP LIFE

The District will continue to provide a basic group life insurance policy for each employee equivalent to two (2) times the employee's base rate annual salary (four thousand one hundred and sixty [4160] hours times base straight time hourly rate) with accidental death and dismemberment provisions.

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## 5.6 VOLUNTARY / ADDITIONAL LIFE INSURANCE *

Effective July 1, 1989, all bargaining unit employees are eligible to purchase voluntary life insurance with accidental death and dismemberment provisions. Non-supervisory and non-professional employees may purchase insurance equivalent to one (1), two (2) or three (3) times the employee's base rate annual salary. Supervisory and professional employees may purchase insurance equivalent to one (1) or two (2) times the employee's base rate annual salary. The full cost of the premiums are to be paid by the employee through payroll deduction.

In addition, supervisory and professional employees classified Foreworkers and above may elect to purchase Additional Life Insurance, which is equivalent to one (1) times the employee's base annual salary with accidental death and dismemberment provisions. Fifty percent (50%) of the cost of the Additional Life Insurance premiums will be paid by the District and fifty percent (50%) will be paid by the employee through payroll deductions.

Each year between September 1 and September 30 there shall be an annual application period for all eligible employees to apply for voluntary and/or additional life insurance.

All new hire employees shall be eligible to apply, as described above within the first thirty-one (31) days of employment.

Eligibility of existing and new hire employees to participate in the voluntary and/or additional life insurance program(s) during the initial or annual application period(s) shall be subject to timely application and medical certification of insurability.

*** Minute Clarification**

The language changes or deletions reflected in this Section from that in the

1985-88 Agreement, are for administrative purposes only and do not represent a change in life insurance benefit.

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## 5.7 ASSAULT INSURANCE

The District will provide Assault Insurance as indicated under the existing insurance policy in the amount of fifty thousand dollars ($50,000) for each District employee in the bargaining unit.

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## 5.8 SURVIVOR BENEFITS

Subject to the restrictions, limitations and eligibility requirements of the applicable health plans, for employees who elect a survivor benefit, the District will pay a portion of premiums or provide reimbursement for the enrollment of their previously eligible covered survivor(s) in the medical, dental, and vision care plans upon the death of the employee. The cost for this program is fifteen dollars ($15) per month. After the employee's death, the survivor must continue to contribute fifteen dollars ($15) per month to receive medical, dental, and vision coverage.

Part-time employees (less than forty [40] hours per week) and employees who are ineligible for District health plan coverage, including, without limitation, limited term intermittent employees, are ineligible for the Survivor Benefits Program.

In order for the survivor of an employee or retiree who dies before the effective date of this Survivor Benefits Program to be eligible for survivor benefits, the employee and survivor must have been covered by District medical benefits at the time of termination by death or retirement and the survivor must have been participating in the prior Survivor Benefits Program on June 30, 1994 and have remained enrolled up to the effective date of this program. In order for the survivor of an employee or retiree who dies after the effective date of this Survivor Benefits Program to be eligible for survivor benefits, the employee/retiree and survivor must have been covered by District medical benefits and enrolled in the Survivor Benefits Program at the time of death.

This benefit shall be made available to active employees enrolled in the prior Survivor Benefits Program on June 30, 1994, provided they are enrolled through the effective date of this program, and to active eligible employees who elect to enroll during a one-time only thirty-day open enrollment period beginning on or about January 1, 1995. Active employees who elect Survivor Benefits during the January 1995 open enrollment period shall, as a condition of enrollment, pay an amount equal to fifteen dollars ($15) per month retroactive to an initial premium date which shall be April 1, 1992, or their date of hire, whichever is later. Said initial premium shall be collected through payroll deduction in addition to the fifteen dollars ($15) per month assessment for on-going participation in

the program. This benefit shall be made available to eligible new hires when they commence the fifteen dollars ($15) monthly assessment within thirty (30) days of hire. Former employees who retired prior to the effective date of this Survivor Benefits Program are not eligible for this program unless they were enrolled in the Survivor Benefits Program on June 30, 1994 and continue to participate through the effective date of this program. Survivors of employees or retirees who were enrolled in the Survivor Benefits Program on June 30, 1994 and continued to participate through the effective date of this program will be eligible for this or a similar reimbursement benefit described below.

Failure to pay the required fifteen dollars ($15) per month assessment by the due date established by the District shall permanently and irrevocably terminate eligibility for the Survivor Benefits Program.

The various categories of individuals eligible to elect this program, and the additional conditions applicable to each category, are described below.

**SURVIVORS OF EMPLOYEES WHO DIE IN SERVICE AFTER THE EFFECTIVE DATE OF SURVIVOR BENEFITS PROGRAM**

The survivors of employees who were not eligible for a PERS retirement allowance and who die in service after the effective date of the Survivor Benefits Program are eligible for benefits if they are eligible under the optional PERS Survivor Benefits Program provided for at Government Code Section 22819 (the optional program). The District will pay the entire premium to PERS for the optional program upon payment of the fifteen dollars ($15) per month contribution.

The survivors of employees who were eligible for a PERS retirement allowance and who die in service after the effective date of the Survivor Benefits Program are eligible for survivor benefits only if the survivors are receiving a survivor's allowance from PERS and having the survivor's portion of the retiree medical premium withheld from the allowance. They will be reimbursed for the difference between the amount withheld and the required fifteen dollars ($15) per monthly contribution. However, if the surviving spouse is not eligible for a PERS annuity only because he/she was married to the employee for less than a year, or only because he/she was a PERS annuitant and became ineligible for an annuity because of remarriage, the District will provide medical benefits as follows:

1. If the survivor meets the eligibility requirements for the optional PERS Program, the District will pay the entire premium to PERS for the optional program upon payment of the fifteen dollars ($15) per month contribution;

2. If the survivor does not meet the eligibility requirements for the optional program, the District will reimburse the survivors for medical premiums paid for any medical plan or coverage in which they may participate, less the required fifteen dollars ($15) per month contribution. The maximum medical reimbursement will be based on the highest PERS medical plan

premium applicable to their covered family size or the actual cost of their medical insurance, whichever is lower. Reimbursement will be made on a monthly basis. Proof of payment of medical premiums shall be required.

**SURVIVORS OF EMPLOYEES WHO DIED IN SERVICE AFTER 11/17/88 BUT BEFORE EFFECTIVE DATE**

The survivors of employees who died in service after November 17, 1988 but before the effective date of this program who were enrolled in the prior Survivor Benefits Program on June 30, 1994, and remained enrolled through the effective date of this program may participate in this Survivor Benefits Program. If eligible survivors are receiving a survivor's allowance from PERS and having the survivor's portion of the retiree medical premium withheld from the allowance, they will be reimbursed for the difference between the amount withheld and the required fifteen dollars ($15) per month contribution. If the survivors are not receiving a survivor's allowance from PERS, the District will provide dental and vision coverage and will reimburse the survivors for medical premiums paid for any medical plan or coverage in which they may participate, less the required fifteen dollars ($15) per month contribution. The maximum medical reimbursement will be based on the highest PERS medical plan premium applicable to their covered family size or the actual cost of their medical insurance, whichever is lower. Reimbursement will be made on a monthly basis. Proof of payment of medical premiums shall be required.

**SURVIVORS OF RETIREES WHO DIED AFTER 11/17/88 BUT BEFORE EFFECTIVE DATE**

The survivors of retirees who died after November 17, 1988 but before the effective date of this program who were enrolled in the prior Survivor Benefits Program on June 30, 1994, and remained enrolled through the effective date of this program may participate in this Survivor Benefits Program. If eligible survivors are receiving a survivor's allowance from PERS and having the survivor's portion of the retiree medical premium withheld from the allowance, they will be reimbursed for the difference between the amount withheld and the required fifteen dollars ($15) per month contribution. If the survivors are not receiving a survivor's allowance from PERS, the District will provide dental and vision coverage and will reimburse the survivors for medical premiums paid, less the required fifteen dollars ($15) per month contribution. The maximum medical reimbursement will be based on the highest PERS medical plan premium applicable to their covered family size or the actual cost of their medical insurance, whichever is lower. Reimbursement will be made on a monthly basis. Proof of payment of medical premiums shall be required.

**SURVIVORS OF RETIREES WHO DIE AFTER EFFECTIVE DATE OF PROGRAM**

The survivors of retirees who retired before the effective date of this program but who die after the effective date are ineligible to participate in

this program unless the retiree was enrolled in the prior Survivor Benefits Program on June 30, 1994 and remained enrolled through the effective date of this program. Benefits for such survivors shall be provided in the same manner as for eligible survivors of retirees who died before the effective date of this program as provided above. If an employee who is enrolled in this Survivor Benefits Program retires after the effective date and then dies, his or her survivors are eligible for dental and vision coverage, but medical coverage will be provided only if the survivors are receiving a PERS survivor's allowance and having the survivor's portion of the retiree medical premium withheld from the allowance. They will be reimbursed for the difference between the amount withheld and the required fifteen dollars ($15) per month contribution. However, if the PERS survivor's allowance is not available only because the survivor and employee were married less than one year, or because the survivor remarries, then the District will reimburse the survivor for medical premiums paid, less the required fifteen dollars ($15) per month contribution. The maximum medical reimbursement will be based on the highest PERS medical plan premium applicable to their covered family size or the actual cost of their medical insurance, whichever is lower. Reimbursement will be made on a monthly basis. Proof of payment of medical premiums shall be required.

The District reserves the right to terminate or change any part or all of the Survivor Benefits Program at any time with respect to active or retired employees or survivors. However, any such action will be taken only after the District has satisfied its obligations under applicable Collective Bargaining Agreements. The District's obligation to provide survivor benefits coverage shall terminate upon the expiration of this Agreement.

The effective date of this Survivor Benefits Program shall be the first day of the second month following the effective date of the PERS Medical contract.

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## 5.9 DISABILITY COVERAGE

A. **Short-Term Disability Coverage** - The District will continue to maintain Short-Term Disability coverage at the following rates:

| Weeks of Disability | Maximum Salary | Maximum Benefit |
|---|---|---|
| 1st – 26th | $1260 x 66 ⅔% | $840 |

At no time will disability coverage be less than level mandated by State law.

B. **Long-Term Disability** - The District will continue to maintain Long-Term Disability coverage with a maximum monthly benefit of sixty-six and two-thirds percent (66-⅔ %) of the base monthly salary to a maximum insured salary of two thousand dollars ($2,000) per month. Maximum

benefit - one thousand four hundred fifty-six dollars ($1,456.00) per month for weeks twenty-seven (27) through fifty-two (52) and one thousand three hundred thirty-four dollars ($1,334.00) for weeks fifty-three (53) and any subsequent week.

C. **Employee Purchase of Additional Coverage**

1. **Short-Term Disability Coverage** - Employees may purchase additional Short-Term Disability coverage up to the following rates:

| Weeks of Disability | Maximum Salary | Maximum Benefit |
|---|---|---|
| 1st – 4th | $800.00 x 66 ⅔% | $533.00 |
| 5th – 26th | $931.00 x 66 ⅔ % | $621.00 |

Premiums for this additional coverage shall be fully paid by the employee.

2. **Long-Term Disability Coverage** - Employees may purchase additional Long-Term Disability coverage to assure payment of up to sixty-six and two-thirds percent (66-⅔ %) of the employee's base monthly salary to a maximum insured salary of three thousand dollars ($3,000) per month. The maximum monthly benefit is two thousand dollars ($2,000). Premiums for this additional coverage shall be fully paid by the employee.

Eligibility of employees to purchase additional Short-Term and/or Long-Term Disability coverage shall be subject to medical certification of insurability.

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## 5.10 EMPLOYEE ASSISTANCE PROGRAM

The parties agree that the District will continue a referral program for the purpose of assisting in a confidential manner employees and their families with marital, psychological, alcohol, drug, child, elder and other dependent care needs, domestic violence, financial, legal and other problems to obtain counseling and other services. A twenty-four (24) hour crisis intervention service will be available at all times. Child care and other dependent care services, including those with emergency availability, are also available.

The Unions agree to cooperate with the District in the administration of this program.

The District shall retain a consultant to provide referrals as appropriate in the above-described problem areas. The District shall pay the cost of this consultant's referral services, which will constitute the entire District monetary contribution to this program.

The costs for all other services provided to employees or their families under this program shall be borne by the participating employee/family

member to the extent such services are not covered by the employee's medical or other benefit plans.

The District shall distribute informational materials in order to inform employees of the EAP Program and the services provided and shall provide union stewards and officials with training regarding the nature and extent of said programs and otherwise provide the unions with information as may be requested regarding the nature and extent of all such programs.

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## 5.11 BENEFITS REVIEW

The District and the Unions agree that the Department Manager of Human Resources or his/her designee and top Union Officials/ consultants shall meet annually between the months of March and May to discuss the District's benefits plans. This discussion may include a review of the status of the plans, the preceding years' experience under the plans, levels of coverage, alternative benefits, and other matters relating to employee benefits.

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## 5.12 HEALTHCARE COST CONTAINMENT

The parties shall establish a joint labor-management health care cost containment committee (HCCCC) to pursue purchasing, regulatory and legislative means to control industry driven cost drivers in local and regional health markets, including but not limited to high provider prices, lack of transparency, secret negotiations between commercial plans and providers and between purchasers and contracted plans, shadow pricing by commercial plans, and unsafe and ineffective care. The HCCCC will advocate for fundamental changes in provider reimbursement, with payment tied to demonstrated quality, efficiency, and value.

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# 6.0 RETIREMENT BENEFITS

## 6.1 PUBLIC EMPLOYEES' RETIREMENT SYSTEM

The District shall provide the two percent (2%) at age 55 retirement plan formula for miscellaneous bargaining unit members determined by CalPERS rules to be classic members. The District shall provide a two percent (2%) at age 62 retirement plan formula, as mandated by PEPRA, for all miscellaneous bargaining unit members determined by CalPERS rules to be PEPRA members.

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## 6.2 PENSION CONTRIBUTIONS

Effective no later than the first full pay period following sixty (60) days after

ratification of this Agreement and retroactive to July 1, 2019, all miscellaneous classic bargaining unit employees shall contribute six percent (6%) of pensionable income to CalPERS and all miscellaneous PEPRA bargaining unit employees shall continue to contribute fifty percent (50%) of the normal cost as determined by CalPERS, which is seven percent (7%) effective July 1, 2019. Effective no later than the first full pay period following sixty (60) days after ratification, all miscellaneous bargaining unit employees shall receive a 1.4428% base pay increase retroactive to July 1, 2019.

Effective the first full pay period after January 1, 2020, all classic miscellaneous bargaining unit members shall contribute seven percent (7%) of pensionable income to CalPERS and all PEPRA bargaining unit employees shall continue to contribute seven percent (7%) of pensionable income to CalPERS and all miscellaneous bargaining unit employees shall receive an additional 00.7214% base pay increase.

Effective the first full pay period after July 1, 2020, all miscellaneous bargaining unit members shall contribute eight percent (8%) of pensionable income to CalPERS and all miscellaneous bargaining unit employees shall receive an additional 0.7214% base pay increase.

Thereafter, if fifty percent (50%) of the normal cost exceeds eight percent (8%), the PEPRA employees shall continue to contribute fifty percent (50%) of the normal cost as determined by CalPERS. It is understood that under PEPRA, bargaining unit employees subject to PEPRA may be required to contribute over eight percent (8%) of pay to pension in certain years.

To the extent permitted by law, the District agrees that should the current rate of statutory classic employee contributions to CalPERS increase beyond eight percent (8%) during the term of this Collective Bargaining Agreement, the District shall include such rate increase in the affected employer pick up on behalf of bargaining unit members determined by CalPERS rules to be classic members. The parties agree that any additional cost to the District resulting from any increase in the percentage level of employee contributions occurring after November 1979 shall be borne by the District until the expiration of this agreement.

Each employee is solely and personally responsible for any federal, state or local tax liability of the employee that may arise out of receipt of said pick up by the District or any penalty that may be imposed therefore.

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## 6.3 PENSIONERS' LIFE INSURANCE

Life insurance will be provided to all employees who retire from the District as follows:

A. First year of retirement, fifty percent (50%) of the basic group life insurance;

B. Second year of retirement, forty percent (40%) of the basic group life insurance;

C. Third year of retirement, thirty percent (30%) of the basic group life insurance;

D. Fourth and subsequent years of retirement, twenty percent (20%) of the basic group life insurance.

This Section is subject to the provisions of Section 5.1 “Group Insurance and District Self-Funded Plans”.

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## 6.4 MONEY PURCHASE PENSION PLAN

A. The District will continue to deposit an amount equivalent to six and sixty-five one hundredth’s percent (6.65%) of the employee’s base rate monthly compensation (after deducting the first one hundred thirty-three dollars and thirty-three cents [$133.33] paid during the month) up to a maximum annual contribution of one thousand eight hundred and sixty-eight dollars and sixty-five cents ($1,868.65) into a Money Purchase Pension Plan for employees. The base rate monthly compensation equals one hundred seventy-three and one third (173.33) hours times base straight time hourly rate.

B. Additional Contributions to Employees’ Money Purchase Pension Plan or Retiree Health Benefits Trust during PERS Superfunding.

1. Except as provided below, beginning October 1, 2001, and for the period(s) during which the District’s PERS account is superfunded, the District shall make an additional contribution to each employee’s Money Purchase Pension Plan account in the amount of 3.5% of gross straight-time wages. This contribution is 50% or one half of the 7% PERS Employer Paid Member Contribution (EPMC). The other 3.5% will be available to the District for discretionary obligations and purposes. The 7% EPMC will be discontinued during the period(s) of superfunding.

2. If the District’s employer PERS account becomes superfunded in any fiscal year commencing before the fiscal year beginning July 1, 2034, and if in the next fiscal year the RHBT has an unfunded actuarial liability as determined by the District’s actuaries, then the District shall, at the commencement of the fiscal year after superfunding status begins, discontinue its payment of the EPMC for members of the bargaining units from the operating budget and shall instead direct an equal amount into the District’s Retiree Health Benefit Trust.

If the District’s employer PERS account loses superfunding status, the payments provided in Section B.1 or B.2 of this Section, whichever applies, shall cease and the District shall resume payment of the employee PERS contribution from the operating budget.

## 6.5 PERS RATE REDUCTIONS

Any PERS savings accrued by the District on or after July 1, 1989 remain the property of the District and shall not be shared with employees.

## 6.6 ADDITIONAL PERS OPTION

The District will amend its PERS contract to permit employees to purchase the following service credit options: Public Service Credit for California Senate Fellows, Assembly Fellowship, Executive Fellowship, or Judicial Administration Fellowship Programs; Public Service Credit for Periods of Layoff, Public Service Credit for Peace Corps, AmeriCorps VISTA, or AmeriCorps Service; and up to four (4) years of service credit for any continuous active military service prior to employment with BART pursuant to Government Code Section 20930.3. The employee will bear all costs for these PERS options.

If PERS does not offer Long Term Care Insurance, the District shall provide employees with an option to purchase, at employees' expense, Long Term Care Insurance outside of PERS.

## 7.0 TRANSPORTATION

## 7.1 PASS PRIVILEGES

The District will provide free transportation over its lines during normal hours of operation to full-time employees and pensioners and their spouses and dependent children, provided they properly display their District identification card.

Dependent children under the age of five (5) years will not be required to display their identification cards. Dependent children include unmarried children (including legally adopted children) to their nineteenth (19th) birthday, or to their twenty-third (23rd) birthday if they are enrolled full-time at an accredited institution of learning, provided such children are dependent on the employee for their support and maintenance.

There will be a ten dollar ($10) fee to replace an employee's identification card.

In any twelve (12) month period: Dependents will be charged a ten dollar ($10) fee to replace a dependent's first identification card. The fee to replace any subsequent dependent's identification card shall be twenty dollars ($20). On the third request, and any subsequent requests, the fee to replace the identification card shall be twenty dollars ($20) and there will be a three (3) month waiting period. These fees may be waived by the

District upon verifiable proof of the reasonableness of loss or destruction.

The District will provide five (5) identification cards for ATU Local 1555 and ten (10) identification cards for SEIU 1021 for representatives designated by name by the Unions authorizing free transportation on the system.

Failure to properly display identification or any attempt to misuse this privilege will be cause for refused entry into the system, revocation of privilege and/or disciplinary action.

Pass privileges will be revoked when an employee is terminated from the District.

Spouse's and eligible dependent children's pass privileges shall continue upon the retirement of an employee. When an employee who has retired from District services dies:

A. his/her spouse's pass privileges shall terminate upon the surviving spouse's remarriage;

B. eligible dependent children's pass privileges shall terminate five (5) years after the retiree's death or upon the expiration of the time periods set forth in this Section, whichever occurs first.

If an employee dies as the result of a District job-related accident, the following shall occur:

1. If the employee has been employed by the District for less than five (5) years, the surviving spouse's pass privileges shall terminate five (5) years after the employee's death or upon the surviving spouse's remarriage, whichever occurs first.

2. If the employee has been employed by the District for more than five (5) years, the surviving spouse's pass privileges shall terminate upon the spouse's remarriage;

3. Eligible dependent children's pass privileges shall terminate five (5) years after the employee's death or, upon the expiration of the time periods set forth in this Section, whichever occurs first.

If an employee dies as a result of a non-job-related injury or illness, and at the time of death he/she has been an employee of the District for at least five (5) years and is at least fifty (50) years of age, the employee's surviving spouse's pass privileges shall terminate upon the spouse's remarriage.

An employee's eligible domestic partner and their eligible children shall be entitled to the same pass privileges under this Section as spouses and dependent children of the employee, per Board Resolutions 4455 and 4757.

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## 7.2 TRANSPORTATION, WORK RELATED

The District shall ensure that employees assigned during the work shift to

another District work location shall be returned to their bid work location. Until returned to bid location, the employee shall be considered on duty.

Should an employee be assigned to report at the commencement of any shift or during any shift to a work location other than the reporting location selected by bid, the time required to go to and from the normal working location shall be considered as time worked.

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## 7.3 TRAVEL ALLOWANCE

A. **Travel Expense - Local:** Insofar as possible, authorized travel within the District shall be by local transit facilities or by District automobile. In the event taxicab use is necessary, actual reimbursement shall be paid. In the event private automobile is used, the Internal Revenue Service Standard Mileage Rate will be paid by the District in addition to actual parking and toll fees. While on assigned District business away from the employee's assigned office or area, reimbursement for lunch expense will be that portion of the lunch expense that is in excess of that which would normally be paid were the employee working at the office or area. Reimbursement under this policy shall not exceed twelve dollars ($12) per luncheon.

B. **Travel Expense - Outside of District:** Travel for distances in excess of one hundred fifty (150) miles will be provided by public carrier. Mode of travel and commencement of travel status will be determined by the District prior to departure. Hotel charges will be reimbursed at actual cost. Actual costs of meals will be reimbursed when traveling outside the District. Other necessary travel expenses including, but not limited to, local transportation, telephone, laundry and cleaning, will be reimbursed on the basis of actual cost to employee.

C. **Travel Allowance:** When assigned outside the District in excess of twenty-four (24) hours, employees of the District may, in lieu of receiving reimbursement for actual costs of travel, elect to receive actual receipted cost of lodging, plus an allowance as established by the District's Management Procedure No. 20, Section II, Travel Outside The District as reimbursement for all other travel costs. This allowance will be allowed in full on the day of departure and return without regard for time of departure or arrival.

D. Employees may choose either "B" or "C" for travel expenses. If "B" is selected, a reasonable cash or check advance in such sums as may be deemed necessary, considering the character of the expense, shall be made.

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## 8.0 PAY PROCEDURES

### 8.1 PAY PERIODS *

All hourly employees shall be paid bi-weekly on every other Friday on an hourly rate basis. Staff Assistants shall continue to be considered salaried and shall be paid bi-weekly every other Friday.

The District shall make available an electronic direct deposit system for payroll checks. As a condition for participating in the electronic direct deposit payroll system, any correction necessary for payment made in error, other than for regular straight time hours worked, which cannot be adjusted in the current pay period will be adjusted in full on the next following pay period's direct deposit subsequent to receipt of written notification to Payroll. If the correction is not made in the next following pay period's direct deposit, the District will make the correction as set forth below.

Except for employees participating in direct deposit, employees whose regular day off/holiday falls on a payday shall receive their payroll checks prior to the end of their shifts on the preceding day. Should checks be available at the employee's work site on the day preceding the regular payday, they shall be distributed to such employees requesting same, but in no event prior to 4:00 p.m. on the day preceding the regular payday.

Pay periods shall remain as established unless changed by mutual agreement.

There shall not be more than five (5) days' holdback of pay for any employee.

The District shall continue the present system of itemized deductions, and all adjustments shall be clearly defined on the statement portion of the check. All shortages above fifty dollars ($50) shall be corrected within the time limits set below. The employee's immediate or appropriate supervisor shall assure that the documentation necessary to correct the shortage has been delivered to Payroll within one (1) work day, exclusive of weekends and holidays, after he/she receives written notification of the shortage from the employee. Payroll shall correct the shortage and cause a check to be available at the employee's normal work location within three (3) Accounting work days, exclusive of weekends and holidays, after receipt of written notification.

All other shortages shall be added to the next paycheck.

No deductions for overpayments shall be made without express specific written authorization from the employee.

Except for employees participating in direct deposit, any employee taking a scheduled vacation shall be provided an advance paycheck, provided such payday falls within the scheduled vacation period and provided a written request is submitted to the District no less than five (5) Accounting workdays prior to the scheduled vacation.

Final termination paychecks shall be issued to terminating employees within seventy-two (72) hours after such termination becomes effective.

The District will promptly process Public Employees' Retirement System refund forms following an employee's termination.

*** Minute Clarification**

The parties have reached the following understanding with respect to repayment of overpayments made to employees. This understanding also applies to overpayments made pursuant to the electronic direct deposit system.

Where repayment of the entire amount of the overpayment in a lump sum would work a hardship on the affected employee, the Union may request development of a reasonable repayment schedule through Human Resources. Such request will not be unreasonably denied by Human Resources.

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## 8.2 COST OF LIVING / WAGE ADJUSTMENT

All employees covered by this Agreement shall be covered by the provisions for a cost of living increase as set forth in this Section.

The wage rates as contained in this Agreement shall not be reduced by application of this Cost of Living Provision. In addition to the wage rates contained in this Agreement, all employees shall be paid cost of living adjustments to be determined on the basis of the "Urban Wage Earners and Clerical Workers" Consumer Price Index (United States Average, revised base 1967 = 100), published by the Bureau of Labor Statistics, United States Department of Labor, in the manner described in this Section (hereafter referred to as the "Index").

A. Effective on June 30, 2017 and on June 30, 2021, a Cost of Living Adjustment shall be granted to the wages/salaries of all employees subject to this Agreement equal to one-cent (1¢) per hour for each full point four (.4) of a point change in the Consumer Price Index as measured on the basis of movement of the Index published for the month of May, 2017 for the June 30, 2017 adjustment, and May 2021 for the June 30, 2021 adjustment, over the Index published for the month of February, 2017 and February, 2021 respectively.

B. All Cost of Living Adjustments specified in Paragraph A of this Section for salaried employees shall be at the monthly equivalent of the hourly adjustment (the cost of living cent adjustment times two thousand eighty hours [2,080] hours divided by twelve [12] months = monthly equivalent of the hourly adjustment.)

C. The resulting Cost of Living Allowance shall be used in the computation of pensions, straight time and overtime pay exactly as though the wage rates had been changed by the allowance. However, the allowance

shall not be added to the base wage rates.

D. The District, during the negotiations for a succeeding term after June 30, 2021, shall not assert that the Cost of Living Allowance increase effective on June 30, 2021 is included as part of any increased wage offer made by the District for the succeeding contract.

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## 8.3 TRANSFERS WITHIN THE UMBRELLA BARGAINING UNIT

A. Employees transferring within the umbrella bargaining unit shall not be considered as new hires.

B. Umbrella unit employees of the District who bid and are awarded a higher paying position within the bargaining unit shall be paid no less than the base salary rate of the lower position.

C. All entry level and training rates of pay are eliminated effective July 1, 1997.

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## 9.0 SICK LEAVE & DISABILITY

## 9.1 SICK LEAVE

A. **Accrual:** Covered employees shall accrue one (1) day of sick leave for each full month of employment. Sick leave credits may be accumulated to a total of two hundred fifty (250) working days.

B. **Incentives For Sick Leave Accrued And Unused On Or After October 19, 2009:**

To encourage employees to maintain maximum attendance and to improve performance, the District offers employees the following two (2) incentives beginning October 19, 2009:

1. **PERS Retirement Service Credit for Sick Leave:** The District will amend its contract with CalPERS to provide the California Government Code Section 20965 option for service credit for unused sick leave for eligible CalPERS members in the bargaining unit, with an effective date of October 19, 2009. The Public Employees Retirement Law (PERL) and CalPERS rules will govern the eligibility of unused sick leave earned on or after October 19, 2009 for service credit. Those rules presently grant 0.004 years of service credit for each certified unused day of sick leave accrued by the member during the normal course of his/her employment. For employees whose effective date of retirement is within four months of separation from employment with the District, the District shall certify to CalPERS all such unused days of sick leave that were accrued by the employee on or after October 19, 2009. For purposes of Government Code Section 20965, leave accrued prior to October 19, 2009 shall not be

considered “unused” sick leave and the District will not certify such sick leave to CalPERS, unless the employee has made the one-time election to convert such pre-October 19, 2009 sick leave to PERS credit eligible sick leave pursuant to Paragraph C below.

2. **Annual Buy-Back Or MPPP Incentive**: The District shall give employees the option each year to make an irrevocable election on the schedule indicated below to buy-back or to deposit into their Money Purchase Pension Plan (MPPP) accounts, the dollar value of the sick leave earned within the annual accrual period indicated in paragraph B (2) (a) below, less sick leave taken during that same period, on an after tax basis.

   a. **Sick Leave Accrual/Election Periods:** The maximum sick leave which may be earned for each accrual period is ninety-six (96) hours for employees on a 5-8 or 9-80 Work Plan and one hundred twenty (120) hours for employees on a 4-10 Work Plan. Sick leave for which such an election has been made shall not be included by the District in the certification to CalPERS under the retirement service credit plan described above.

      During the month of September each year, employees will be given the opportunity to make an irrevocable annual election to buy back sick leave which will be newly earned during the following sick year (Oct. 1 – Sept. 30), but not used during that year (unused sick year accrual).

   b. **Buy-Back/MPPP Deposit Amounts:** An election to “buy-back” or to deposit into the MPPP must also include an election as to the percentage amount of the “buy-back,” based on the percentage increments and maximums provided below. The maximum Buy-Back percentage that will be allowed is based on the employee’s attendance record during the accrual period.

| Days | Eligible Percentage of Unused Earned Sick Leave |
|---|---|
| 0 | 5% up to 50% (in 5% increments) |
| 1-3 | 5% up to 40% (in 5% increments) |

      Buy-Back and MPPP amounts shall be calculated at the employee’s base rate of pay at the end of the accrual period, less applicable tax withholding.

   c. **Impact of Buy-Back/MPPP Election:** Employees may select only one option (Buy-Back or MPPP) for each accrual period.

      Once the buy-back or MPPP Incentive election is made for any accrual period it may not be changed. Employees will receive the buy-back checks or MPPP credit no later than December 1 following the end of the accrual period.

      Unused sick leave hours for which an election to buy-back or

transfer into the MPPP is not made shall be carried over to the next year, subject to maximum accumulation limits, and will no longer be available for any future Annual Buy-Back/MPPP incentive election.

C. **One Time Election to Convert Sick Leave Accrued Prior To October 19, 2009 to PERS Creditable Sick Leave**

During the month of October 2009, employees will be given a one-time opportunity to convert unused sick leave that has been accrued prior to October 19, 2009 to PERS-credit-eligible sick leave (described in paragraph B(1) above). This election shall be irrevocable, and will include all of the employee's unused sick leave, including banked sick leave pursuant to D(1), and/or unbanked sick leave pursuant to D(3) below. If an employee makes this election, such accrued leave will no longer be eligible for pay-out at termination/retirement (previously banked leave) or at retirement (unbanked leave). All leave converted pursuant to this paragraph C will be subject to CalPERS rules for service credit eligibility. Leave converted under this paragraph will thereafter be considered, for purposes of disposition at the end of employment only, to have been accrued on or after October 19, 2009.

D. **Sick Leave Accrued Prior To October 19, 2009**

Sick leave accrued prior to October 19, 2009, which is not converted to PERS creditable sick leave pursuant to paragraph C above, shall be preserved in accounts separate from sick leave accrued on or after October 19, 2009, and shall be used pursuant to the terms of this paragraph D, including subsections (1) – (3).

1. **Banked Sick Leave (Under Previously Exercised Option)**

This Section refers to sick leave which has been 'banked' in accordance with Labor Agreement Section 9.1B(2) as it was in effect on June 30, 2009, or banked pursuant to Agreements previously in effect. It excludes sick leave electively converted to PERS-creditable sick leave pursuant to paragraph C above. It includes sick leave for which a banking election was made during the 2008 or earlier option periods.

Banked sick leave, as defined above, will be preserved in a separate account for use by the employee in accordance with the provisions of former Section 9.1B(2), including the following:

a. Such bank shall be set aside for payment upon death/retirement/termination and shall not be included in the calculation of unused sick leave pursuant to paragraph B(1) above or Government Code Section 20965.

b. Sick leave hours banked will be paid at the employee's base rate of pay, effective on the employee's date of death or retirement/termination from District's employment.

c. Employees who experience an illness/injury and exhaust their existing sick leave that is available, may utilize sick leave that has been banked under prior Section 9.1B(2) provided they make a written request to do so through their Department Manager at the time of the illness/injury and the circumstances qualify for sick leave under Section F ("Sick Leave Payment") below.

2. **Sick Leave Buy-Back (Under Previously Exercised Option)**

Employees who exercised the option during the September 2008 option period specified in Labor Agreement Section 9.1B(2) in effect on June 30, 2009 to make an irrevocable election to buy-back or deposit into the MPPP the value of sick leave earned during the annual accrual period, less sick leave taken during the annual accrual period shall receive the buy-back payments and the MPPP deposits required by the prior Labor Agreement.

Buy back checks for the 2009 accrual period under former Labor Agreement Section 9.1B will be distributed to employees no later than December 1 following the end of the accrual period, and MPPP elections for that period will be deposited by that same date.

3. **Retirement Buy-Back**

Sick leave accrued prior to October 19, 2009, and not (1) banked pursuant to paragraph 1 above; (2) bought back or deposited in the MPPP pursuant to paragraph 2 above; (3) converted to PERS creditable sick leave pursuant to paragraph C above; or (4) used pursuant to E and F below, shall be available for use as a Retirement Buy Back incentive. Employees leaving District service on retirement shall be paid fifty percent (50%) of this accrued sick leave balance upon the effective date of service retirement. This accrued sick leave shall not be included in the calculation of unused sick leave pursuant to paragraph B above or Government Code Section 20965.

E. **Order of Use of Sick Leave from Separate Accounts**

When using sick leave with pay pursuant to Section F below, employees' sick leave balances will be deducted in the following order:

1. Sick leave accrued on or after October 19, 2009, if any, including any sick leave accrued before October 19, 2009 which an employee has elected to convert to PERS creditable sick leave pursuant to paragraph C above, if any.

2. If the accruals described in paragraph E (1) are exhausted, unbanked sick leave accrued prior to October 19, 2009, if any.

3. If the accruals described in paragraphs E(1) and E(2) above are exhausted, banked sick leave, if any, may be used subject to the terms of paragraph D(1)(c) above.

F. **Sick Leave Payment:**

FMLA/CFRA

An Employee on FMLA/CFRA qualifying leave may elect to use any accumulated leave as may be permitted by Federal and State law and regulations (i.e. sick leave, vacation, floating holidays or compensatory leave) or elect to take the leave unpaid in any order and at the employee's discretion. Employees who would otherwise qualify for short term disability while on FMLA/CFRA leave will not qualify for that disability until all of the employee's sick leave is exhausted.

Employees shall receive sick leave with pay up to the amount of sick leave accrued at the time of illness, provided the requirements of this Section are met. Employees shall accrue sick leave credits during the probationary period; however, they shall not be eligible for sick leave pay until after completion of the probation period.

An employee who is absent from work for reasons that qualify for use of sick leave under Section 9.1 who has no accumulated sick leave to cover such absence must use accumulated vacation, personal holiday, and compensatory time off before unpaid leave may be granted. Even though such charges are made, the employee's absence remains subject to the contract provisions governing the use of sick leave. The employee must advise the employee's appropriate absence report recipient, as designated by the District, of the category of paid leave that shall be charged for such absence. If the employee does not do so, the absence shall be charged by default against the employee's accumulated vacation, holiday and compensatory time off in that order. Sick leave preserved under Section 9.1.F last paragraph (below) will not be available for such charges. Holidays may not be charged if such charge would reduce the number of holidays in the employee's account below the number of designated contractual holidays remaining in the fiscal year.

Employees shall be eligible for paid sick leave as follows: without limitation on their rights under state and federal law.

1. Illness, including the appropriate use of required prescribed medication which would impair the employee's work performance, injury, quarantine, or similar exposure to contagious disease;

2. Verifiable medical and/or dental appointments which cannot be scheduled outside the normal working hours, provided that a minimum of forty-eight (48) hours advance notice is given and provided subsequent confirmation that the appointment was kept is given if requested by Management.

3. Doctor's visits associated with pregnancy, subject to the provisions in "2." above;

4. Hospitalization or serious illness/accident and resulting subsequent

related scheduled doctor's visits, subject to the provisions in "2." above;

5. Required attendance upon a seriously ill spouse, eligible domestic partner, or child. The District may require a written statement from the attending physician that the employee's attendance was required.

6. Required transportation to doctor for employee's spouse, eligible domestic partner, or child if spouse, eligible domestic partner, or child has serious accident or serious illness (subsequent verified and scheduled doctor's visits resulting from initial visit are also included).

7. Industrial injury and resulting subsequent related scheduled doctor's visits.

Sick leave with pay shall apply to each separate sick leave incident. For purposes of this Section, "sick leave with pay" means pay calculated at the straight time day shift rate for the number of hours the employee was regularly scheduled to work each day, had the illness or injury not occurred.

If an employee's absence which qualifies for paid sick leave also qualifies as statutory family and medical leave (i.e. FMLA/CFRA), the employee may elect to preserve eligibility for participation in the annual buy-back or transfer into the MPPP of eligible accruals, if elected during the election period, by requesting to substitute vacation, floating holidays (for increments of a full day only), or compensatory leave pay, if applicable, or, if he/she has no accrued vacation, floating holidays or compensatory leave, requesting to take the leave unpaid. The request must be made before receipt of sick pay.

G. **Sick Leave Verification:** The District may take reasonable means to verify the employee's eligibility for sick leave. Upon prior written notice, an employee, at his or her expense may be required to provide a doctor's statement which demonstrates to the satisfaction of the District, eligibility for sick leave as defined above, for any sick leave incident.

Employees shall furnish a doctor's statement for each sick leave incident involving absences of more than three (3) working days.

In instances where the District requires a doctor's statement, either to verify sick leave or determine an employee's fitness to return to work, that statement must include the following:

1. date and time of treatment;

2. duration of illness;

3. date cleared to return to work.

Otherwise, an employee returning to work from a sick leave incident must submit a required doctor's statement and other documentation within seven (7) calendar days of his/her return to work. Failure to submit required documentation within the time provided shall result in

denial of sick leave pay, and may result in disciplinary action.

The District may require any employee to submit to a medical examination by a doctor designated by the District, at the District's expense, as a condition of return to work from a sick leave incident or to verify the continuing need for sick leave.

Pattern use, misuse or abuse of sick leave will be governed by the District's disciplinary procedures and handled on a case-by-case basis.

H. **Sick Leave Reporting:** It is the responsibility of every employee absent from work because of illness or injury to report such absences to his/her immediate supervisor or the supervisor's designated representative. This report must include information as to the expected date of return to work and where the employee can be reached during his/her normal work hours. The employee will promptly notify his/her supervisor or supervisor's designee of any change which affects his/her ability to return to work.

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## 9.2 INDUSTRIAL INJURY / ILLNESS

A. **Industrial Injury/Illness:** Until December 31, 1988, an employee experiencing a verified industrial injury or illness will be entitled to receive no more than two (2) industrial accident leaves. Effective January 1, 1989, an employee experiencing a verified industrial injury or illness will be entitled to receive industrial accident leave compensation for no more than two (2) industrial accidents/illnesses during any twelve (12) month period. The employee will be compensated up to a maximum of three (3) days' pay for each industrial accident leave. When an employee receives an industrial accident leave he/she shall be entitled to receive only one (1) additional industrial accident leave of up to a maximum of three (3) days during the next twelve (12) months. The twelve (12) month period shall commence on the date the employee returns to work from the absence which gave rise to the first industrial accident leave.

For the purposes of this Section, industrial accident leave shall commence only if the employee is not released to return to work by the beginning of his/her regularly scheduled shift next following the date on which the industrial accident/ illness occurred.

Industrial accident leave compensation shall be advanced to an employee, within the limits set forth above, promptly upon proper notification to the District by the employee, on the condition that it must be verified at a later date. In order to be entitled to industrial accident leave, the employee should report the illness/injury to his/her immediate supervisor by the end of the shift in which the illness/injury occurred, but in no event no later than twenty-four (24) hours from the end of the shift in which the illness/injury occurred.

If it is later determined that the industrial accident leave was improper or invalid, the District may recover the amount equal to the industrial accident leave advance by deducting the amount advanced from the employee's existing or future sick leave, vacation or floating holiday accrual.

The employee shall be given five (5) working days to authorize such payment by payroll deduction or by designating the specific leave from which the recovery may be made. The accrual must be presently sufficient to cover the amount of the industrial accident leave advance. If the employee does not notify the District within five (5) working days, the District may deduct from any accrual an amount sufficient to cover the amount of the advance.

Nothing in this Section shall affect the District's right to recover any amounts owed to it through appropriate legal action.

B. **Coordination of Benefits:** Industrial accident leave and Sick Leave benefits, to the extent they are available, may be coordinated, at the employee's option, with Workers' Compensation or other compensation to maintain the employee's basic straight time earnings. Should an employee choose not to exercise the option of coordinating benefits, notification to the District is required in advance. No change in options will be made during an employee's disability status until BAP Phase I is implemented, after which employees may change options.

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## 9.3 MEDICAL EXAMINATIONS *

Any medical examinations, including periodic eye tests, required of employees by the District shall be paid for by the District, with the exception of costs incurred as a result of untimely employee cancellation of or missed examinations or appointments which shall be paid by the employee, provided the employee is given one week notice of the appointment.

In the case of any job-related illness or injury, an employee shall have the right to examination/treatment by a doctor of his/her choosing.

Medical examinations or follow-up medical appointments shall be scheduled, where possible, during non-work hours. Should this not be possible, the examination shall be scheduled at either the beginning or end of the shift so as to minimize time lost from work.

**JOB RELATED ILLNESS/INJURY**

Should the employee select his/her doctor, and the District disagrees with any findings, the District may require a second medical opinion through a District-designated doctor.

Should the findings of the District-designated doctor be inconsistent with the employee-selected doctor, a doctor shall be mutually selected by the following procedure:

> The District and the Union shall mutually agree upon an odd-numbered panel of doctors for such purpose. If they are unable to agree upon the names to be included on such a panel, they shall request the Industrial Accident Commission to submit the names of independent medical examiners most frequently used in the San Francisco Bay Area in the various specialties of medicine and these shall constitute the panel. The District and the Union shall select a third doctor from this panel within five (5) working days of the date the dispute is established. The conclusions of the third doctor shall be final and binding upon the parties, and the fee shall be shared 50-50 by both parties.

No employee shall suffer any loss of income or other benefits as a result of any directive to report to a physician, and the time required to report and return from such examination shall be considered as time worked unless the employee is found physically unfit to return to work.

If the findings of the District-designated and employee-selected doctors are inconsistent, no employee shall suffer loss of income or benefits during the first thirty (30) calendar days after the second doctor's inconsistent conclusions are issued or until the conclusions of the third doctor are issued, whichever occurs first.

Should the third doctor uphold the findings of the District-designated doctor, the employee shall agree in writing to reimburse the District for any income or benefits received to which he/she was not entitled. Reimbursement to the District shall be completed within thirty (30) calendar days from the employee's return to work.

**NON JOB-RELATED ILLNESS/INJURY**

Should the District require any medical examination of an employee with a non-job-related illness/injury, the District may designate a doctor for such purpose. This doctor may be the employee's doctor; however, if the employee's doctor is selected, the District reserves the right to require a second medical opinion through another District-designated doctor.

If the first medical examination is not performed by the employee's doctor, and if the employee disagrees with any medical findings of the District-designated doctor, said employee shall have the right to examination doctor of his/her choosing.

In either case, should the findings of the two doctors be inconsistent, a third doctor shall be mutually selected by the following procedure:

> The District and the Union shall mutually agree upon an odd-numbered panel of doctors for such purpose. If they are unable to agree upon the names to be included on such a panel, they shall request the Industrial Accident Commission to submit the names of independent medical examiners most frequently used in the San Francisco Bay

Area in the various specialties of medicine and these shall constitute the panel. The District and the Union shall select a third doctor from this panel within five (5) working days of the date the dispute is established. The conclusions of the third doctor shall be final and binding upon the parties, and the fee shall be shared 50-50 by both parties.

No employee shall suffer any loss of income or other benefits as a result of any directive to report to a physician, and the time required to report and return from such examination shall be considered as time worked unless the employee is found physically unfit to return to work.

If the findings of the District-designated and employee-selected doctors are inconsistent, no employee shall suffer loss of income or benefits during the first thirty (30) calendar days after the second doctor's inconsistent conclusions are issued or until the conclusions of the third doctor are issued, whichever occurs first.

Should the third doctor uphold the findings of the District-designated doctor, the employee shall agree in writing to reimburse the District for any income or benefits received to which he/she was not entitled. Reimbursement to the District shall be completed within thirty (30) calendar days from the employee's return to work.

*** Minute Clarification**

The parties agree Paragraph 2 is not intended to exempt employees from notice requirements of California State Law.

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## 9.4 DEFINITIONS

A. **Incident:** A sick absence, regardless of duration.

B. **Service Retirement:** Separation from District employment, including application and eligibility for service retirement with PERS.

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## 9.5 TEMPORARY MODIFIED ASSIGNMENT PROCEDURE

The parties recognize that offering Temporary Modified Work Assignments (TMA's) can, when properly administered, benefit the District and employees financially and in accelerating rehabilitation. Temporary modified work or temporary work assignments will be provided to permanently (who volunteers to participate) and temporarily disabled BART employees, when in the judgment of the District; work is available which can be provided without adversely affecting operations or services. Temporary modified work will be considered on a case-by-case basis.

Each employee who desires a TMA shall submit a written notice of such desire simultaneously to his or her immediate supervisor and the District's

Disability Programs Office, Department of Human Resources. Promptly after receipt of such notice, the Disability Program Office shall provide the employee with a Return-to-Work questionnaire for completion by the employee's physician, an instruction sheet on how to complete these forms, and a copy of Section 9.5 of the Labor Agreement. The employee must simultaneously return this form completed to the Disability Program Office and the employee's immediate supervisor. Temporary modified work may involve modification of an employee's own job or assignment to work outside of an employee's current position or bargaining unit, as provided herein. The Disability Programs Office, in consultation with the applicable department, will determine eligibility for participation in the temporary modified work program and will coordinate temporary work positions /assignments.

To aid in the administration of this program, the (SEIU and ATU) shall appoint two persons from their bargaining unit to serve on a TMA committee. The duties of the committee include (a) identifying potential TMA opportunities not otherwise identified by the District and recommending them to the Senior Personnel Analyst of the Disability Programs Office for consideration, (b) evaluating proposed TMA assignments and (c) advising the Senior Personnel Analyst of the Disability Programs Office on potential improvements in program administration. The Senior Personnel Analyst of the Disability Programs Office shall periodically train new committee members concerning the TMA Program, and shall periodically offer such training to union officers, stewards, supervisors, and managers.

The Senior Personnel Analyst of the Disability Programs Office shall provide committee members with a quarterly report of all requests for TMA application materials, completed Return to Work questionnaires, and TMA's that have been implemented. In addition, the committee shall have access to the completed Return-to-Work questionnaires as they are submitted. The Senior Personnel Analyst of the Disability Programs Office may propose a TMA that crosses bargaining unit lines or that is intra-unit but not on the list described in 9.5.C.3. The committee may by unanimous vote approve assignments that cross bargaining unit lines. The representatives of the Union affected by a proposed intra-unit TMA not on the list may unanimously approve such assignment. If the Senior Personnel Analyst of the Disability Programs Office, the union presidents and Labor Relations Manager agree in writing, additional TMA's may be added to or removed from the list set forth in Section 9.5.C.3.

On written notice delivered to the others within 150 and 180 days before the expiration date of this agreement, (either SEIU, ATU, or the District) may terminate further use or consideration of inter-bargaining unit TMA's and such use or consideration as occurs during the life of this agreement shall not be deemed precedent setting. The parties further agree that the relaxation of jurisdictional boundaries or rights permitted under this Section is experimental in nature, restricted exclusively to this Section, and may not be relied on as a precedent in any future dealings between them or any

other bargaining unit.

A. **Medical Evaluation:** The Benefits Analyst will review all requests for temporary modified work. The Benefits Analyst may, after obtaining all necessary authorizations to release medical information, review the employee's medical records, confer with the employee's doctor and/or schedule an examination with a District-selected doctor to determine what type of work accommodations are required. All proposed accommodations or temporary modified positions/assignments will be reviewed by a District-accepted physician, which may be the employee's physician, if said physician is selected by the District for this purpose, to determine if the job requirements/assignments are within the employee's physical and mental abilities. Any disputes will be handled in accordance with Section 9.3 of the Agreement.

B. **Accommodation Review:** The Benefits Analyst will discuss accommodation options with a Department representative to determine if accommodations can be made for the employee's disability on a limited term basis without adversely affecting operations or services.

Accommodations may include but are not limited to:

1. reduced work schedules at a minimum of twenty (20) hours per week. Schedules which will result in mid-shift interruptions will not be available;
2. reassignment of non-essential duties; and
3. alternate temporary work assignments.

C. **Alternate Temporary Modified Positions/Assignments:**

1. The Senior Personnel Analyst of the Disability Office will follow the sequence outlined below in determining whether alternate temporary modified work positions/assignments may be made:

   a. consider returning the employee to work in his/her current position in a modified capacity;

   b. when, in the District's judgment, this is not possible, consider an alternate temporary position/ assignment in the employee's department (Alternate placement within the employee's department will not involve placement in a position represented by a different bargaining unit.);

   c. thereafter, consider an alternate position/ assignment outside the department (Placement outside the department will not involve placement in a position represented by a different bargaining unit.); and

   d. consider an alternate non-represented position/assignment outside the bargaining unit. Employees placed in non-represented positions/assignments retain the contractual protections provided for in the CBA of their respective Unions.

2. If temporary modified work is not available within the employee's own department, the Senior Personnel Analyst of the Disability Office will determine if there are any unfilled temporary help requests which the employee may be able to fill.

3. A list of temporary modified positions/assignments in which employees who are temporarily disabled may be placed will be developed. Departments who have temporary modified positions/assignments with which they need assistance may submit work requests to the Benefits Office.

4. If there are no temporary help requests available which the employee is qualified to fill, the Benefits Office will determine if there are any assignments on the modified assignment list which the employee is medically qualified to perform.

5. If a temporary modified position/assignment is available, for which the employee meets the minimum qualifications, the Benefits Analyst will confer with the appropriate department regarding placing the disabled employee in the temporary modified position/ assignment.

6. If the Department Head or designee agrees with the recommendation, the employee and the Union will be so notified.

7. If the hiring department for the potential position/assignment believes the disabled employee is not qualified, for any reason, to perform the duties of the temporary modified position/assignment, the employee will remain off work. The Senior Personnel Analyst of the Disability Programs Office will, after consultation with the District's Office of Civil Rights, review the matter with the Department Manager of Human Resources whose decision will be binding on the hiring department except as provided in (8) below.

8. The hiring department may, within three days following notice of the Department Manager of Human Resources' decision, appeal the decision to the Deputy General Manager, whose decision will be final and binding.

D. **General Requirements:**

1. If an assignment is identified which, in the judgment of the District, is within the employee's medical limitations and restrictions, the employee shall return to work. The District may change regular days off and work hours while an employee is in the temporary modified assignment program. However, employees shall have the option to decline any initial or subsequent temporary modified position/assignment which is a change from the employee's last regular bidded shift, RDO or location. If an employee declines a temporary modified position/assignment because it is a change from the employee's last regular bidded shift, RDO or location, the District and the employee shall meet to determine if an alternate position/ assignment is available subject to the employee's rights set forth

above.

2. Employees in temporary modified positions/assignments shall schedule medical appointments, when possible, during non-work hours. Should this not be possible, the examination shall be scheduled at either the beginning or end of the shift so as to minimize lost time from work. If the employee is working a reduced number of hours per week, all medical appointments must be scheduled during non-work hours.

3. After sixty (60) days in a temporary modified work assignment, eligibility for continuation in the assignment will be reviewed by the Benefits Office and a department representative. If the employee is not expected to return to regular work within thirty (30) days, the employee may be removed from the temporary modified work assignment or reassigned to another temporary modified work assignment. The Union will receive notification and explanation of such a removal or reassignment.

4. An employee may be transferred from one temporary modified work assignment to another if his/her functional limitations change or he/she completes an assignment subject to the employee's rights set forth in D.1. The Union will receive notification and explanation of such a transfer.

5. Pay will be at the employee's regular rate of pay. No assignments or combination of assignments will result in an employee earning less than he/she was eligible for while on disability. Any employee placed in a temporary modified assignment/position shall be in a paid status.

6. The District may require an independent medical evaluation by a District-selected physician to determine the current medical status of an employee on temporary modified work. Any disputes will be handled in accordance with Section 9.3 of the Agreement.

7. Temporary modified work will only be provided where, in the judgment of the District, it is available and where it may be accommodated without adverse consequences to the department or disruption in services or operations.

8. The District may terminate a temporary modified work assignment at any time, particularly if it begins to affect operations, services, or the productivity of other employees.

9. Vacancies shall first be filled in accordance with the other applicable Sections of this Agreement prior to the use of the Temporary Modified Assignment Program.

10. Should a provision in this program be in conflict with applicable law (e.g., the Americans with Disabilities Act, the Rehabilitation Act of 1973, the California Fair Employment and Housing Act, etc.), applicable law will prevail.

11. For the purposes of this program, “department” shall be defined as designated in the BART organizational charts, (i.e., Rolling Stocks & Shops, Power & Way, etc.) and as may be changed with future reorganizations.

12. For the purposes of this program, assignment within any of the following enumerated groupings shall not be considered a change in location:

    a. Records Center, Interstate Bank Building, TransPacific Center, Lake Merritt Administration Building, Metro Center, Madison Square Building, 4th Street Training Building, Cash Handling Building, Lake Merritt Administration Building; Oakland Shop, Oakland Shop Annex;

    b. Concord Shop, Concord Transportation Building, Concord Yard, and all locations between Concord Shop and Bay Point;

    c. Daly City Shop, Daly City Transportation Building, Daly City Yard; all work locations on the SFX extension;

    d. Hayward Shop, Hayward Transportation Building, Hayward Training Center, Hayward Test Track, Hayward Yard, all locations between Hayward Shop and Dublin;

    e. Richmond Shop, Richmond Transportation Building, Richmond Yard.

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## 9.6 STRESS MANAGEMENT

In recognition of the particular psychological demands of frontline employees, the District will develop and provide a stress management program tailored to their unique circumstances.

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## 10.0 INTERPRETATION

Should a provision contained in the General Provision of this Agreement be in conflict with a provision contained in Supplemental Provisions, the provisions of the Supplemental Provisions shall prevail.

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## S11.0 TRANSPORTATION DEPARTMENT DEFINED

Whenever the words, "Transportation Department" are used in this Agreement, they shall refer to the Transportation Subunit, the employees of which are represented by the Amalgamated Transit Union.

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## S12.0 SENIORITY *

A. Provided the employee has the competence and qualifications for the assignment, seniority in the assignment classification will prevail in the selection of shifts, rest days and vacation. Reduction in force will be according to inverse seniority for the seniority classification.

B. There will be the following classification seniority lists:
   1. Station Agent
   2. Train Operator
   3. DMU Engineer
   4. Transportation Administration Specialist
   5. Senior Secretary
   6. Scheduling Analyst
   7. Time and Labor Administration Analyst
   8. Operations Foreworker
   9. Senior Operations Foreworker
   10. Communications Specialist
   11. Power and Support Controller
   12. Senior Budget Clerk
   13. Intermediate Clerk
   14. Employee Development Specialist (Transportation)
   15. Senior Operations Support System Analyst
   16. Senior Transportation Clerk – Training
   17. Senior Scheduling Analyst

   All employees filling the above classifications shall be granted full bidding rights.

C. Classification seniority shall be the sole criteria pertaining to seniority, except as provided in this Agreement.

D. Except for seniority adjustments for 13(c) employees, all seniority in the Transportation Department must be accrued in the Department. Seniority in a classification shall date from the commencement of employment for an assignment to the classification. In the event two (2) or more people have the same date of employment or assignment, the ranking of such individuals for seniority purposes shall be in order of age and the oldest individual with the same seniority date shall be assigned the higher seniority ranking. In the event two (2) individuals have the same birthday, the matter shall be resolved by lot between the individuals concerned.

E. Employees temporarily assigned to a classification for training purposes (up to one thousand [1000] work hours) shall not accumulate seniority in the training classification until permanently assigned to such classification, but shall continue to accumulate seniority in their permanent classification.

F. When an employee transfers from one classification to another on a permanent assignment, such employee shall continue to accumulate seniority in the former classification for one hundred fifty (150) calendar

days. During this period, the employee shall not accumulate seniority in a new classification if in the Transportation Subunit.

G. Existing seniority lists and seniority rankings shall be continued unless the Union establishes a different order of ranking or method of ranking because of adjustments for 13(c) employees. All questions pertaining to the application of seniority shall be resolved by the Union.

H. The Union shall post seniority rosters in such locations as the Union may deem appropriate and shall supply a seniority roster to the District and shall, not less frequently than once monthly, notify the District of any changes in such posted seniority roster. The District shall promptly notify the Union of any new hires, terminations, transfers or promotions of individuals in order that the Union may prepare the monthly seniority roster. The District may rely upon the monthly posted seniority roster for the purpose of effecting assignments and compliance with the provisions of this Agreement. In the event the Union, in good faith, makes an error in such seniority list or posting, the District shall not be liable for any erroneous assignment that has been made prior to notification by the Union of such error.

I. An employee shall lose his/her Transportation Department seniority ninety (90) cumulative calendar days after transfer from the Transportation Department into a non-ATU bargaining unit classification (or one hundred fifty [150] cumulative calendar days after transfer into a Train Control position) during any five (5) year period, or overstaying a leave of absence or retirement.

J. The probationary period shall be ninety (90) calendar days for new employees in the Transportation Department. For such employees requiring certification, the probationary period will cover the certification period and the following ninety (90) calendar days. The period will be extended equivalent to the number of days of absence.

K. Employees will be on probation during the first six (6) months of employment in the event of promotion to a classification higher than Train Operator, Station Agent, Transportation Administration Specialist or Scheduling Analyst.

L. In the event vacancies occur in the Transportation Subunit, they shall be posted to show information similar to that on position announcements currently in use.

M. An employee's seniority rights and length of continuous service shall conclude upon termination of employment.

N. Clarification: Foreworkers' 1000 hours begin on the day tower training commences.

*** Minute Clarification**

The modification in Subsection I above represents the full and final resolution of Arbitration #754-96 and the issues contained in the District's

letter grievances, dated January 17, 1995 (#94-246) and October 6, 1993.

The modification in Subsection F, above, is only a change in length of time. Subsection F, as well as Subsection E, continues to apply only while an employee is in an ATU bargaining unit classification. As indicated in Subsection D, "all seniority in the Transportation Department must be accrued in the Department" and as indicated in Section S11.0, the "Transportation Department" is the "Transportation Subunit," the employees of which are represented by the Amalgamated Transit Union. Therefore, the accumulation of seniority referred to in subsections E and F applies only to accumulation of seniority while an employee is in an ATU bargaining unit position.

The clarification in Subsection N reflects the agreement reached between the parties by letter dated May 18, 1994, and the practice since that date.

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## S13.0 SPECIAL PROVISIONS - STATION AGENTS *

### S13.1 HOLIDAY WORK SCHEDULE

A. All holiday work shall be performed by two (2) ten (10) hour shifts per station or shall be performed by shifts as determined by service requirements not to exceed ten (10) hours or less than eight (8) hours.

B. There shall be three (3) paid fifteen (15) minute breaks provided at two (2) hour intervals after the starting time of the employee's shift.

C. There shall be a paid thirty (30) minute lunch break between the beginning of the fourth (4th) hour and before the end of the seventh (7th) hour of the shift.

D. A lunch break not received in its entirety shall be compensated for the entire lunch period at the appropriate overtime rate, in addition to hours worked.

E. The District shall pay overtime rates whenever the employee is not permitted time off for lunch and/or rest breaks. For the thirty (30) minute lunch break, if not so relieved, the employee will be paid overtime for such lunch break and will not be required to take the lunch break.

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### S13.2 LUNCH/REST BREAKS EIGHT (8) HOUR SHIFTS

A. There shall be two (2) paid fifteen (15) minute rest breaks; one in the first half of the shift and the second in the last half of the shift for an eight (8) hour shift.

B. There shall be one (1) paid thirty (30) minute lunch break between the beginning of the fourth (4th) hour and before the end of the sixth (6th) hour of an eight (8) hour shift.

C. The District shall pay overtime rates whenever the employee is not permitted time off for lunch and/or rest breaks. For the thirty (30) minute lunch break, if not so relieved, the employee will be paid overtime for such lunch break and will not be required to take the lunch break.

D. An Agent may request relief for the lunch break from a Foreworker and, if said relief is made by the Foreworker, no overtime payment is due for this break.

E. The District shall provide and maintain rest/lunch break facilities at all Stations. Break rooms shall be equipped with a working sink, refrigerator, microwave oven, storage cabinet, table, chairs and drinking water.

The District agrees to renovate stations currently lacking the standards stated in this subsection unless funding becomes unavailable and/or renovations would be structurally unfeasible. The District's Engineering Department shall make the determination about the structural feasibility of any renovations. The District's determination on structural feasibility shall not be subject to the grievance procedure unless the District's determination constitutes a clear abuse of discretion. A Union representative shall assist the District in establishing a priority schedule for station renovations.

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## S13.3 PREMIUM PAY / PRIMARY BOOTH

A. The Station Agent working the primary booth in a multi-centroid station shall be a leadperson over other bargaining unit employees, and shall receive a lead pay premium of ten percent (10%) per hour in addition to his/her applicable rate of pay for such time so assigned. This position shall be bid at all Sign-ups for Station Agents.

B. The Union recognizes that the District may in the future close the second and third booths of multi-centroid stations for one (1) shift per day. The District agrees to continue to pay the remaining Agent a primary booth premium of ten percent (10%) per hour.

C. The Agent who is actually working the primary booth shall serve as the assigned leadperson over other employees and receive the lead pay premium.

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## S13.4 CHOICE OF SHIFTS / SIGN-UPS *

A. All shift assignments shall be posted to show reporting location, starting time, and rest days. Station Agent shift configurations may include report locations anywhere on the Line. The District will limit report location spread on the bidded line to the extent practicable. Assignments in multi-centroid stations may include relief work on a daily

basis, to be performed only in said station, except to cover MacArthur and 16th and Mission Stations.

B. The location of the System Sign-up or Line Sign-up shall be mutually agreed upon by the District and the Union. The District shall furnish the necessary facilities and equipment for the Sign-up and share the staffing of the Sign-up with the Union.

C. The District will pay the wages of any mutually agreed upon number of Union designated representative(s) to be present throughout any System Sign-up. The District will pay the wages of any mutually agreed upon number of Union designated representatives to be present throughout a concurrent vacation Sign-up.

D. A copy of the proposed bid will be distributed to the Station Agents seven (7) calendar days in advance of any System or Line bid. A copy of the proposed bid shall be furnished to the Union at least fourteen (14) calendar days prior to distribution to the Station Agents for the Union to review.

1. A pre-posting meeting with the appropriate Transportation Supervisor will be scheduled upon request of the Union. Such request shall be made at least five (5) days prior to distribution of the schedule to Station Agents for the purposes of resolving differences in shifts, and details pertaining to Sign-up procedures.

2. Once a bid has started, the Union representative(s) who started the bid shall complete it. If his/her RDOs conflict with the bid, he/she shall have the same RDO options as those employees attending recertification training.

E. It shall be the responsibility of each Station Agent to be ready to bid at the designated time. If assigned to work at the designated time of bidding to Sign up, it shall be the Station Agent's responsibility to request relief in writing (using the District request form) from his/her immediate supervisor (Foreworker) at least forty-eight (48) hours in advance, if practicable. Such request shall show the Station Agent's name, seniority number, present work location, date and time relief is requested. The request form shall be signed by the immediate supervisor (Foreworker) and the duplicate (carbon copy) shall be given to the Station Agent. Station Agents on the clock in circumstances that are preventing them from being ready to bid at the designated time shall verbally request relief. In the event a Station Agent has requested a relief and relief is not made at the specified time, bidding will be delayed until Station Agents bid in proper order. It is understood that all efforts will be made by both parties to expedite the bidding process to recover from a delay.

F. Prior to the start of bidding on each day of the scheduled bidding, the designated Union representative present at the bidding location shall be given by the District copies of all relief request forms submitted for that day.

G. Station Agents who have to be relieved in conjunction with Sign-ups will be allowed compensation as follows: All time during which the Station Agent is necessarily required to be away from assignment.

H. Only in the event extra boards are exhausted, a Foreworker shall relieve a Station Agent required to be away from assignment for bidding. During bidding, bid relief will be given priority over other reliefs except for vacancies.

I. All System Sign-up bids will occur through the bidding system in place at the time and proxies will be accepted if dated and signed in ink. Any Station Agent may leave a proxy with choices in listed numerical order with the designated Sign-up Union representative in advance of designated time to sign. In the event the Station Agent's written choices (proxy) are not available, or a Station Agent fails to appear at designated time, the "no show" or "no bid" will be bid by the Union representative if five (5) minutes have elapsed from the designated show-up time of any Station Agent. The Union representative will select a shift assignment or an extra board (night or day) and days off as close as possible to the Station Agent's present assignment, and such selection shall be final.

J. Choice of shifts and locations will be made in seniority order. No Station Agent will be permitted to pass his/her turn to bid. All Station Agents must choose or have chosen for them by his/her designated Union representative present at the bid location, a shift assignment or a place on an extra board, at the time their name is called. When a Station Agent chooses a location, he/she will exercise his/her seniority on that line for Sign-ups on a line seniority list, until the next System Sign-up.

Lines are defined as follows:

**A/L/S-Line**

Lake Merritt Station through Fremont Station and Castro Valley Station through East Dublin/Livermore Station and any station south of Fremont.

**K/R-Line**

West Oakland Station through Richmond Station.

**C/E-Line**

Rockridge Station through Antioch Station and any station east of Antioch.

**M/W/Y-Line**

Embarcadero Station through Millbrae Station and SFIA Station.

K. The bidding involved in a System-wide Sign-up shall start on the first regular work day of the work week. Bidding shall be scheduled between 0800 hours and 1600 hours each day. Individual Station Agents will be scheduled bid times at five (5) minute intervals each day. Vacation Sign-up shall be concurrent with System-wide Sign-up:

1. The first vacation Sign-up shall increase the scheduled interval between Station Agents to a maximum of ten (10) minutes.

2. The second vacation Sign-up shall not increase the five (5) minute schedule interval between Station Agents.

L. A "change of shift" is defined as the changing of the starting time, length of a shift or days off.

M. When a change of shift schedule is made, there shall be a Line Sign-up at the line where such change is made. If the change is less than thirty (30) minutes, the Station Agent will remain on changed shift until the Line Sign-up is complete. If the change is thirty (30) minutes or more, the Line Sign-up shall be conducted prior to effecting the change. Line Sign-ups will be held as expeditiously as possible contingent upon procedures set forth in this Section.

N. A Line Sign-up for Station Agents shall be held each May to be effective the second Monday in June. After electronic bidding begins a Line Sign-up will be effective the second Monday in May. All Line Sign-ups shall be conducted by proxy bidding. Individual Station Agents will be scheduled bid times at five (5) minute intervals. In the event the Station Agent's written choices (proxy bid) are not available, or a Station Agent who is off the clock fails to appear at his/her designated time, the "no show" or "no bid" will be bid by the Union representative if five (5) minutes have elapsed from the designated show-up time of any Station Agent. The Union representative will select a shift assignment or an extra board (night or day) and days off as close as possible to the Station Agent's present assignment, and such selection shall be final.

O. The District will pay the wages of the Union designated representative(s) to be present throughout the Line Bid.

P. Monday at 0001 hours following the Line Sign-up shall be the day upon which shifts and extra board choices involved in a Line Sign-up become effective.

Q. No Station Agent shall be transferred from a station to which assigned pursuant to bid.

R. All Station Agents will start and end each day's assignment at the same location. Once on duty at a location, any travel time going to and from various assigned stations will be considered time worked, and the District will provide the necessary transportation.

S. System Sign-ups shall be held with each expansion in service either by adding lines, extending lines, or extending hours. System Sign-up for Station Agents shall be held each December and July, to be effective the Monday after the second Saturday of the next succeeding month. The first vacation Sign-up (December) shall be for the entire year. The second vacation Sign-up shall be for any remaining vacation slots.

T. Line Sign-ups for Station Agents shall be held as deemed necessary.

U. The Monday after the second Saturday at 0001 hours of the month following the System Sign-up shall be the day upon which shifts involved in the Sign-up become effective. Station Agents on duty at 0001 hours of such Monday shall complete their shifts unless other mutually agreed upon arrangements have been made in advance between the District and the Union.

V. The Line Bid configuration shall be a "rollover" from and contain the same shift schedule/configuration as the prior System Bid, as amended by the addition of Extra Board slots for employees not rostered at the time of the System Sign-up (e.g., newly trained and certified employees, reversions and reinstatements). When such employees are rostered, Extra Board slots shall be added, in accordance with the Grievance Resolution Project (GRP), which states that "When Extra Board slots are added, they must duplicate existing disability slots."

For Line Bids, shifts shall not be changed or added, shifts shall not be eliminated, and no other changes shall be made from the prior System bid, except for slight shift adjustments that have been historically made.

*** Minute Clarification**

This Section does not preclude the Union from having a preposting meeting with the manager of the division (i.e., Manager of Schedules & Services).

*** Minute Clarification**

This Section does not preclude the Union from meeting with the District upon request.

*** See ATU/SL-22-1**

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## S13.5 SHIFT EXCHANGING

Station Agents may exchange shifts following these understandings:

A. Exchanges will not result in any additional cost to the District.

B. Exchange employees must have a minimum of eleven (11) hours rest between all shifts worked.

C. One (1) day shift exchanges will not result in any Station Agent working on his/her RDO.

D. Station Agents exchanging shifts for one work week will not be permitted to work RDO overtime on the exchanged shifts.

E. In any calendar month, an employee may exchange either:

1. A maximum of five (5) work shifts or;

2. One (1) work week (seven [7] days).

Selection of one (1) of the above options will preclude use of the other option during the same calendar month.

F. All of the above is subject to Management approval, which will not be unreasonably withheld. The reason for any denial will be placed in writing upon the employee's request.

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## S13.6 MINIMUM REST

No Station Agent shall be allowed to work more than twelve (12) continuous hours, nor shall any Station Agent be allowed to return to work with less than eleven (11) hours rest between work assignments.

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## S13.7 4-10 WORK WEEK / STATION AGENTS

The District may establish an alternate work week in Station Operations consisting of four (4) days per week and ten (10) hours per day (4-10 Plan) at any station. Employees working under this Plan shall be governed by the following conditions:

A. Vacation and Sick Leave shall be accrued and used based upon a "ten (10) hour work day" and not an "eight (8) hour work day".

B. Holidays as provided for under this Agreement shall be accrued and paid on the basis of a "ten (10) hour work day" and not an "eight (8) hour work day".

C. The work days and work week for employees in this Plan shall be as follows:

1. A work day shall consist of ten (10) consecutive hours of work, with a scheduled starting time(s).

2. The assigned work week shall consist of four (4) consecutive work days within a seven (7) consecutive day period, with three (3) consecutive days off.

D. Overtime shall be governed as follows, except to the extent that eligibility for overtime premium is limited by Section S28.1:

1. Employees who work their first regular day off (RDO) during any work week will be compensated at time-and-one-half (1-1/2)

2. Employees who work their 2nd RDO during any work week will be compensated at double-time for all hours worked provided the employee has worked the entire assigned shift on the 1st RDO.

3. Employees who work their 3rd RDO during any work week will be compensated at double-time for all hours worked, provided the employee has worked the entire assigned shift on the 1st and/or 2nd RDO.

4. All hours worked in excess of regularly scheduled workday on a holiday shall be compensated at double-time, in addition to straight time holiday pay, with holiday pay not to exceed ten (10) hours.

5. Employees on their regular days off who volunteer to work on a holiday shall be compensated at double-time, in addition to straight time holiday pay with holiday pay not to exceed ten (10) hours.

E. Meal and Break periods for employees working in this Plan shall be as follows:

1. A thirty (30) minute paid meal period within a continuous ten (10) hour shift shall be granted.

2. Three (3) fifteen (15) minute paid break periods shall be provided at two (2) hour intervals after starting time of the employee's shift, or breaks may be taken on an irregular basis as determined by Management.

F. The staffing of shifts and the weekly distribution of the work force shall be determined by Management.

G. The provisions of this Section shall prevail whenever they conflict with any other provisions of this Agreement for employees working under this Plan.

H. The District agrees in implementing the 4-10 Plan not to schedule more than fifty-seven percent (57%) of its Station Agents shifts (excluding Extra Board) on the 4-10 Plan. The District further agrees that the overall work shifts for Station Agents will include a reasonable distribution of 4-10 and 5-8 shifts throughout the System.

I. Standard extra board assignments will be based on the 5-8 work week and contractual benefits shall be earned accordingly. When an extra board employee is assigned to relieve an employee working on the 4-10 Plan, said extra board employee shall be paid at the applicable overtime rate for all hours worked in excess of eight (8) hours per shift. However, if an extra board employee assumes a hold-down for an employee working under the 4-10 Plan, said employee shall be compensated in accordance with the 4-10 Plan provisions of this Agreement for the duration of the hold-down.

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## S13.8 STATION AGENT PARKING

A. Consistent with existing designations, the District shall designate one (1) parking space in each lot for each Station Agent working or assigned to that station. The number of parking spaces designated shall not exceed four (4) spaces per station.

B. Effective September 1, 2009, the District will pay up to fifty thousand ($50,000) dollars per fiscal year for the following: (a) three (3) parking

spaces per station for Embarcadero, Montgomery, Powell Street, Civic Center stations; (b) two (2) parking spaces per station for 12th Street, 19th Street and Downtown Berkeley; and (c) one (1) parking space per station for the 16th and 24th Street stations. The fifty thousand ($50,000) dollar maximum per fiscal year shall be increased by no more than a three percentage (3%) per fiscal year.

By paying for these parking spaces, the District assumes no responsibility or liability for damages to employee vehicles parked in the parking spaces. This provision does not apply to opening or closing Extra Board or special overtime station agents who do not have an available parking space or District provided transportation whose parking practice shall continue unchanged.

C. While the Union may grieve the District's failure to provide or pay for the parking spaces as required in subsections A and B, the District's exercise of its discretion to determine parking spaces shall not be subject to the grievance procedure. Similarly, any disputes between ATU 1555 and SEIU 1021 shall not be subject to the grievance procedures.

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## S13.9 E-LINE STATION OPERATIONS

A. Minimum staffing for Antioch Station shall be as a single centroid station, with the addition of a dedicated flex core staffing position to assist with Pittsburg Center Station customer service duties.

B. Antioch Station shall have remote communications to Pittsburg Center Station including video, intercom, primary gate controls, and open/close control functions. The Station Agent(s) at Antioch Station will be responsible for remote opening/closing and responding to customer needs at Pittsburg Center Station. The eCC shall have secondary controls.

C. Antioch Station Agents may be required to travel to Pittsburg Center Station to respond to customer issues. There shall be no fixed staffing at C88/E10 (eBART Transfer Platform) or Pittsburg Center Station.

D. In recognition of the additional duties related to the Pittsburg Center Station, all Station Agent shifts at Antioch Station shall receive primary pay as provided by Section S13.3.

E. The flex core position described in A. above is in addition to the positions provided for in the Station Agent MOU Section 3.I. The minimum staffing for Antioch Station shall not be included in the twenty-three percent (23%) Extra Board calculation, required by the Station Agent MOU Section 3.J.

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## S14.0 SPECIAL PROVISIONS-TRAIN OPERATORS AND DMU ENGINEERS *

## S14.1 GENERAL RULES – TRAIN OPERATORS

A. Any Train Operator who becomes ill or feels he/she cannot maintain alertness shall request and be granted relief.

B. All train movements under third rail power and under Central or Yard Control will be performed by a qualified Train Operator. Exception is granted to the Training Section when train movements are made in connection with training of new Train Operators.

C. Shop personnel shall not move cars into Yard Control unless cars (trains) are inoperable or unsafe and require movement by High Railer or locomotive only.

D. Train Operators shall only be responsible for their own actions or inaction when action is required.

E. The District agrees to provide required safety and protective equipment for Train Operators.

F. Work within the job classification, such as (test track) laboratory cars or test trains shall be operated by qualified Train Operators. Any scheduled test track assignment shall be put out to bid, and Train Operators will be given necessary training to fill assignment. This does not preclude other qualified operators from performing work on the test track (as per Section S12).

G. Operators routed to other than their home Yard/Line where home yard Operators are on duty and available, shall be returned to their home Yard/Line as soon as possible.

H. **Breaks**

1. Train Operators shall receive a ten (10) minute fallback break or a paid lunch break at Fremont, Concord, Richmond, Daly City, Colma, North Concord, West Pittsburg/Baypoint, East Pittsburg, Castro Valley, West Dublin, and East Dublin Stations, Millbrae, and SFIA, Warm Springs, and Berryessa stations.

2. Train Operators enroute to their scheduled destinations who are turned back past the Oakland Wye or, who have not passed the Oakland Wye but are turned back prior to their scheduled destination and have been operating the train for more than seventy (70) minutes shall be entitled to compensation for a ten (10) minute break at the applicable overtime rate, in addition to the hours worked.

3. Train Operators who are enroute between the above locations and are rerouted into a yard shall receive a ten (10) minute fallback break on arrival at the transfer track of that yard, on the condition that the Operator has traveled past the Oakland Wye, except when redispatched in less than ten (10) minutes.

4. Train Operators who operate trains into a terminal zone and from that point into a yard without a fallback break shall be entitled to a ten (10) minute break at the transfer track upon arrival. Train Operators who dispatch trains from the yard to the terminal zone shall not be due a fallback at the terminal zone unless he/she has been performing continuous yard work thirty (30) minutes prior to dispatch.

5. Train Operators who operate scheduled “shuttle” service (a run of thirty (30) minutes or less) shall receive a ten (10) minute fallback break after seventy (70) minutes, and before one hundred (100) minutes. Train Operators who operate “shuttle” service and then other mainline assignments shall not be due a fallback break unless he/she has been operating continuous “shuttle” service thirty (30) minutes prior to dispatch.

6. Train Operators on duty in the yard, test track or any non-revenue train shall receive a paid fifteen (15) minute break after each two (2) consecutive hours. (No more than two [2] in an eight [8] hour period.)

7. A fallback break not received in its entirety shall be a missed fallback break, and the Operator shall be compensated for the entire break at the appropriate overtime rate in addition to the payment for hours worked. A yard, test track or any non-revenue break not received in its entirety shall be a missed break, and the operator shall be compensated for the entire break at the appropriate overtime rate in addition to the payment for hours worked.

I. **Lunch Breaks**

1. Train Operators working on the mainline shall receive a thirty (30) minute paid lunch break at Richmond, Daly City, Concord, Fremont, Colma, North Concord, West Pittsburg/Baypoint, East Pittsburg, Castro Valley, West Dublin, or East Dublin, Millbrae and SFIA, Warm Springs, and Berryessa Stations between the beginning of the fourth (4th) hour and before the end of the sixth (6th) hour of the shift. If any portion of a lunch break is missed during the first twenty (20) minutes, the entire thirty (30) minute lunch break shall be compensated at the appropriate overtime rate, in addition to hours worked. If any portion of a lunch break is missed after twenty (20) minutes have elapsed, only the minutes remaining shall be compensated at the appropriate overtime rate, in addition to hours worked. For example, an Operator called back after nineteen (19) minutes have elapsed shall be compensated at the appropriate overtime rate for thirty (30) minutes; an Operator called back after twenty-one (21) minutes have elapsed shall be compensated at the appropriate overtime rate for nine (9) minutes.

2. Train Operators working in yards, at the test track, or in special mainline testing, shall receive a thirty (30) minute paid lunch break between the beginning of the fourth (4th) hour and before the end of the sixth (6th) hour of the shift. A Train Operator working under this

provision (S14.1.I [2]) who does not receive a lunch break in its entirety shall be compensated for the entire thirty (30) minute lunch period at the appropriate overtime rate, in addition to hours worked.

3. Foreworkers shall be responsible for the proper administration of lunch breaks and fallback breaks. Proper notification must be given at the beginning of a lunch break to include the time that said lunch break started.

4. Train Operators on arrival at Fremont, Concord, Richmond, Daly City, Millbrae, SFIA, Colma, North Concord, West Pittsburg/Baypoint, East Pittsburg, Castro Valley, East Dublin, and West Dublin, Warm Springs, and Berryessa Stations shall be given a two (2) minute grace period after the first door cycle, before any fallback break or lunch break is started.

J. **Overtime**

The District agrees to post available overtime and overtime assignments in a clearly designated location in Transportation buildings and terminal zones. Special overtime such as Game Trains, Event Trains, Special Tests, etc., shall be posted in the Transportation Building with as much advance notice as possible, provided the District is aware of the need for the overtime. Train Operators shall bid for the above in accordance with Section 28.4.

K. Once a train is in operation on Mainline, personnel wishing to enter the cab shall be required to furnish identification and authority to enter the cab and must receive permission from the Train Operator before being permitted entry. This permission shall not be denied to those BART employees or P.U.C. representatives needing to do work in the cab.

L. All radio transmissions in the Yard must be recorded.

M. No Train Operator shall be allowed to work more than twelve (12) consecutive hours nor shall any employee be allowed to return to work with less than eleven (11) hours rest.

N. **Shift Exchanging**

Train Operators may exchange shifts following these understandings:

1. Exchanges will not result in any additional cost to the District.

2. Exchange employees must have a minimum of eleven (11) hours rest between all shifts worked.

3. One-day shift exchanges will not result in any Train Operator working on his/her RDO. Train Operators exchanging shifts for one work week, will not be permitted to work RDO overtime on the exchanged shifts.

4. In any calendar month, an employee may exchange either:

   a. A maximum of five (5) work shifts or;

b. One (1) work week (seven [7] days).

Selection of one (1) of the above options will preclude use of the other option during the same calendar month.

5. All of the above is subject to District approval, which will not be unreasonably withheld. The reason for any denial will be placed in writing upon the employee's request.

O. Locations designated for breaks shall be equipped with a refrigerator, microwave oven, table, chairs, and adequate restroom facilities.

**See ATU/MOU-19-01**

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## S14.2 CHOICE OF SHIFTS / SIGN-UPS TRAIN OPERATORS *

A. All shift assignments shall be posted to show reporting location, starting time and rest days. It is intended that all shifts involve yard work to the maximum extent practicable.

B. The locations for the System Sign-ups shall be all terminal zones. Any additional locations shall be mutually agreed upon by the District and the Union. The District shall furnish the necessary facilities and equipment for the Sign-ups and share the staffing of the Sign-ups with the Union. The District will pay the wages of any mutually agreed upon number of Union designated employees to be present throughout the Sign-ups.

C. A copy of the proposed bid will be provided in Transportation Buildings with a concurrent distribution to all Train Operators seven (7) calendar days in advance of any System or Yard bid.

A copy of the proposed bid shall be furnished to the Union at least fourteen (14) calendar days prior to posting in the Transportation Buildings and distribution to the Train Operators for the Union to review.

1. A preposting meeting with the appropriate Transportation Supervisor will be scheduled upon request of the Union. Such request shall be made at least five (5) days prior to distribution of the schedule to Train Operators for the purpose of resolving differences in shifts, and details pertaining to Sign-up procedures.

2. At the time the District distributes the Systemwide bid to Train Operators, in accordance with Labor Agreement Section 14.2, the District shall have sufficient certified Train Operators to participate in the Systemwide Sign-up and fill all positions on the bid. The number of certified Train Operators on the bid shall match the number of positions on the bid. The District shall provide the Union with the names of the Train Operators on the bid.

3. Only certified Train Operators may participate in the Sign-up and fill positions on the bid. Train Operators in training shall not participate in the Sign-up and shall not fill positions on the bid. Train Operators

who have been promoted or transferred to other positions with reversion rights shall not participate in the Sign-up and shall not fill positions on the bid. Only Full-Time Train Operators may sign-up on the full-time bid.

4. Individuals, who retire, terminate, die, or resign between the date the bid is sent to the printer and the first day of the Systemwide Sign-up shall remain on the Train Operator Bid Roster. The resulting vacancies shall be Extra Board positions and shall be reserved on the Extra Board and treated the same as a Train Operator position described in Labor Agreement Section 24.1 as on a leave of absence known to be for a period in excess of two (2) workweeks from the effective date of the bid. Unanticipated reversions or reinstatements shall be eligible to participate in the Systemwide Sign-up on the date the unit member's reversion or reinstatement is effective, seniority permitting.

5. Once a bid has started, the Union representatives who started the bid shall complete it. If his/her RDOs conflict with the bid, he/she shall have the same RDO options as those employees attending recertification training.

D. It shall be the responsibility of each Train Operator to be ready to bid at the designated time. If assigned to work at the designated time of bidding it shall be the Train Operator's responsibility to request relief in writing (using the District request form) from his/her immediate supervisor (Foreworker) at least forty-eight (48) hours in advance, if practicable. Such request shall show the Train Operator's name, seniority number, present work location, date and time designated to be at Sign-up, and date and time relief is requested. The request form shall be signed by the immediate supervisor (Foreworker) and the duplicate (carbon copy) shall be given to the Operator. Train Operators on the clock in circumstances that are preventing them from being present at a Sign-up at the designated time and place shall verbally request relief. In the event a Train Operator has requested a relief and relief is not made at the specified time, bidding will be delayed until Train Operators bid in proper order. It is understood that all efforts will be made by both parties to expedite the bidding process to recover from a delay.

E. Prior to the start of bidding on each day of the scheduled bidding, the designated Union representative in charge of the bidding location shall be given by the District copies of all relief request forms submitted for that day.

F. Train Operators who have to be relieved in conjunction with Sign-ups will be allowed compensation as follows: all time during which the Train Operator is necessarily required to be away from assignment.

G. All Sign-up bids will occur through the bidding system in place at the time and proxies will be accepted if dated and signed in ink. Any Train Operator may leave a proxy with choices in listed numerical order with

the designated Sign-up Union representative in advance of designated time to sign. In the event the Train Operator's written choices (proxy) are not available, or a Train Operator fails to appear at the designated time, the "no show" or "no bid" will be bid by the Union representative if five (5) minutes have elapsed from the designated show-up time of any Train Operator. The Union representative will select a shift assignment or extra board position as close as possible to the Train Operator's present assignment, and such selection shall be final.

H. Choice of shifts and locations (home yards) will be made in seniority order. No Train Operator will be permitted to pass his/her turn to bid; all Train Operators must choose, or have chosen for them a shift assignment (home yard) or a place on an extra board, at the time their names are called. When a Train Operator chooses a location (home yard), he/she will exercise his/her seniority at that location (home yard) for Yard Sign-ups, on a Yard Seniority List, until the next System Sign-up.

I. Home Yards are defined as follows:

**Hayward Yard - A-Line, L-Line, S-Line**
**Richmond Yard - R-Line**
**Concord Yard - C-Line**
**Daly City Yard - M-Line, W-Line**

New extension report locations will be included with the appropriate home yard on the shift bids. Castro Valley, West Dublin, East Dublin, and Berryessa will be included with Hayward home yard. North Concord, West Pittsburg/Baypoint and East Pittsburg will be included with Concord home yard. Millbrae and SFIA report locations shall have Daly City as their home yard.

Locations designated as report locations shall be equipped with adequate lockers, restroom facilities, a break area, and a television. An adequate number of employee parking spaces will be provided. (Report locations identified as temporary operating segments utilized during the opening of the extensions will not be equipped with televisions.)

Shift configurations developed for these new report locations shall have the same report location for the entire work week except those shifts configured as relief shifts. Relief shifts shall have no more than two (2) report locations within the Home Yard/Line.

J. The bidding involved in a System-wide Sign-up shall start on a Monday. Bidding shall be scheduled between 0800 hours and 1600 hours each day. Individual Train Operators will be scheduled bid times at five (5) minute intervals each day. Vacation Sign-ups shall be held concurrent with System-wide Sign-ups.

1. The first vacation Sign-up (December) shall increase the scheduled interval between Train Operators to a maximum of ten (10) minutes.

2. The second vacation Sign-up (July) shall not increase the five (5)

minute scheduled interval between Train Operators.

The first vacation Sign-up (December) shall be for the entire year. The second vacation Sign-up (July) shall be for any remaining slots.

K. A "change of shift" is defined as the changing of the starting time or days off.

L. When a change of shift schedule is made, there shall be a Yard Sign-up at the Yard where such change is made. If the change is less than thirty (30) minutes, the operator will remain on changed shift until the Yard Sign-up is complete. If the change is thirty (30) minutes or more, the Yard Sign-up shall be conducted prior to affecting the change. Yard Sign-ups will be held as expeditiously as possible contingent upon procedures set forth in this Section.

M. The District will pay the wages of the Union designated representative to be present throughout the Yard bid.

N. Monday after the second Saturday at 0001 hours following the Yard Sign-up shall be the day upon which shifts and extra board choices involved in a Yard Sign-up become effective.

O. System Sign-ups shall be held with each expansion in service either by adding lines, extending lines or extending hours. A System Sign-up for Train Operators shall be held each December and July to be effective the Monday after the second Saturday of the next succeeding month. Yard Sign-ups shall be held in April to be effective the second Monday in May.

P. The Yard Bid configuration shall be a “rollover” from and contain the same shift schedule/configuration as the prior System Bid, as amended by the addition of Extra Board slots for employees not rostered at the time of the System Sign-up (e.g., newly trained and certified employees, reversions and reinstatements). When such employees are rostered, Extra Board slots shall be added, in accordance with the Grievance Resolution Project (GRP), which states that “When Extra Board slots are added, they must duplicate existing disability slots.”

For Yard Bids, shifts shall not be changed or added, shifts shall not be eliminated, and no other changes shall be made from the prior System bid, except for slight shift adjustments that have been historically made.

*** Minute Clarification**

This Section does not preclude the Union from having a pre-posting meeting with the manager of the division (i.e., Manager of Train Operations).

*** Minute Clarification**

Whenever an additional permanent assignment is necessary as a result of increased train service, i.e., one (1) or more trains added to revenue

service for a period greater than seven (7) days, it shall constitute a change of shift schedule.

**See ATU/SL-6-3 and ATU/SL-22-1**

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## S14.3 4-10 WORK WEEK / TRAIN OPERATORS

The District may establish an alternate work week in Rail Operations for Train Operators consisting of four (4) days per week and ten (10) hours per day (4-10 Plan). Employees working under this Plan shall be governed by the following conditions:

A. Vacation and Sick Leave shall be accrued and used based upon a "ten (10) hour work day" and not an "eight (8) hour work day".

B. Holidays as provided for under this Agreement shall be accrued and paid on the basis of a "ten (10) hour work day" and not an "eight (8) hour work day".

C. The work days and work week for employees in this Plan shall be as follows:

   1. A work day shall consist of ten (10) consecutive hours of work, with a scheduled starting time(s).

   2. The assigned work week shall consist of four (4) consecutive work days within a seven (7) consecutive day period, with three (3) consecutive days off.

D. Overtime shall be governed as follows, except to the extent that eligibility for overtime premium is limited by Section S28.1:

   1. Employees who work their first regular day off (RDO) during any work week will be compensated at time-and-one-half (1-1/2).

   2. Employees who work their 2nd RDO during any work week will be compensated at double-time for all hours worked provided the employee has worked the entire assigned shift on the 1st RDO.

   3. Employees, who work their 3rd RDO during any work week will be compensated at double-time for all hours worked, provided the employee has worked the entire assigned shift on the 1st and/or 2nd RDO.

   4. All hours worked in excess of regularly scheduled work day on a holiday shall be compensated at double-time, in addition to straight time holiday pay, with holiday pay not to exceed ten (10) hours.

   5. Employees on their regular days off who volunteer to work on a holiday shall be compensated at double-time, in addition to straight-time holiday pay with holiday pay not to exceed ten (10) hours.

E. **Breaks**

1. Train Operators shall receive a ten (10) minute fallback break or a paid lunch break at Fremont, Concord, Richmond, Daly City, Millbrae, SFIA, Colma, North Concord, West Pittsburg/Baypoint, East Pittsburg, Castro Valley, West Dublin, and East Dublin, Warm Springs, and Berryessa Stations.

2. Train Operators enroute to their scheduled destinations who are turned back past the Oakland Wye or, who have not passed the Oakland Wye but are turned back prior to their scheduled destination and have been operating the train for more than seventy (70) minutes shall be entitled to compensation for a ten (10) minute break at the applicable overtime rate, in addition to the hours worked.

3. Train Operators who are enroute between the above locations and are rerouted into a yard shall receive a ten (10) minute fallback break on arrival at the transfer track of that yard, on the condition that the Operator has traveled past the Oakland Wye, except when redispatched in less than ten (10) minutes.

4. Train Operators who operate trains into a terminal zone and from that point into a yard without a fallback break shall be entitled to a ten (10) minute break at the transfer track upon arrival. Train Operators who dispatch trains from the yard to the terminal zone shall not be due a fallback at the terminal zone unless he/she has been performing continuous yard work thirty (30) minutes prior to dispatch.

5. Train Operators who operate scheduled “shuttle” service (a run of thirty [30] minutes or less) shall receive a ten (10) minute fallback break after seventy (70) minutes, and before one hundred (100) minutes. Train Operators who operate “shuttle” service and then other mainline assignments shall not be due a fallback break unless he/she has been operating continuous “shuttle” service thirty (30) minutes prior to dispatch.

6. Train Operators on duty in the yard, test track or any non-revenue train shall receive a paid fifteen (15) minute break after each two (2) consecutive hours. (No more than three [3] in a ten [10] hour period.)

7. A fallback break not received in its entirety shall be a missed fallback break, and the Operator shall be compensated for the entire break at the appropriate overtime rate in addition to the payment for hours worked. A yard, test track or any non-revenue break not received in its entirety shall be a missed break, and the operator shall be compensated for the entire break at the appropriate overtime rate in addition to the payment for hours worked.

F. **Lunch Breaks**

1. Train Operators working on the mainline shall receive a thirty (30) minute paid lunch break at Richmond, Daly City, Concord, Fremont,

Colma, North Concord, West Pittsburg/Baypoint, East Pittsburg, Castro Valley, West Dublin, SFIA, Millbrae, East Dublin, Warm Springs, or Berryessa Stations between the beginning of the fourth (4th) hour and before the end of the seventh (7th) hour of the shift. If any portion of a lunch break is missed during the first twenty (20) minutes, the entire thirty (30) minute lunch break shall be compensated at the appropriate overtime rate, in addition, to hours worked. If any portion of a lunch break is missed after twenty (20) minutes have elapsed, only the minutes remaining shall be compensated at the appropriate overtime rate, in addition to hours worked. For example, an Operator called back after nineteen (19) minutes have elapsed shall be compensated at the appropriate overtime rate for thirty (30) minutes; an Operator called back after twenty-one (21) minutes have elapsed shall be compensated at the appropriate overtime rate for nine (9) minutes.

2. Train Operators working in yards, at the test track, or in special mainline testing, shall receive a thirty (30) minute paid lunch break between the beginning of the fourth (4th) hour and before the end of the seventh (7th) hour of the shift. A Train Operator working under this provision (S14.3.F[2]) who does not receive a lunch break in its entirety shall be compensated for the entire thirty (30) minute lunch period at the appropriate overtime rate, in addition to hours worked.

3. Foreworkers shall be responsible for the proper administration of lunch breaks and fallback breaks. Proper notification must be given at the beginning of a lunch break to include the time that said lunch break started.

4. Train Operators on arrival at Fremont, Concord, Richmond, Daly City, Millbrae, SFIA, Colma, North Concord, West Pittsburg/Baypoint, East Pittsburg, Castro Valley, East Dublin, West Dublin, Warm Springs, and Berryessa Stations shall be given a two (2) minute grace period after the first door cycle, before any fallback break or lunch break is started.

G. The provisions of this Section shall prevail whenever they conflict with any other provisions of this Agreement for employees working under this Plan.

H. The District agrees in implementing the 4-10 Plan not to exceed more than sixty percent (60%) of its Train Operator shifts (excluding Extra Board) on the 4-10 Plan. Train Operators working a 4-10 shift shall not be regularly scheduled to perform more than two (2) loops if the one-way run times are equal to or longer than 60 minutes for those loops. The District further agrees that the overall work shifts for Train Operators will include a reasonable distribution of 4-10 and 5-8 shifts throughout the System.

I. Standard extra board assignments will be based on the 5-8 work week and contractual benefits shall be earned accordingly. When an extra

board employee is assigned to relieve an employee working on the 4-10 Plan, said extra board employee shall be paid at the applicable overtime rate for all hours worked in excess of eight (8) hours per shift. However, if an extra board employee assumes a hold-down for an employee working on the 4-10 Plan, said employee shall be compensated in accordance with the 4-10 Plan provisions of this Agreement for the duration of the hold-down.

J. The staffing of shifts and the weekly distribution of the work force shall be determined by the District.

**See ATU/MOU-19-01**

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## S14.4 – S14.9 [INTENTIONALLY LEFT BLANK]

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## S14.10 SPECIAL PROVISIONS – DMU ENGINEERS

In the event that these provisions are inconsistent or conflict with any other provisions in the Labor Agreement, the provisions in this Section are intended to supersede and shall control with respect to employees working as Diesel Multiple Unit (DMU) Engineers under this Special Provision.

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## S14.11 GENERAL RULES – DMU ENGINEERS

A. Any DMU Engineer who becomes ill or feels he/she cannot maintain alertness shall request and be granted relief.

B. DMU Engineers shall only be responsible for their own actions or inaction when action is required.

C. The District agrees to provide required safety and protective equipment for DMU Engineers.

D. All DMU movement on the mainline shall be performed by a qualified DMU Engineer, except in a bonafide emergency.

E. DMU Engineers may be required to perform incidental cleaning duties such as the pick-up of litter done in passing, as they walk through their consists.

F. All Sick Leave calls shall go to the eMF TM Zone Foreworker.

G. DMU Engineers shall have the same opportunity as Train Operators and Station Agents to apply for any promotion within ATU.

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## S14.12 BIDDING PROCESS – DMU ENGINEERS

A. The District is solely responsible for establishing shift schedules and the number of shifts, subject to the terms and conditions described in these Special Provisions.

   Each time a shift schedule is developed, DMU Engineers shall bid in the following manner:

   1. There shall be a specific number of shifts, the number to be determined by the District. The total number of shifts will be equal to, or greater than, the total number of DMU Engineers eligible to bid.
   2. DMU Engineers shall bid for shifts by proxy. Proxies shall be awarded by seniority. DMU Engineers who fail to submit a proxy shall be assigned to a shift by the Union Representative conducting the bid. The Union Representative shall use his/her best efforts to select a shift assignment and days off as close as possible to the employee's present assignment and such selection shall be final.

B. Once bids are posted the shift hours cannot be changed or adjusted unilaterally. There shall be a schedule bid to coincide with each Train Operator System Sign-up, per Section S14.2.

C. Shift schedules shall be furnished to the Union fourteen (14) calendar days prior to posting. Shift schedules shall be posted and distributed to each employee at least seven (7) calendar days before the bid. The bid shall be conducted at least seven (7) calendar days after posting. A preposting meeting with the appropriate Transportation Supervisor will be scheduled upon request of the Union. Such request shall be made at least five (5) calendar days prior to distribution of the schedule to the DMU Engineers for the purpose of resolving differences in shifts, and details pertaining to Sign-up procedures.

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## S14.13 LUNCH & REST BREAKS – DMU ENGINEERS

A. DMU Engineers shall receive a paid lunch break of thirty (30) minutes after three (3) hours of work and before the end of six (6) hours of work. If any portion of a designated lunch break is missed, during the first twenty (20) minutes, the entire thirty (30) minute lunch break shall be compensated at the applicable overtime rate of pay for a missed lunch plus time worked. If any portion of a lunch break is missed after twenty (20) minutes have elapsed, only the minutes remaining in the lunch break shall be compensated at the applicable overtime rate of pay, in addition to hours worked.

B. DMU Engineers when operating on mainline shall be entitled to receive a designated ten (10) minute break or lunch after operating for ninety (90) minutes. If a break is not received in its entirety before one hundred and fifty (150) minutes the employee shall be paid ten (10) minutes at the applicable overtime rate of pay for a missed break plus time worked.

C. DMU Engineers who are not operating revenue service shall receive a fifteen (15) minute break approximately two (2) hours after the start of their shift and thereafter, approximately two (2) hours after the last scheduled meal or rest break.

D. DMU Engineers will be provided reasonable grace periods to travel to and from the break facility prior to beginning and after ending rest/lunch breaks.

E. The District shall provide and maintain rest/lunch break facilities at each break location. Such facilities will be equipped with a refrigerator, sink, microwave oven, storage cabinet, table, chairs, computer, internet access, printer, bulletin board, drinking water, and adequate restroom facilities.

F. Foreworkers shall be responsible for the proper administration of lunch breaks and fallback breaks. Proper notification must be given at the beginning of a lunch break to include the time that said lunch break started.

G. If any portion of a break is missed (i.e., not received in its entirety), the employee shall be paid (10 or 15 minutes, as applicable) at the applicable overtime rate of pay for a missed break plus time worked.

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## S14.14 4/10 WORK WEEK – DMU ENGINEERS

The District may establish an alternate workweek consisting of four (4) days per week and ten (10) hours per day under the following conditions:

A. Vacation, Holidays, and Sick Leave as provided for under this Agreement shall be accrued and used based upon a “ten (10) hour work day” and not an “eight (8) hour work day”.

B. The workdays and shifts for DMU Engineers on a 4/10 Workweek shall be as follows:

1. A workday shall consist of ten (10) consecutive hours of work. (Paid lunch breaks provided herein shall be considered as hours worked for pay purposes.)
2. The assigned shifts shall consist of four (4) workdays within a seven (7) consecutive day period, with a minimum of two (2) consecutive days off. If the days off do not include Saturday and Sunday, then the shift shall have three (3) consecutive days off.

C. Overtime shall be governed as follows, except to the extent that eligibility for overtime premium is limited by Section S28.1:

1. DMU Engineers who work their first regular day off (RDO) during any work week will be compensated at time-and-one-half (1-1/2).
2. DMU Engineers who work their 2nd RDO during any work week will be compensated at double-time for all hours worked provided the employee has worked the entire assigned shift on the 1st RDO.

3. DMU Engineers, who work their 3rd RDO during any work week will be compensated at double-time for all hours worked, provided the employee has worked the entire assigned shift on the 1st and/or 2nd RDO.
4. All hours worked in excess of the regularly scheduled work day on a holiday shall be compensated at double-time, in addition to straight time holiday pay, with holiday pay not to exceed ten (10) hours.
5. DMU Engineers on their regular days off who volunteer to work on a holiday shall be compensated at double-time, in addition to straight-time holiday pay with holiday pay not to exceed ten (10) hours.

D. DMU Engineers shall receive a paid lunch break of thirty (30) minutes between the beginning of the fourth (4th) and the end of the seventh (7th) hour of work.

E. DMU Engineers who are not operating revenue service shall receive a paid fifteen (15) minute break after each two (2) consecutive hours. (No more than three [3] in a ten [10] hour period.)

F. The provisions of this Subsection shall prevail whenever they conflict with any other sections of this Agreement for DMU Engineers working under this Plan.

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## S14.15 SPLIT SHIFTS – DMU ENGINEERS

A. The District may establish a split shift schedule for DMU Engineers under the following conditions:

1. A split shift is defined as a daily tour of duty divided into two (2) work periods of time with a mid-shift, non-work period between the work periods of more than one (1) hour.

B. The workday can potentially consist of a span of between ten (10) and up to sixteen (16) hours.

i. If the workday span exceeds ten (10) hours, then the hours of work beyond the tenth (10th) hour of the workday shall be paid at the applicable overtime rate of pay.

ii. During the mid-shift, non-work period of the day, each hour shall be paid at one-half (½) the regular rate of pay. Such payment shall be inclusive of the employee’s paid lunch period which DMU Engineers shall take at the outset of the mid-shift, non-work period.

C. DMU Engineers working a split shift shall have a minimum of eleven (11) hours off between scheduled work shifts except in exigent circumstances.

D. Split shifts shall not be used overnight.

E. The provisions of this section shall prevail whenever they conflict with any other sections of this Agreement for DMU Engineers working under this Plan.

## S14.16 STRUCTURED OVERTIME – DMU ENGINEERS

The District may establish a schedule including structured overtime. Structured overtime shall be defined as scheduled hours in the regularly bid shift in excess of eight (8) hours, but not to exceed nine (9) hours a day for DMU Engineers on a regular workweek, or ten (10) hours, but not to exceed ten and one-half (10½) hours, a day for DMU Engineers on a 4/10 workweek. Structured overtime shall be paid in accordance with the Overtime Section S28.1 of this Agreement.

## S14.17 HOURS OF SERVICE – DMU ENGINEERS

The District shall comply with state and federal law, regulations, and guidelines regarding rest periods. The District shall not require or permit, except in exigent circumstances, any safety sensitive employee to remain on duty for more than twelve (12) consecutive hours.

DMU Engineers may not remain on duty for more than twelve (12) consecutive hours or more than an aggregate of twelve (12) hours spread over a period of sixteen (16) hours except in exigent circumstances. DMU Engineers shall have a minimum of eleven (11) hours off between scheduled work shifts except in exigent circumstances.

## S14.18 OVERTIME ALLOCATION – DMU ENGINEERS

A. Available overtime will be posted at least ten (10) calendar days prior to the scheduled date or as soon as it is practicable.

B. Overtime worked, excluding structured overtime in a regularly bid shift, shall be on a voluntary basis except as stated below in subsection E. If two (2) or more persons desire the overtime, the person with the lowest accrued overtime will be selected. If two (2) or more persons with an equal amount of accrued overtime desire the overtime, seniority will prevail. Accrued overtime is defined for this purpose as the sum of all unscheduled overtime hours worked in a regular shift schedule bid. Accrued overtime will be recorded on an Overtime List. This list will be updated bi-weekly.

C. Overtime records shall be available for purposes of determining overtime assignments.

D. When overtime needs (i.e., vacancy[ies]) cannot be posted due to time constraints, less than forty-eight (48) hours prior to the start of the shift, the vacancy(ies) will be filled as follows:

   1. Soliciting eligible volunteers from the Overtime List, with the person with the lowest accrued overtime being offered the vacancy(ies).

2. Voluntary Extensions of on duty DMU Engineers in seniority order.
3. Voluntary Early Starts in seniority order.

E. Only when use of the above procedures has not solicited sufficient volunteers to fill vacancy(ies), only then management may assign overtime by inverse seniority as follows:

1. Extension of on duty DMU Engineers in inverse seniority order.
2. Early Starts in inverse seniority order.

F. An employee may elect in writing to opt out of being included on the Overtime List for the purposes of being offered voluntary overtime at the time of bid sign-up. An employee who has opted out of the Overtime List may call to add his/her name to the bottom of the list without regard to accumulated hours or seniority at any time on a day to day basis. An employee may elect in writing to opt in on the Overtime List at any time, to be effective the following month.

Overtime allocation procedures may be changed by mutual agreement. This Section is subject to Section S14.17 Hours of Service.

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## S14.19 EXTRA BOARD – DMU ENGINEERS

The DMU Engineer(s) assigned to the Extra Board will be used to fill vacant shifts as required.

A. There shall be a day/night extra board. The DMU Engineer Extra Board shall be administered in accordance with Section S23.0 except where the following provisions conflict, in which case the following shall supersede the provision of Section S23.0.

B. Same day Extra Board work will be assigned to assume a shift on a first in first out process. Extra Board personnel can work up to twelve (12) hours a day, when assuming a shift. Extra Board personnel will be available for work assignments throughout their shift. Overtime procedures will be used to fill any shifts or portions of shifts which cannot be covered by Extra Board personnel. There shall be no protection time for DMU Engineers on the Extra Board.

C. Extra Board personnel will fill vacancies on a one-for-one basis. If a position is vacant, the Extra Board personnel will fill that position. Otherwise, Extra Board personnel may be assigned to assume Special Assignments (e.g., Event Trains, Special Tests, etc.) as posted, prior to use of overtime.

D. The Extra board mark-up sheet shall be posted outside the eMF Foreworker office no later than 1300 hours for the day board and 2000 hours for the night board, and shall show the next day's assignment.

A copy of all extra board assignments shall be deposited in a locked box in the eMF Foreworker office, to which only the shop steward shall have a key, at the time of each day's posting. Once posted, no assignment

shall be changed or modified. Extra board DMU Engineers shall be responsible for getting his/her assignment from the posted mark-up sheet or the eMF Foreworker office. Extra board DMU Engineers who are assigned to a vacancy will report to that assignment.

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## S14.20 SHIFT EXCHANGING – DMU ENGINEERS

DMU Engineers may exchange shifts following these understandings:

A. Exchanges will not result in any additional cost to the District.

B. Exchange DMU Engineers must have a minimum of eleven (11) hours rest between all shifts worked.

C. One-day shift exchanges will not result in any employee working on his/her Regular Day Off (RDO). DMU Engineers exchanging shifts for one work week, will not be permitted to work on the RDOs of the exchanged shifts.

D. In any calendar month, an employee may exchange either:

   1. A maximum of five (5) work shifts; or

   2. One (1) work week (seven [7] days).

E. All shift exchanges are subject to management approval. If denied, and upon written request, the reason for any denial will be placed in writing.

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## S14.21 TRAINING – DMU ENGINEERS

All training of DMU Engineers shall be performed by a qualified DMU Engineer assigned as an On-the-Job Instructor, who shall receive instructor premium pay as provided for in Section S28.8, for such time so assigned. This assignment shall include any necessary preparation of training. The District will periodically and as needed provide the opportunity for DMU Engineers to be qualified to perform this assignment. This assignment shall be rotated amongst qualified volunteers.

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## S14.22 SAFETY SHOES – DMU ENGINEERS

A. Safety shoes shall be worn by DMU Engineers as required by the District during their on-duty hours. Upon retention by the District, each employee required by the District to wear safety shoes shall be provided with one hundred sixty-five dollars ($165) for the purchase of such shoes.

B. Thereafter the District will reimburse one hundred sixty-five dollars ($165) annually to each employee required to wear safety shoes.

C. Annual payment for the purchase and maintenance of safety shoes will be made in the month of September of each fiscal year on a separate

check.

D. The safety shoes shall be the best suited to the employee's work environment, meet requirements of the Chief Safety Officer or designee who will set reasonable requirements based on applicable law and regulations.

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## S15.0 SPECIAL PROVISIONS - TRANSPORTATION ADMINISTRATION SPECIALISTS

### S15.1 TRAINING

The District will continue to provide training for each employee within this classification.

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### S15.2 CHOICE OF SHIFTS / SIGN-UPS

A. All shift assignments shall be posted to show reporting location, starting time, and rest days.

B. No Transportation Administration Specialist shall be transferred from an assignment to which assigned pursuant to bid.

C. The location of the System Sign-up shall be mutually agreed upon by the District and the Union. The District shall furnish the necessary facilities and equipment for the Sign-up with the Union and share the staffing of the Sign-up with the Union. The District will pay the wages of any mutually agreed upon number of designated Union representative to be present throughout the Sign-up.

D. The bid assignments will be distributed to the Transportation Administration Specialists seven (7) days in advance of any Sign-up. The bid assignments shall be furnished to the Union fourteen (14) days prior to distribution to the Transportation Administration Specialists for the Union to review and a preposting meeting will be scheduled between the Union and District to resolve any disputed shifts.

E. Any Transportation Administration Specialist who cannot be present at a Sign-up may leave a list of choices in numerical order in writing with the Union representative at least one (1) hour in advance of designated time to sign. In the event the Transportation Administration Specialist's written choices are not available, or a Transportation Administration Specialist fails to appear at the designated time the Union representative will select a shift assignment or an extra board (night or day) and days off as close as possible to the Transportation Administration Specialist's present assignment, and such selection shall be final.

F. Choice of shifts, locations and days off will be made in seniority order. No Transportation Administration Specialist will be permitted to pass

his/her turn to bid; all Transportation Administration Specialists must choose or have chosen for them by his/her Union representative a shift location and days off, or a place on an extra board.

G. The Monday after the first Saturday at 0001 hours of the month following the Sign-up shall be the day upon which shifts involved in a Sign-up become effective. Transportation Administration Specialists on duty at 0001 hours of such Monday shall complete their shifts unless other mutually agreed upon arrangements have been made in advance between the District and the Union.

H. A "Change of Schedule" is defined as the changing of the starting or length of shift, and/or rest days. Prior to a "Change of Schedule" on any shift there will be a system Sign-up. Monday at 0001 hours following the Sign-up shall be the day upon which shifts involved in a Sign-up become effective.

I. System Sign-ups shall be held with each expansion in service either by adding lines, extending lines, or extending hours. A System Sign-up for Transportation Administration Specialists shall be held August, December and May to be effective the Monday after the first Saturday of the next succeeding month.

J. A vacation Sign-up shall be held concurrent with the December System Sign-up.

*** See ATU/SL-22-1**

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## S15.3 SHIFT EXCHANGING

Transportation Administration Specialists may exchange shifts within the following guidelines:

A. Exchanges will not result in any additional cost to the District.

B. Exchange employees must have a minimum of eleven (11) hours rest between all shifts worked.

C. Exchanges will not result in a Transportation Administration Specialist working another Transportation Administration Specialist’s RDOs.

D. In any calendar month, an employee may exchange either:

1. A maximum of five (5) work shifts or;

2. One (1) work week (seven [7] days).

Selection of one (1) of the above options will preclude use of the other option during the same calendar month.

E. All of the above is subject to Management approval, which will not be unreasonably withheld. The reasons for any denial will be put in writing upon the employee's request.

## S15.4 UNIFORMS

Transportation Administration Specialists shall not be required to wear uniforms.

Smocks shall be available to be worn over clothes for the use of Transportation Administration Specialists working in the Lost and Found. A variety of sizes shall be made available at all times with a minimum of five (5) smocks kept for those not assigned by System Sign-up. The District shall ensure smocks are maintained in a neat and clean condition.

## S15.5 LUNCH / REST BREAK

Paid lunch break of thirty (30) minutes shall be assigned during fourth (4th) and fifth (5th) hours after the start of the shift. Any part of any lunch break missed shall be paid in whole thirty (30) minutes at the applicable overtime rate in addition to the regular eight (8) hours pay.

Each employee shall be entitled to two (2) fifteen (15) minute paid breaks which shall, so far as practicable, be spaced midway between the first half of the day's assignment and midway between the second half of the day's assignment. Any part of any break missed shall be paid in whole fifteen (15) minutes at the applicable overtime rate in addition to the regular eight (8) hours pay. Breaks may be combined with approval from the Operations Supervisor.

## S15.6 MEAL ALLOWANCE

An eight dollar ($8) meal allowance shall be paid to employees who work twelve (12) continuous hours.

## S15.7 MINIMUM REST

No Transportation Administration Specialist shall be allowed to work more than twelve (12) continuous hours nor shall any Transportation Administration Specialist be allowed to return to work with less than eleven (11) hours rest between work assignments.

## S15.8 CREW OFFICE OPERATION

The parties agree that the District has implemented a centralized "Crew Office" for the purpose of administering the following primary administrative functions:

A. Timekeeping, including associated recordkeeping;

B. Extra Boards for all classifications, lines and yards; and

C. Overtime, including the associated recordkeeping.

Implementation of these centralized forms, procedures, and administrative controls shall be applied to all classifications in the bargaining unit as otherwise provided for in this Agreement.

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## S15.9 CREW OFFICE STAFFING

The Crew Office shall be staffed seven (7) days a week, twenty-four (24) hours a day, by a combination of Operations Supervisors and Transportation Administration Specialists.

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## S15.10 CREW OFFICE COMPENSATION

Transportation Administration Specialists assigned to the Crew Office shall be paid a premium of six and one-half percent (6½%) in addition to the applicable base rate for Transportation Administration Specialists for all hours worked in the Crew Office.

This premium shall be paid for vacations and holidays.

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## S15.11 LEAD POSITIONS

The Transportation Administration Specialist who bids a position designated on the bid as a lead position shall be required to provide working leadership to the overall staff in the Crew Office in addition to performing all regular duties of a Transportation Administration Specialist.

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## S15.12 CREW OFFICE CLERICAL FUNCTIONS

Crew Office clerical functions will also include the operation of miscellaneous standard office machines and equipment including facsimile transmitters, computer terminal input consoles, etc.; all Crew Office personnel shall be required to be competent in the operations of all Crew Office equipment and performance of regular Crew Office clerical functions.

Transportation Administration Specialists not assigned to the Crew Office shall be assigned to the respective Yard/Line Transportation Office and shall perform regular office clerical functions including response to personal inquiries from Yard/Line personnel. Since the implementation period of the Crew Office is complete, the District may continue to assign

an Operations Supervisor as appropriate to the Crew Office for purpose of supervision.

All Crew Office Transportation Administration Specialist positions shall be filled by bid among the qualified Transportation Administration Specialists. All Transportation Administration Specialists will be provided with the appropriate training and must successfully complete such training in order to bid Crew Office positions. Extra Board Transportation Administration Specialists must successfully complete Crew Office Training to be eligible for Crew Office assignment. Crew Office staffing takes priority over Yard/Line office assignments.

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## S15.13 CREW OFFICE/ TRANSPORTATION ADMINISTRATION SPECIALISTS CERTIFICATION/ RECERTIFICATION PROGRAM

A. **Certification Program:** Crew Office/Transportation Administration Specialist certification for new employees assigned to the Crew Office shall consist of six (6) weeks combined classroom and on-the-job training (OJT) in Crew Office and Yard/Line Transportation office rules and procedures and office equipment.

B. **Recertification Program:** Crew Office/Transportation Administration Specialist recertification for employees who have completed the certification program, but who have not been assigned to the Crew Office and/or Yard/Line Transportation office for more than one (1) year, shall consist of one (1) week combined classroom and on-the-job refresher and/or update training in Crew Office and/or Yard/Line Transportation office rules and procedures and equipment.

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## S15.14 4-10 WORK WEEK / CREW OFFICE

The District may establish an alternate work week in the Crew Office consisting of four (4) days per week and ten (10) hours per day (4-10 Plan). Employees working under this Plan shall be governed by the following conditions:

A. Vacation and Sick Leave shall be accrued and used based upon a "ten (10) hour work day" and not an "eight (8) hour work day."

B. Holidays as provided for under this Agreement shall be accrued and paid on basis of a "ten (10) hour work day" and not an "eight (8) hour work day".

C. The work days and work week for employees in this Plan shall be as follows:

   1. A work day shall consist of ten (10) consecutive hours of work, with a scheduled starting time(s).

2. The assigned work week shall consist of four (4) consecutive work days within a seven (7) consecutive day period, with three (3) consecutive days off.

D. Overtime shall be governed as follows, except to the extent that eligibility for overtime premium is limited by S28.1:

1. Employees who work their first regular day off (RDO) during any work week will be compensated at time and one half (1-½).

2. Employees who work their 2nd RDO during any work week will be compensated at double-time for all hours worked provided the employee has worked the entire assigned shift on the 1st RDO.

3. Employees, who work their 3rd RDO during any work week will be compensated at double-time for all hours worked, provided the employee has worked the entire assigned shift on the 1st and/or 2nd RDO.

4. All hours worked in excess of regularly scheduled work day on a holiday shall be compensated at double-time, in addition to straight time holiday pay, with holiday pay not to exceed ten (10) hours.

5. Employees on their regular days off who volunteer to work on a holiday shall be compensated at double-time, in addition to straight time holiday pay with holiday pay not to exceed ten (10) hours.

E. Meal and Break periods for employees working in this Plan shall be as follows:

1. A thirty (30) minute paid meal period within a continuous ten (10) hour shift shall be granted. This meal period shall be taken between the beginning of the fifth (5th) hour and completed by the end of the eighth (8th) hour of the shift. A Transportation Administration Specialist working under this provision (S15.14E [1]) who does not receive a lunch break in its entirety shall be compensated for the entire thirty (30) minute lunch period at the appropriate overtime rate, in addition to hours worked.

2. Three (3) fifteen (15) minute paid break periods shall be provided at two (2) hour intervals after starting time of the employee's shift, or breaks may be taken on an irregular basis as determined by Management.

F. The staffing of shifts and the weekly distribution of the work force shall be determined by Management.

G. The provisions of this Section shall prevail whenever they conflict with any other provisions of this Agreement for employees working under this Plan.

H. Standard extra board assignments will be based on the 5-8 Work Week and contractual benefits shall be earned accordingly. When an extra board employee is assigned to relieve an employee working on the 4-10

Plan, said extra board employee shall be paid at the applicable overtime rate for all hours worked in excess of eight (8) hours per shift. However, if an extra board employee assumes a hold-down for an employee working under the 4-10 Plan, said employee shall be compensated in accordance with the 4-10 Plan provisions of this Agreement for the duration of the hold-down.

I. The District agrees in implementing the 4-10 Plan not to schedule more than fifty percent (50%) of its Transportation Administration Specialists' (former Clerk III) shifts (excluding extra board) on the 4-10 Plan.

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## S15.15 VACANT ASSIGNMENTS

All vacancies will be filled by the Transportation Administration Specialist's Extra Board, if available. The Transportation Administration Specialist's Extra Board will be utilized to fill vacancies in the priority order listed below:

1. Crew Office
2. Yard/Line Transportation Offices
3. Lost and Found Center
4. Training Center

When a Transportation Administration Specialist fills the position of the Training Clerk, they shall receive the Training Clerk rate of pay plus any applicable shift differential.

In the event the Transportation Administration Specialist's Extra Board is exhausted, the District will fill the vacancy with overtime, offering this opportunity to the Transportation Administration Specialist(s) on the RDO overtime list in accordance with Section S28.4.

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## S15.16 UNIFORMS

Sections: S29.0, S29.1, S29.2, S29.3, S29.4 and S29.5 shall apply to the Transportation Administration Specialist assigned to work in Lost and Found pursuant to a System sign-up under Section S15.2.

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## S16.0 SPECIAL PROVISIONS - SECRETARIES

## S16.1 ORIENTATION

Orientation should be given to all newly hired Secretaries, including a tour of the system.

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## S16.2 OVERTIME

Secretaries shall be polled in seniority order to cover any overtime of a general nature.

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## S16.3 TRAINING

The District will continue to provide training for each new employee within this classification. The District, upon hiring each employee, shall make known to him/her the duties he/she is expected to perform and from whom he/she is to receive his/her instructions as to the policies and procedures of the Department/District.

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## S16.4 REST BREAKS

Each employee shall be entitled to two (2) fifteen (15) minute paid breaks, which shall, so far as practicable, be spaced midway between the first half of the day's assignment and midway between the second half of the day's assignment. Any part of any break missed shall be paid in whole fifteen (15) minutes at the applicable overtime rate in addition to the regular eight (8) hours pay.

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## S16.5 LUNCH BREAKS

Transportation Unit Secretaries may request their choice of either of the following:

A. A forty-five (45) minute unpaid meal period (option to combine rest breaks and lunch breaks with approval from department manager); or

B. A thirty (30) minute paid meal period.

Management shall adhere to said request unless Section scheduling cannot allow. During the months of January and July of each year, Transportation Unit Secretaries shall be given an opportunity to select one (1) of the above options. The option chosen shall be subject to Section scheduling by Management. Once an option has been approved, no further changes shall be made until the next "option selection month."

The thirty (30) minute paid meal period within a continuous eight (8) hour shift shall be granted at mid-shift to any Transportation Unit Secretary, providing the employee remains at his/her work location and receives and processes messages.

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## S16.6 MEAL ALLOWANCE

An eight dollar ($8) meal allowance shall be paid to employees who work twelve (12) continuous hours.

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## S17.0 SPECIAL PROVISIONS – SENIOR SCHEDULING ANALYST / SCHEDULING ANALYST AND SENIOR BUDGET CLERK *

## S17.1 SHIFT *

Seniority shall prevail in the selection of shifts. Bidding shall take place during the months of August, January, and May, to become effective the Monday after the second Saturday of the succeeding month. During each shift bid, the primary duties and responsibilities of Senior Scheduling Analysts/Scheduling Analysts shall be identified on the bid, and Senior Scheduling Analysts/Scheduling Analysts bidding on said shift shall be fully qualified to perform and may be assigned to all primary duties and responsibilities assigned to the bid shift. Special work assignment of more than five (5) working days shall be subject to bid with Management determination as to the shift on which such special work shall be performed.

Senior Scheduling Analysts/Scheduling Analysts shall have the option of selecting one (1) of the following work schedules:

A. Standard eight (8) hour, five (5) day work week.

B. Flextime - the beginning and ending hours of the standard eight (8) hour, five (5) day work week may be selected to provide for an eight (8) hour work day with a thirty (30) minute paid lunch. Bandtime within which the selection may be made is 0630 - 1800. On July 1 and January 1 of each contract year, the Senior Scheduling Analyst/Scheduling Analyst whose work week falls within the Flextime option may, at Management's discretion, reschedule their beginning and ending work hours with the requirement that at least one (1) Senior Scheduling Analyst/Scheduling Analyst is on shift from 0800-1700.

*** Minute Clarification**

The Senior Scheduling Analyst/Scheduling Analyst wage rates shall be reflected in Section 47.0 (Base Wage Schedule).

*** See ATU/SL-22-1**

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## S17.2 TRAINING

Senior Scheduling Analysts/Scheduling Analysts and Senior Budget Clerks will be trained in all phases of their job classification in order to have the competency and qualifications to perform all job assignments within

their classification.

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## S17.3 SHIFT EXCHANGE

At the option of each Senior Scheduling Analyst/Scheduling Analyst, he/she may exchange shifts within the following guidelines:

A. Exchanges will not result in any additional cost to the District;

B. No employee may exchange more than five (5) work shifts per calendar month;

C. All of the above is subject to Management approval, which will not be unreasonably withheld. The reason for any denial will be placed in writing upon the employee's request.

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## S17.4 LUNCH BREAKS

A thirty (30) minute paid meal period within a continuous eight (8) hour shift shall be granted at mid-shift to any Senior Scheduling Analyst/Scheduling Analyst and the Senior Budget Clerk.

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## S17.5 SENIOR BUDGET CLERK PERFORMING SCHEDULING ANALYST WORK AND SCHEDULING ANALYST PERFORMING SENIOR SCHEDULING ANALYST WORK

The Senior Budget Clerk will receive the Scheduling Analyst hourly rate for any and all hours worked in the performance of Scheduling Analyst duties if so assigned. Scheduling Analysts will receive the Senior Scheduling Analyst hourly rate for any and all hours worked in the performance of Senior Scheduling Analyst duties if so assigned.

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## S17.6 SENIOR SCHEDULING ANALYST AND SCHEDULING ANALYST STAFFING

Senior Scheduling Analyst and Scheduling Analyst bargaining unit work and staffing are described in Stipulated Decision/MOU Re: Scheduling Analyst and Senior Scheduling Analyst Staffing.

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## S18.0 SPECIAL PROVISIONS – TIME AND LABOR ADMINISTRATION ANALYST AND SENIOR OPERATIONS SUPPORT SYSTEMS ANALYST *

### S18.1 VACATION *

The Time and Labor Administration Analyst and Senior Operations Support Systems Analyst will be allowed to take his/her vacation at any reasonable time.

*** Minute Clarification**

The Time and Labor Administration Analyst and Senior Operations Support Systems Analyst wage rates shall be reflected in Section 47.0 (Base Wage Schedule).

---

### S18.2 LUNCH BREAKS

Time and Labor Administration Analyst(s) and Senior Operations Support Systems Analyst shall be granted a thirty (30) minute paid meal period. The thirty (30) minute paid meal period within a continuous eight (8) hour shift shall be granted at mid-shift to any Time and Labor Administration Analyst(s) and Senior Operations Support Systems Analyst.

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## S19.0 SPECIAL PROVISIONS - FOREWORKERS *

### S19.1 FOREWORKER DUTIES *

The parties agree that Foreworkers shall perform the following duties in addition to the Foreworker duties as outlined in the Senior Operations and Operations Foreworker job descriptions:

A. Administration of Counseling and Discipline

1. Administer formal counseling (all types) and oral reminders.
2. Review tapes as required, e.g., discipline investigation, train incidents, etc.
3. Initiate Notices:
   a. Meetings/Discussion
   b. Charges

B. Grievances

1. Non-disciplinary grievance processing and resolution through all the steps of the Grievance Procedure.

C. Vacations/Leaves of Absence/Union Business

1. Approve vacations in excess of one (1) day.

2. Make recommendations on requests for Leave of Absences.
3. Approve personal business in excess of two (2) hours.
4. Approve Union business requests with pay.

D. Verification

1. Verify employee absences.

*** Minute Clarification**

The addition of these Foreworker duties does not preclude other levels of supervision from performing the same duties as provided in this Section.

---

## S19.2 RATIO *

Effective July 1, 1988 the combined Foreworker ratio shall not be higher than one to ten (1:10) or forty-four (44) positions. The forty-four (44) positions do not include the fifteen (15) Foreworker positions in Central Control and the Employment Development Specialist (EDS). In addition, the District will reserve sixty-six percent (66%) of the Operations Supervisors vacancies for promotional opportunities for qualified employees from within the ATU bargaining unit. For each Foreworker promoted to Operations Supervisor, the District may choose not to fill the resulting Foreworker vacancy, and that vacancy shall be in addition to the reduction resulting from the one to ten (1:10) ratio above. However, the total number of Foreworkers shall not be reduced below twenty-eight (28) positions, exclusive of the fifteen (15) Foreworker positions in Central Control and the EDS' during the life of this Agreement.

*** Minute Clarification**

See Stipulated Decision of Barbara Chvany, Med-Arbiter, and Memorandum of Understanding October 22, 2003, incorporated herein by reference.

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## S19.3 THE PERCENTAGE DIFFERENTIAL IN HOURLY RATES

A. Operations Foreworker shall be paid at least ten percent (10%) above a Transportation Worker III.

B. Senior Operations Foreworker shall be paid ten percent (10%) above an Operations Foreworker.

C. A Transportation Worker III shall be paid ten percent (10%) above the rate of a Transportation Worker II.

---

## S19.4 LUNCH / REST BREAKS

A. Foreworkers shall be entitled to a paid lunch break of thirty (30) minutes. Any part of any lunch break missed shall be paid in whole thirty (30) minutes at the applicable overtime rate in addition to the regular eight (8) hours pay.

B. Each Foreworker shall be entitled to two (2) fifteen (15) minute paid breaks which shall, so far as practicable, be spaced midway between the first half of the day's assignment and midway between the second half of the day's assignment. Any part of any break missed shall be paid in whole fifteen (15) minutes at the applicable overtime rate in addition to the regular eight (8) hours pay. Foreworkers can combine one (1) paid fifteen (15) minute rest break with the thirty (30) minute paid lunch break.

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## S19.5 CHOICES OF SHIFTS – ZONE / TERMINAL ZONE / YARD / TOWER - FOREWORKERS *

A. System-Wide Bidding: All shift assignments shall be posted to show reporting location, starting time, rest days and level.

B. No Foreworker shall be transferred from an assignment to which assigned pursuant to bid.

C. System Sign-ups shall be held with each expansion in service either by adding lines, extending lines, or extending hours. A System Sign-up for Foreworkers shall be held in December, April, and July to be effective the Monday after the second Saturday of the next succeeding month. The bidding involved in a System Sign-up shall be spread over consecutive days as follows: Senior Operations Foreworkers shall begin bidding on the first day and Operations Foreworkers shall begin bidding the day following completion of the Senior Operations Foreworkers bid.

The location of the System Sign-up shall be mutually agreed upon by the District and the Union. The District shall furnish the necessary facilities and equipment for the Sign-up with the Union and share the staffing of the Sign-up with the Union. The District will pay the wages of any mutually agreed upon number of Union designated representative to be present throughout the Sign-up.

The Sign-ups will be conducted for Operations Foreworker and Senior Operations Foreworker positions and only Senior Operations Foreworker will be permitted to bid Senior Operations Foreworker jobs in the Senior Operations Foreworker Sign-ups. Remaining Senior Operations Foreworker positions shall be added to the Operations Foreworker bid and qualified Operations Foreworker shall be permitted to bid the positions. In such a case, the Senior Operations Foreworker rate shall be applied. The District shall make one (1) Zone Operations

Foreworker training zone not subject to bid by Senior Operations Foreworker. Until all have qualified, two (2) Secondary Tower positions will be designated as training positions. The present policy of allowing Foreworkers who have completed the formal Tower Operator program to bid Secondary positions shall continue. Foreworkers who have successfully completed one thousand (1000) hours as a Probationary Secondary Tower Operator can bid Primary Tower Operator positions and receive Senior Operations Foreworker pay rate subject to Senior Operations Foreworker bid preference.

D. The bid assignments will be distributed to the Foreworkers seven (7) days in advance of any Sign-up. The bid assignments shall be furnished to the Union fourteen (14) days prior to distribution to the Foreworker for the Union to review and a pre-posting meeting with the appropriate Transportation Supervisor will be scheduled upon request of the Union. Such request shall be made at least five (5) days prior to distribution to Foreworkers for the purposes of resolving differences relative to the Sign-up procedures.

E. It shall be the responsibility of each Foreworker to be ready to bid at the designated time. Tower and Terminal Zone Foreworkers will be released to bid when extra board are available. In the event the Foreworker has requested relief and relief is not made at the specified time, bidding will be delayed until Foreworkers proxy is received at bid location.

F. Any Foreworker who cannot be present at a Sign-up may leave a list of choices in numerical order in writing with the Union representative at least one (1) hour in advance of designated time to sign. In the event the Foreworkers written choices are not available or a Foreworker fails to appear at the designated time, the Union representative will select the shift assignment and such selection shall be final.

G. Choice of shift assignments will be made in seniority order. No Foreworker will be permitted to pass his/her turn to bid; all Foreworkers must choose or have chosen for them by his/her Union representative a shift assignment or a place on an extra board, Line or Yard, at the time their names are called. When a Foreworker chooses a location, he/she will exercise his/her seniority for Sign-ups until the next System Sign-up.

H. The Monday after the second Saturday at 0001 hours of the month following the Sign-up shall be the day upon which shifts involved in a Sign-up become effective. Foreworkers on duty at 0001 hours of such Monday after the second Saturday shall complete their shifts unless other mutually agreed upon arrangements have been made in advance between the District and the Union.

I. A "Change of Schedule" is defined as the changing of the starting time, length of shift and/or days off. There will be no variation in Foreworkers schedule without a Sign-up.

J. In the event it is apparent after two (2) months on a training job that the Foreworker is not qualified in the position, he/she shall be placed on the Extra Board until the next bid.

K. The Union and the District, if mutually agreeable, reserve the right to jointly establish further rules and regulations to implement the provisions of this Section.

*** See ATU/SL-22-1**

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## S19.6 MINIMUM REST

No Foreworker shall be allowed to work more than twelve (12) continuous hours, nor shall any Foreworker be allowed to return to work with less than twelve (12) hours rest except in an emergency situation where a vital position will be unstaffed, in which case the following steps will apply in the following order:

A. Use available on duty extra board;

B. Call in an employee with eight (8) hours or more of rest on a voluntary basis;

C. Implement inverse seniority for Step "B";

D. Work an on-duty employee over twelve (12) hours on a voluntary basis;

E. Implement inverse seniority for Step "D".

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## S19.7 FOREWORKERS IN TOWER / YARD CONTROL FUNCTIONS

The District will maintain an adequate staffing level in the Towers to carry out Yard Control functions in a safe and effective manner. Only Foreworker classifications will perform Tower work, except a lower classification may work in a training capacity upon agreement with the Union.

There shall be a Primary and a Secondary Tower Operator when two (2) Tower Operators are on duty. The primary positions shall be a Senior Operations Foreworker position and the secondary position shall be an Operations Foreworker position. Present primary and secondary starting times shall remain in effect except by mutual consent of the Union and the District.

When only one (1) Tower Operator is on duty, he/she shall be primary operator and, if available, shall be relieved by a primary operator. If no primary operator is available, a secondary operator may affect the relief.

When the need arises to temporarily fill a shift in a Tower, the District shall draft a Foreworker to ensure that the Tower shift is filled. In such

circumstance, the Foreworker drafted to work in the Tower will routinely and consistently perform lead and/or supervisory duties and shall be paid a Tower Draft pay premium of fifty percent (50%) per hour additional to his/her applicable rate of pay for hours temporarily assigned to the Tower. A Foreworker is considered to be "routinely and consistently" performing lead and/or supervisory duties whenever he/she is drafted to work a Tower shift, because they are part of the normally required duties of this shift.

Foreworkers who bid and work ORY Tower secondary swing shift routinely and consistently perform lead and/or supervisory duties, and shall be paid a premium of ten percent (10%) per hour additional to his/her applicable rate of pay. A Foreworker is considered to be “routinely and consistently” performing lead and/or supervisory duties whenever he/she works ORY Tower secondary swing shift, because they are part of the normally required duties of this shift. This premium will remain in effect until such time as OHY yard maintenance functions are restored. Foreworkers on Tower Draft pay premium are not eligible for this premium.

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## S19.8 OVERTIME

Foreworkers shall be paid overtime per Article S28.

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## S19.9 TRAINING

A. The District agrees to provide training programs for Foreworkers in order to enable them to perform in Tower and Line assignments and to provide familiarization with operations in the Control Center. These programs will be conducted as the availability of Extra Board personnel permits and according to the following priorities:

   1. Initial Tower Operator;

   2. Central Operations Familiarization (Senior Operations Foreworker);

   3. Central Operations Familiarization (Operations Foreworker).

B. It is understood that training for Zone Supervisors (Senior Operations Foreworker) and for Tower Supervisors (Operations Foreworker) is conducted while "in service" and that said training will be carried out concurrent with other programs. The District and the Union agree to meet and discuss any problems arising in the implementation of this Section. Bidding into special jobs is not restricted by this provision.

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## S19.10 RULES AND PROCEDURES POSITION

The District has the right to assign a Senior Operations Foreworker to the Rules and Procedures Position, the bidding process notwithstanding,

except in the case where a fully qualified Senior Operations Foreworker bids for the position.

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## S19.11 RECERTIFICATION

In order to establish their recertification, Foreworkers shall be afforded up to three (3) opportunities to meet minimum certification qualifications as required. Any Foreworker, who does not have standing in a previous classification as of the effective date of this Agreement, shall be required to maintain their qualification in the currently qualified area(s). Foreworkers within this category will be restricted to bid only in those area(s) where qualified. However, any such Foreworker who fails to maintain certification in the currently qualified area(s) will be afforded an opportunity to become certified as a Station Agent or Train Operator.

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## S19.12 SHIFT EXCHANGING

Foreworkers may exchange shifts following these understandings:

A. Exchanges will not result in any additional cost to the District.

B. Exchange employees must have a minimum of twelve (12) hours rest between all shifts worked.

C. One (1) day shift exchanges will not result in any Foreworker working on his/her RDO.

D. In any calendar month, an employee may exchange either:

   1. A maximum of five (5) work shifts; or

   2. One (1) work week (seven [7] days).

E. Selection of one (1) of the above options will preclude use of the other option during the same calendar month.

F. All of the above is subject to Management approval, which will not be unreasonably withheld. The reason for any denial will be placed in writing upon the employee's request.

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## S19.13 E-LINE OPERATIONS

The eMF TM Zone shall be staffed by TM Zone Foreworkers. The eMF TM Zone shall be staffed at least all hours of revenue service for such time as the E-line does not extend past Antioch Station. Foreworkers assigned to eMF shall perform all duties of a TM Zone Foreworker as relating to DMU Engineers, and shall also be responsible for handling DMU Engineer absence reporting, time off approvals, filling vacancies* and posting the Extra Board. Time entries for DMU Engineers will be handled as otherwise

provided for in this Agreement.

* The Parties preserve their positions regarding the requirement or lack thereof to fill DMU Engineer shifts by using overtime, subject to an arbitrator's decision on the subject.

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## S20.0 SPECIAL PROVISIONS – OPERATIONS CONTROL CENTER

### S20.1 OPERATIONS CONTROL CENTER DEFINED

Whenever the words "Central" is used in this Agreement, it shall refer to the Operations Control Center and employees therein represented by ATU Local 1555.

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### S20.2 SIGN-UPS - POWER AND SUPPORT CONTROLLERS AND COMMUNICATIONS SPECIALIST (COM SPECIALISTS)

A. Shift schedules will be bid four (4) times a year, becoming effective at 0001 hours the first Monday of June, September, December and March. Central employees on duty at 0001 hours of the effective day of the bid shall complete their work assignment/shifts unless other mutually agreed upon arrangements have been made forty eight (48) hours prior to the new bid assignment.

B. Proposed shift schedules shall be furnished to the Union fourteen (14) days prior to posting, for the Union to review and notify the District of any disputed shift prior to posting.

C. Shift schedules and Extra Board positions will be posted and distributed to each Central employee on the first Monday of each May, August, November and February.

D. All shift assignments shall be posted in Central showing start time, rest days, job title and reporting location. Extra Board positions/slots shall show days off. Each posted shift shall have the same starting time for the entire work week provided it is possible to cover all work assignments at no additional cost to the District.

E. Bidding will begin the week of the second (2nd) Monday of the posting months, to be completed by 2400 hours on the following Sunday. A complete shift schedule showing the results of the bid will be posted within seven (7) days thereafter.

F. No Central employee shall be transferred from his/her bid shift/rest days/jobs to which assigned pursuant to bid.

G. All Central employees will start and end each day's assignment at the Operations Control Center, except by specific mutual agreement between Management and the Union.

H. Any Central employee who cannot be present for a Sign-up may leave a list of written choices (proxy) in numerical order with the Union representative.

I. Bidding shifts and Extra Board positions/slots will be in seniority order. No employee will be permitted to pass his/her turn to bid. All employees must choose or have chosen for them by the Union representative handling the bid, a shift or a position/slot on the Extra Board closest to their current bid assignment.

J. The Union and the District, if mutually agreeable, reserve the right to jointly establish further rules and regulations to implement the provisions of this Section.

K. When a shift change is made as a result of a new bid, Central employees shall be afforded a minimum of twelve (12) hours rest between his/her last shift of the previous bid assignment and the first shift of his/her new bid assignment. No Central employee shall be paid less than forty (40) hours in any work week around a shift changeover.

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## S20.3 SHIFT EXCHANGING

Central Union employees may exchange shifts within the following understandings:

A. Exchanges will not result in any additional cost to the District.

B. Exchange employees must have a minimum of twelve (12) hours rest between all shifts worked.

C. No employees may exchange more than five (5) work shifts or one (1) seven (7) day work week per calendar month. Selection of one (1) of the above options will preclude use of the other option during the month.

D. One (1) day exchanges will not result in any employee working his/her RDO.

E. All of the above is subject to Management approval, which will not be unreasonably withheld. The reason for any denial will be put in writing upon the employee's request.

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## S20.4 TRAINING OF NEW EMPLOYEES

A. A training program will be available and required of all Union employees entering Operations Control Center positions. Following the successful completion of such programs, the employee will be given a letter of certification.

B. New Union Operations Control Center employees shall exercise their seniority for choice of shifts during a Sign-up only after completion and

certification of training at all Central bargaining unit jobs.

C. Newly trained and certified Central employees will be placed on the extra board of his/her choice by seniority.

D. All new employees in Central shall be trained and certified at all Central bargaining unit positions for their respective classification within one hundred and twenty (120) calendar days.

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## S20.5 TRAINING / CROSS TRAINING

A. The District will provide a training/cross-training program for all Central employees beginning immediately and extending throughout the life of this Agreement to ensure a high level of competency in all phases of their work. Successful completion of all phases of training/cross-training for Central employees will be required of all employees in Central.

B. Three (3) work weeks training over the terms of the sole employees (Senior Operations Foreworkers) to learn the duties of each Mainline Zone, Terminal Zone and Tower Supervisor (Foreworkers). This time shall be scheduled so that the individual can observe all Mainline personnel with whom he/she functions in the performance of his/her Control duties. The individual shall be permitted direct contact with all Transportation personnel within the zone on all shifts subject to Extra Board availability.

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## S20.6 RE-ORIENTATION TRAINING

Any Operations Control Center employee returning to work from an extended absence must be given a minimum of one (1) day training per position per month of re-orientation for every thirty (30) days of absence from the Control Center.

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## S20.7 LUNCHES / BREAKS

Operations Control Center employees shall be entitled to two (2) fifteen (15) minute paid breaks and a thirty (30) minute paid meal break. Breaks and lunches shall be coordinated by the Union employees of each shift with Central Management. In the event operational problems prevent the District from granting an employee his/her break, it shall be considered as time worked and paid at the appropriate overtime rate of pay, including shift differential, if any.

---

## S20.8 MINIMUM REST

No Operations Control Center employee shall be allowed to work more than twelve (12) continuous hours, nor shall any employee be allowed to return to work with less than twelve (12) hours rest except in an emergency situation where a vital position will be unstaffed, in which case the following steps apply in priority order:

A. Call in an employee with eight (8) hours or more of rest on a voluntary basis.

B. Implement inverse seniority for Step "A."

C. Work an on-duty employee over twelve (12) hours on a voluntary basis.

D. Implement inverse seniority for Step "C."

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## S20.9 BIDDING HOLIDAY SHIFT SCHEDULES

Special shift schedules will be required for holidays and shall be bid by seniority.

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## S20.10 ASSISTANT CONTROLLER POSITION

Subject to the result of the Assistant Controller Position arbitration, there shall be an Assistant Controller position established in Central. The Assistant Controller position is not considered as part of the basic Operations Control Center coverage and is not a "job" in this respect. It is to be regarded as an Extra Board position that may be blanked and the person reassigned at the discretion of Management. Any new person in Central or any employee who, in the judgment of his/her supervisor requires additional or initial training, may be required to bid the Assistant Controller position or may be assigned to that position by Management.

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## S21.0 SPECIAL PROVISIONS – EMPLOYEE DEVELOPMENT SPECIALISTS, SENIOR TRANSPORTATION – TRAINING CLERKS, TRANSPORTATION ADMINISTRATION SPECIALISTS AND TEMPORARY EMPLOYEE DEVELOPMENT SPECIALISTS *

## S21.1 EMPLOYEE DEVELOPMENT SPECIALIST *

The District has established a Training Division in the Transportation Department. Bargaining unit Positions in the Training Division shall include Employee Development Specialists (EDS), Senior Transportation - Training Clerks and Transportation Administration Specialists.

*** Minute Clarification**

The Employee Development Specialist wage rates shall be reflected in Section 47.0 (Base Wage Schedule). The parties acknowledge that the classification title Senior Transportation Training Clerk applies to the position reclassified during the period of and as discussed in negotiations.

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## S21.2 TEMPORARY INSTRUCTORS *

Temporary Instructors for Transportation training shall be selected from among the classification being trained, whenever practical, to accommodate special training needs.

*** Minute Clarification**

The District shall provide EDS training to Transportation Administration Specialists who express interest in such training no less than twice per year.

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## S21.3 TEMPORARY INSTRUCTOR'S EMPLOYEE DEVELOPMENT SPECIALIST'S PAY

Whenever an employee is temporarily assigned to perform the duties of the Employee Development Specialist (EDS) classification, he/she shall be paid at the same EDS step that he/she occupies in his/her current position, as specified in the base wage schedule at Section 47.1, while assigned to training.

The applicable EDS rate shall be paid for vacations and holidays.

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## S21.4 SENIOR TRANSPORTATION – TRAINING CLERK SELECTION

The Senior Transportation-Training Clerk shall be selected on the basis of qualifications. Methods of testing, training, and selection of bargaining unit employees for the permanent Training staff shall be determined by the Assistant Chief Transportation Officer (ACTO) assigned to the Transportation Training Division.

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## S21.5 TRAINING CLERK PAY

The Training Clerk shall be a Senior Transportation Training Clerk.

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## S21.6 SENIOR TRANSPORTATION – TRAINING CLERK LUNCH / REST BREAKS

A paid lunch break of thirty (30) minutes shall be assigned during the fourth (4th) and fifth (5th) hours after the start of the shift. Any part of any lunch breaks missed shall be paid in whole thirty (30) minutes at the applicable overtime rate in addition to the regular eight (8) hours pay. Each employee shall be entitled to two (2) fifteen (15) minute breaks which shall, so far as practicable, be spaced midway between the first half of the day's assignment and midway between the second half of the day's assignment. Any part of any break missed shall be paid in whole fifteen (15) minutes at the applicable overtime rate in addition to the regular eight (8) hours pay. Breaks may be combined with approval from the immediate supervisor.

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## S21.7 REPORTING LOCATION FOR EDS AND SENIOR TRANSPORTATION-TRAINING CLERKS

The reporting location for EDS and Senior Transportation – Training Clerks will normally be the actual Training facility where the training or work assignment occurs. The routine shift assignment will be 0800 hours to 1600 hours, Monday through Friday with Saturday and Sunday as regular days off (RDO); however, reporting location, shift assignment and RDO may be changed as needed.

The District may at its discretion establish an alternative work week for an EDS(s) consisting of four (4) days per week and ten (10) hours per day (4/10 Plan). Employees working under this Plan shall be governed by Sections 13.7.A-E of this agreement. The District may discontinue such schedule at its discretion.

The special provisions of this Section shall apply to only the EDS and Senior Transportation - Training Clerk.

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## S21.8 EDS SELECTION

The EDS shall be selected on the basis of qualifications. Methods of testing, training, and selection of bargaining unit employees for the permanent Training staff shall be determined by the Manager of Operations Training and Development.

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## S21.9 EDS UPDATE ON CERTIFICATION CLASSIFICATION DUTIES

EDS may be assigned periodically to line, tower, train operations and central functions to keep current with day-to-day operations but will not replace regularly assigned employees.

## S21.10 EDS OR SENIOR TRANSPORTATION – TRAINING CLERK REVERSION

Employees selected for EDS or Senior Transportation – Training Clerk positions shall maintain classification seniority in their former classification, but shall not accrue additional seniority in their former classification while assigned to the Training Division and shall retain the right to revert to their former classification in case of furlough or disqualification. However, upon furlough or disqualification, EDS and Senior Transportation-Training Clerks with more than six (6) months of continuous service in that classification returning to their previous classification will be allowed an additional six (6) months of seniority plus the seniority he/she had acquired in their former classification.

## S21.11 EDS UNIFORMS

The Foreworker, Train Operator and Station Agent EDS Instructors shall each be provided one (1) initial uniform issue for the term of this Agreement. The primary reason for providing these uniforms is that the above EDS Instructors conduct training classes in public view, and it is anticipated that the uniforms will be worn while conducting such classes. These uniforms will be provided subject to the following conditions:

A. Each uniform issue will be comparable to the Foreworker allocations as determined by the uniform committee.

B. The affected employees will be responsible for selecting and fitting their uniform subject to prior coordination of the style and color of the uniform with their supervisor.

C. The cost of each uniform shall not exceed the cost of a comparable Foreworker uniform issue.

D. Uniform maintenance allowance will be paid. Replacement uniform issues will be provided in accordance with the comparable replacement schedule for a Foreworker uniform.

E. Protective coveralls will be provided, as necessary, for EDS Instructors providing training in the Yards.

## S21.12 WORK WEEK / SENIOR TRANSPORTATION – TRAINING CLERK

Senior Transportation-Training clerks shall have the option of selecting one (1) of the following alternate work schedules:

A. Standard eight (8) hour, five (5) day work week.

B. Flextime - The beginning and ending hours of the standard eight (8) hour, five (5) day work week may be selected to provide for an eight (8) hour work day with a thirty (30) minute paid lunch. Bandtime hours within which the selection may be made are 0615 and 1900. On July 1 and January 1 of each contract year, the Intermediate Clerk whose work weeks fall within the Flextime option may, at Management's discretion, reschedule their beginning and ending work hours.

The Senior Transportation-Training Clerk may pursue the above options with his/her department supervisor/manager. However, such selection between these optional work weeks must be consistent with operations scheduling requirements of the department and subject to the approval of the department manager.

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## S22.0 WORK DAYS AND WORK WEEK

A. A shift started prior to midnight shall be considered as worked on that day. The established work week shall be from 0001 hours Monday and end 2400 hours Sunday.

B. A work week which has been assigned to an employee will be that employee's scheduled work week. The five (5) work days in that work week will be the employee's scheduled work days and the two (2) days off will be the scheduled days off. No premium shall be paid for Saturday and/or Sunday if such days are part of the scheduled work week. All hours worked on the first or second off-duty day shall be compensated at the overtime rate set forth herein.

C. An employee shall be assigned a work week which shall consist of five (5) consecutive shifts of eight (8) consecutive hours of work within a seven (7) day period and two (2) consecutive days off.

D. A work day shall consist of eight (8) consecutive hours of work with a scheduled starting time. Paid rest and lunch breaks provided herein shall be considered as hours worked. Unpaid lunch breaks shall extend the consecutive hours of work by that amount of time. Clericals, Staff Assistants, and similar positions customarily working a five (5) day week prior to the execution of this Agreement, Monday through Friday with an unpaid lunch period, shall continue to do so for the life of this Agreement unless changed by mutual agreement.

E. Whenever any employee bids a shift, he/she shall not thereafter be assigned to another shift until at least ten (10) hours have elapsed since the end of the previous work assignment, including overtime.

F. Subject to other provisions of this Agreement governing choice of shifts, notice of changes in shift assignment shall be given as far in advance as practicable.

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## S23.0 SYSTEMWIDE EXTRA BOARD *

A. There shall be a day/night extra board located on each Line/Yard, including Daly City (for Train Operators), and Central. For Station Agents, the A/L/S-Line will include extra board report locations in three (3) segments: 1) Lake Merritt Station through San Leandro Station; 2) Bay Fair Station through Dublin/Pleasanton Station; and 3) Hayward Station through Berryessa Station. For Station Agents, the C/E-Line will include extra board report locations in two (2) segments: 1) Rockridge Station through Pleasant Hill Station and 2) Concord Station through Antioch Station. For Station Agents, the R/K-Line will include extra board report locations in two (2) segments: 1) West Oakland Station through Ashby Station and 2) Downtown Berkeley through Richmond Station. For Station Agents, the M-Line will include extra board report locations in two (2) segments: 1) Embarcadero Station through Daly City Station and 2) Daly City Station through Millbrae Station. Extra Board Station Agents assigned to Daly City shall be designated as Daly City North extra board agents or Daly City South extra board agents through normal bidding procedures. Station Agents assigned to either Daly City South or Daly City North may be assigned to work at Daly City Station. Extra board Agents reporting to a segment, as defined above, will first be utilized to fill one (1) day vacancies which occur within their report segment, but then may be used to fill one (1) day vacancies which occur elsewhere on their home line without compensation unless assigned as defined in Section 23.0 (K). Extra work shall be performed by extra board employees from the Line/Yard where the work originates and they shall have their names placed on that extra board list in seniority order. Foreworkers, Power and Support Controllers and Communications Specialists shall each have a day and night extra board.

B. At each system bid, bargaining unit employees shall exercise seniority bidding for the Line/Yard, report location, days off, and a choice of day or night extra board. Foreworkers shall exercise their seniority for days off and must be eligible to work all positions.

C. For the purpose of clarification, day board employees shall be those who perform work starting between 0001 hours to 1200 hours. Night board employees shall be those assigned to perform work starting between 1201 hours to 2400 hours. There shall be no exceptions.

D. Employees returning to work from any leave or disability of less than thirty (30) working days who do not have an extra board position or shift shall select a position on the extra board where vacancies exist in proper seniority order. Any newly trained employee will be placed on the extra board of their choice (Line/Yard, day or night) in proper seniority order, provided vacancies exist, and allowed to bid on that board for a position with assigned days off. The extra boards shall rebid on all newly created or vacated days off in seniority order.

E. Any known vacancy of a shift that is temporarily vacant for a period of five (5) days in the work week shall be called a "hold-down". Hold-downs shall be placed for bid to the extra board employees from the entire Line (not segment)/Yard where the vacancy occurs. If no extra board employee bids said hold-down, it shall be assigned in accordance with inverse seniority in the Line/Yard where the vacancy occurs. In the case of an inverse assignment on an indefinite hold-down longer than thirty (30) days in length, said indefinite hold-down shall be rebid at the end of each continuous thirty (30) day period. Hold-down vacancies for bid shall be posted by Wednesday at 1300 hours the week prior to the effective date of the bid. The Friday following the Wednesday posting of available hold-downs, the bid requests will be assigned in seniority order. The extra board employees receiving the bid hold-down will have his/her hold-down assignment posted on the mark-up sheet not later than 1300 hours on Friday. The hold-down shall be effective the following Monday.

F. In the event that a hold-down is not posted, extra board assignment shall be made on a day-to-day basis.

G. An employee who is inversely assigned a hold-down will assume the conditions of that hold-down including rest days off. If, in the assumption of that hold-down, the employee works the sixth (6th) and/or seventh (7th) day(s), the employee shall be compensated at the applicable overtime rate of pay.

H. The extra board mark-up sheet shall be posted in the Crew Office no later than 1300 hours for the day board and 2000 hours for the night board, and shall show the next day's assignment.

Extra board mark-up sheets shall be posted in the yards, and/or tower, and Daly City within two (2) hours after posting in the Crew Office.

A copy of all extra board assignments shall be deposited in a locked box in the Crew Office, to which only the shop steward shall have a key, at the time of each day's posting. Once posted, no assignment shall be changed or modified. Extra board employees shall be responsible for getting his/her assignment from the posted mark-up sheet or the Crew Office. Extra board employees who are assigned to a vacancy will report to that assignment.

I. The District shall accept "collect" calls from extra board employees in the Greater Bay Area for the purpose of District business relative to extra board assignments.

J. Extra board employees filling a vacancy in another Line/Yard for one (1) day will be paid from the time he/she goes on duty at his/her bid location until he/she returns to his/her bid location at the applicable rate of pay.

K. Extra board employees who are assigned by posting to fill a one (1) day vacancy at a location other than his/her regular report location/segment, shall be compensated two (2) additional hours at the applicable overtime

rate of pay and shall report to the assigned report location.

L. All report assignments, except hold-downs, shall be made on a rotating basis and shall be rotated weekly around the shift assignments in order that No extra board employee will lose his/her position on the extra board list.

M. Extra board employees shall be guaranteed a minimum of eight (8) consecutive hours work /pay per day on each of five (5) days in the workweek. Extra board employees will be under pay for all work until the end of the day's assignments.

N. **Day to Night, Night to Day Transfers.**

O. When, due to staffing shortages, it is necessary to temporarily transfer from (Line/Yard) the day board to the night board, or from the night board to the day board, the board will be polled in seniority order for volunteers. In the event there are no volunteers, inverse seniority will prevail in designating the extra board employee to transfer. Any day to night or night to day extra board transfer shall be on a work week basis.

Any disputes on transferring shall be subject to the grievance procedures. Extra board employees whose grievances are upheld will be paid as a penalty two (2) hours travel time at the applicable overtime rate of pay for each day specified in the grievance award.

P. **Staffing Shortages**

The System-wide extra board will be polled in seniority order for volunteers when there are staffing shortages. In the event there are no volunteers, the inverse seniority procedures will prevail in designating the extra board employee to transfer. The extra board employee making the transfer will then be given the choice of unfilled hold-downs. The extra board employee making the transfer, having chosen a hold-down, will assume the conditions of that hold-down, including rest days off.

If, in the assumption of the hold-down, an employee who is inversely assigned works the sixth (6th) and/or seventh (7th) day(s), he/she shall be compensated at the applicable overtime rate of pay. That assignment will remain in effect until an extra board employee returns or is added to the extra board to which the transfer was made or the employee exercises his/her seniority rights to bid on a hold-down in his/her home area.

Q. The transferred extra board employees shall retain full bidding rights, including the right to bid for hold-downs in his/her home area.

R. In the event the Line/Yard extra board is exhausted and a shift becomes vacant, the following sequence shall be utilized in filling a vacancy:

1. Poll the System-wide extra board in seniority order for volunteers who are on the clock but not on a shift assignment. In the absence of volunteers, inversely assign an employee who is on the clock but not

on a shift assignment, or;

2. Go to that Line/Yard off-day overtime list;
3. Go to the System-wide off-day overtime list;
4. Poll available on duty employees in seniority order who normally perform said function within the location having overtime available;
5. In the event no volunteers are available for the location, other available Line employees shall be polled in seniority order to fill overtime need; (Station Agents only)
6. Poll available early call-in employees in seniority order who normally perform said function within the location;
7. Fill by first available employee currently working within that classification.

S. Employees must have a reasonable period of rest, at least eleven (11) hours after completion of a work assignment.

T. The District shall maintain a daily aggregate time record of the hours of each extra board employee and this shall be available for inspection by the employee and/or a Union representative.

**Train Operators**

An extra board Train Operator on a regular shift assignment shall be as a regular Train Operator on said assignment for the duration of said regular shift assignment and paid accordingly. All extra board report times shall be considered as protection. An extra board Train Operator on protection will be retained at the report location for a minimum of two (2) hours under the following conditions:

> The first Train Operator scheduled for protection shall be the Train Operator to be assigned to the first shift that becomes available during his/her two (2) hour protection period. The second Train Operator scheduled for protection would then move into the first position and during his/her protection would be the next to be assigned to a vacant shift. This would continue on through the third, fourth, and so on. (See example below)

1. First Train Operator reports at 0400. Shift available starting at 0510 is assigned to this Train Operator who reported at 0400.
2. Second Train Operator reports at 0500. Protection time of this Train Operator expires at 0700.
3. Third Train Operator reports at 0630. Shift available starting at 0710 is assigned to this Train Operator who reported at 0630 because protection time of second (2nd) Train Operator expired at 0700.

However, protection ends upon assignment of an extra board operator to Mainline.

During an extra board Train Operator's protection time, normal work in the report Yard will be permitted. At the conclusion of the two (2) hour protection and in the event no shift has become vacant during that time; the Train Operator may be utilized in the Yard or on Mainline as is appropriate.

Train Operators posted to fill a one (1) day vacancy from the Hayward Yard extra board to Castro Valley, West Dublin, or East Dublin shall receive compensation as covered under Section 23.0 (K).

Train Operators posted to fill a one (1) day vacancy from the Concord Yard extra board to North Concord, West Pittsburg/Baypoint, or East Pittsburg shall receive compensation as covered under Section 23.0 (K).

**Station Agents**

Line extra board Station Agents working the day board with no assigned hold-down or posted shift assignment can be posted to report thirty (30) minutes before the regularly assigned A.M. shift starts. This will allow the District to fill unexpected shift vacancies.

Station Agents posted to fill a one (1) day vacancy from one segment on a line to another segment on the same line shall receive compensation as covered under Section 23.0(K).

**Transportation Administration Specialists**

Transportation Administration Specialists bidding on the extra boards (night or day) must be Crew Office qualified. Transportation Administration Specialist Extra Board will be utilized to fill vacancies in the priority order listed below:

1. Crew Office
2. Yard/Line Transportation Offices
3. Lost and Found Center
4. Training Center

In the event the Transportation Administration Specialist Extra Board is exhausted, the District will fill the vacancy with overtime and offer this opportunity to the Transportation Administration Specialists on the RDO overtime list in accordance with Section S28.4.

*** Minute Clarification**

Transportation Administration Specialist Extra Board will not be subject to weekly rotation.

## S24.0 BIDDING REQUIREMENTS FOR EMPLOYEES ON LEAVE OF ABSENCE *

### S24.1 YARD, LINE, OPERATIONS CONTROL CENTER AND CREW OFFICE *

At the time of any bid, employees who are on any leave of absence known to be for a period in excess of two (2) work weeks from the effective date of the bid will bid only Yard/Line, Operations Control and Crew Office locations. On employee's return, he/she shall be subject to a "shake up" on that location extra board (day or night) in proper seniority order. If the employee provides the Scheduling Section and the Union representative designated to handle the bid prior to 4:00 p.m. on the Friday preceding the start of the bid, a doctor's statement or other appropriate verification (depending on the type of leave) stating said employee will return to work within two (2) work weeks from the effective date of the bid, he/she will be allowed to bid.

*** Minute Clarification**

The parties agree that this Section is intended to apply for bidding only and the Union does not intend by this language to be assuming responsibility for authorizing employees to return to work.

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### S24.2 NOTIFICATION OF BID *

At least seven (7) calendar days prior to posting for a Sign-up, a notice of the Sign-up shall be mailed to employees who are on sick leave, leave of absence, or vacation at their most recent address on file with the District, with concurrent notification to the Union.

*** Minute Clarification**

The parties agree that this Section is intended to apply to all bids for all classifications.

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## S25.0 JOB DESCRIPTIONS

Employees shall be provided copies of their Classification Job Descriptions upon request.

In the event an employee believes he/she is working out of classification, said dispute shall be subject to the grievance procedure.

New or revised job descriptions shall be forwarded to the Union for review.

Changes in job descriptions shall be subject to the grievance procedure, with retroactive compensation on judgment in favor of grievant.

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## S26.0 AVAILABLE VACATIONS / VACATION INCREMENTS *

A. Requests for vacation cancellation shall be submitted to the employee's immediate supervisor, in writing, at least three (3) weeks prior to the scheduled vacation in order for vacation to be cancelled.

B. Requests for vacation cancellation submitted in writing within three (3) weeks of the scheduled vacation shall only be granted due to hardship. The District shall not be unreasonable in its denial of a vacation cancellation. The parties agree that a “hardship” is defined as extenuating circumstances beyond an employee’s control which would result in the cancellation of the employee’s scheduled vacation.

C. The District agrees to post on the appropriate bulletin boards all vacation periods that are available because of cancellations. All vacation periods so advertised shall be shown in the prescribed increments.

D. Any employee assigned to that yard/line activity, having sufficient accrued vacation time, may submit a bid. Seniority shall prevail in all awards. A three (3) day bidding period shall be allowed, and awards will be made at 1300 hours of the third day.

E. There having been a three (3) day bidding period and no awardable bids having been received, the vacation period shall then be awarded on a first come, first served basis.

F. When signing for vacation, employees shall sign up in forty (40) hour increments.

G. An employee may use up to thirty (30) days of additional earned vacation in one (1) day increments. When using vacation in one (1) day increments the District may require forty-eight (48) hours notice. Management shall allow a minimum of one (1) employee per classification per shift (day or night) and location (yard or line) to take vacation in the one (1) day increment at all times, except if an individual requesting the one (1) day vacation cannot be replaced through other provisions of this Agreement, the request may not be granted. In such a case, the individual shall be given an explanation in writing for the rejection of the request. If no AM or PM vacation day is requested, then two AM or two PM shall be granted.

   Subject to the minimums set forth above, for each increment of thirty (30) employees, or portion thereof, in a classification and location (yard/line), District shall allow one (1) employee per classification per location (yard or line) to take vacation in one (1) day increments. Available vacation days shall be granted evenly between AM and PM with uneven or unrequested days being granted to either AM or PM. For example, a classification and location with sixty-one (61) employees shall receive one (1) additional one (1) day vacation increment.

   **Foreworker Vacation Increment Locations**

   Foreworker locations shall be defined as follows: A/L Line, C/K Line,

M/W Line, R Line and Systemwide/Admin. Towers and TM Zones shall be considered part of this corresponding Line.

H. If satisfactory arrangements are made with supervision, vacation may be taken in increments as short as two (2) hours.

I. An employee, who through use of one (1) day vacation increments, reduces his/her accrued vacation time to the point whereby he/she will not have sufficient time accrued for a scheduled forty (40) hour increment vacation, shall be required to cancel said scheduled vacation increment and the cancelled vacation shall be posted for bid as outlined in Paragraph S26C, above.

J. The District shall continue its practice of notifying the Union of vacation cancellations.

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**S26.1 VACATION BID ***

A. Employees shall select their vacation in seniority order.

B. No employee will be disallowed his/her right to bid vacation.

C. The Union representative assigned to administer the bid cannot bid or assign another employee to a vacation.

D. Employees on leave of absence, disability, or nonpaid status shall be allowed to bid vacation.

E. Only proxies submitted prior to the employee's assigned bid time, signed and dated in ink, will be accepted by the Union representative.

F. Employees arriving late will be allowed to bid vacation.

G. Employees bidding late will not change the previous bids, nor will they be allowed to bump a lesser seniority employee who bid at his/her regular scheduled time.

H. Vacation bid shall be held concurrent with the first system-wide Sign-up of the year for each classification.

I. Employees on leave of absence, disability, or other non-active status, on the commencement of bidded vacation, shall have such scheduled vacation cancelled upon the employee's request and shall be eligible to bid any cancelled vacation upon the employee's return to active status.

J. An employee hospitalized within any scheduled vacation week will have the option to cancel the remaining vacation time and receive sick leave pay starting the day of the hospitalization. The cancelled vacation time may resume at the employee's option upon release from the hospital and provided the District receives verification of hospitalization.

*** Minute Clarification**

The parties agree that hospitalization referred to in this Section means

"inpatient" hospitalization and that any vacation time that is converted to sick leave will not extend the scheduled vacation time. Excess vacation time resulting from a conversion to sick leave must be rescheduled for use at a later date upon the employee's return to work.

*** See ATU/SL-22-01**

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## S27.0 CONTRACTUAL HOLIDAYS *

## S27.1 HOLIDAYS

The District shall observe thirteen (13) contractual holidays per year as follows:

New Year's Day (January 1)

Martin Luther King's Birthday (third Monday in January)

Washington's Birthday (third Monday in February)

Cinco de Mayo (May 5)

Memorial Day (last Monday in May)

Independence Day (July 4)

Labor Day (first Monday in September)

Veteran's Day (November 11)

Thanksgiving Day (fourth Thursday in November)

Christmas Day (December 25)

New Year’s Eve (December 31)

Employee’s Birthday

Chinese New Year (February 1, 2022, January 22, 2023, February 10, 2024)

Should any contractual holiday fall on an employee's day off, the employee, at his/her option, shall receive an extra shift's pay at the employee's existing straight time rate during that pay period, or an extra shift off with pay at the employee's existing straight time rate (“floating holiday”) to be taken within the contract year if requested by the employee upon return to work. Management shall allow a minimum one (1) employee per classification, per location (yard or line) to take a floating holiday except if an individual requesting the floating holiday cannot be replaced through other provisions of this Agreement, the request may not be granted. In such a case, the individual shall be given an explanation for the rejection of the request. He/she shall receive all monies due for the contractual holiday at the rate it was earned no later than the last pay period of the contract year.

If an employee files a grievance alleging the District unfairly denied an employee his/her floating holiday and subsequent investigation of the grievance determines that the District did violate this provision of the Agreement, the grievance will be settled in the following manner:

A. The grievant will be paid holiday pay, at the straight time rate, for the denied holiday, and

B. The grievant will not be charged with a loss of the denied holiday, but the holiday will still be carried on the employee's records as an unused holiday which may be used later, or, if unused later, will be paid off at the end of the contract year as otherwise provided for in the Agreement.

It is also understood that in determining if "...an individual requesting the holiday cannot be replaced through other provisions of this Agreement, the request may not be granted." - "other provisions of the Agreement" includes use of the Overtime provisions of the Agreement.

Should a contractual holiday occur during an employee's recognized vacation, the employee shall, at his/her option, receive an extra shift of compensation at the employee's straight time rate for that pay period, or an extra shift off with pay at the existing rate, to be taken consistent with department/ scheduling.

An employee may elect to have the post-tax cash equivalent value of unused floating holidays deposited in his or her MPPP account, subject to applicable legal limitations and the terms of the MPPP Plan.

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## S27.2 EMPLOYEE'S BIRTHDAY

Except as provided below, no employee shall work on his/her birthday holiday and birthday holidays shall be observed only on the employee's birthday. Should an employee's birthday fall on his/her day off, he/she shall at his/her option, receive an extra shift of pay at his/her existing straight time rate for that pay period or an extra shift off with pay at the employee's existing straight time rate to be taken consistent with department/ scheduling.

With a minimum of forty-eight (48) hours notice, an employee may elect to work on his/her birthday and convert that birthday holiday into a floating holiday.

In any year other than a leap year, February 28 shall be considered the birthday holiday for any employee whose birthday is February 29.

In the event an employee's birthday coincides with a contractual holiday, the employee shall have the following options:

A. Work the contractual holiday at the applicable rate of pay and receive either 1) an extra shift of pay at the employee's existing straight time rate of pay during that pay period, or 2) an extra shift off with pay, at the

existing straight time rate, to be taken consistent with department/ scheduling.

B. Not work the contractual holiday and receive either 1) an extra shift of pay at the employee's existing straight time rate of pay during that pay period, or 2) an extra shift off with pay, at the existing straight time rate during that pay period.

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## S27.3 HOLIDAY SCHEDULING

The District shall determine the level of service to the public. For all holidays described in the Section 27.1, the District shall determine whether to provide the regularly scheduled service or to provide “reduced service” (aka “reduced schedule”). If the District determines that a holiday should be “reduced service”, it shall choose either the Saturday or the Sunday bid schedule in effect at the time of the holiday. Holidays falling on a Sunday cannot be reduced.

If a holiday falls on a weekday, the schedule shall be the regularly scheduled same day weekday service, or “reduced service” which is either the Saturday or the Sunday schedule. If a holiday falls on a Saturday, the schedule shall be the regularly scheduled Saturday service, or “reduced service” which is the Sunday schedule. If a holiday falls on a Sunday, the schedule shall be the regularly scheduled Sunday service.

The following chart illustrates which schedules may be offered on each day of the week and whether a schedule is regularly scheduled service or “reduced service”:

| **If holiday falls on:** | **Mon** | **Tues** | **Wed** | **Thurs** | **Fri** | **Sat** | **Sun** |
|---|---|---|---|---|---|---|---|
| **Regular Schedule** | **Mon** | **Tues** | **Wed** | **Thurs** | **Fri** | **Sat** | **Sun** |
| **“Reduced service” options** | ***Sun*** | ***Sun*** | ***Sun*** | ***Sun*** | ***Sun*** | ***Sun*** | ***N/A*** |
| | ***Sat*** | ***Sat*** | ***Sat*** | ***Sat*** | ***Sat*** | ***N/A*** | ***N/A*** |

Note: Italics indicates “Reduced Service”

Once the District determines whether to provide Saturday, Sunday or weekday service on a holiday as described above, it shall use the chosen day of the week bid schedule in effect at the time of the holiday, maintaining all staffing requirements. The District shall convert part-time shifts less than eight hours to eight hour shifts on reduced service holidays. The District shall maintain the start times of all shifts, including the part-time shifts less than eight hours which are converted to eight hour shifts. However, part-time Station Agent shifts with start times less than eight hours before end of revenue shall be scheduled to start eight hours prior to the end of revenue or the end of the last regularly scheduled shift (aka “the closer”) in the same station.

Special Overtime may be necessary on holidays. Special Overtime will be

posted and utilized separate from the holiday bid. The Union will be enlisted to recruit for coverage, and the parties will work cooperatively to encourage members to bid on holiday Special Overtime.

This section clarifies the District's options for holiday scheduling. See also other provisions in the Labor Agreement governing holidays, including but not limited to Articles 13.0, 27.0, 28.0, 44.0, ATU/SL-8-10 (November 1, 1999), MOU 15-4 (December 7, 1983), the Grievance Resolution Project, and the Station Agent Stipulated Decision/MOU.

Should work be required on a recognized holiday and a sufficient workforce as determined by the District be unavailable voluntarily, assignments shall be made by selecting the most junior qualified employee on the seniority roster by yard/line initially, then system-wide until work assignments are covered.

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## S27.4 HOLIDAY PAY

Employees working on a holiday and who are normally scheduled to work that day will receive one and one-half (1-½) times their regular rate of pay in addition to straight time holiday pay with holiday pay not to exceed pay for the employee's regular scheduled shift.

All hours worked in excess of regularly scheduled work day on a contractual holiday shall be compensated at two (2) times the employee's regular straight time rate of pay, in addition to straight time holiday pay, with holiday pay not to exceed pay for the employee's regular scheduled shift.

Employees on their regular days off who work on a contractual holiday shall be compensated at two (2) times their regular straight time rate of pay, in addition to straight time holiday pay, with holiday pay not to exceed pay for the employee's regular scheduled shift.

In order to be eligible for holiday compensation, an employee must be in a paid status. Definition of unpaid status is as follows:

1. Authorized leave of absence;

2. Disability insurance after thirty-one (31) continuous days;

3. Suspension of more than fifteen (15) days.

In no event shall any employee be permitted to carry over any holiday from one contractual year to the next contractual year.

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## S27.5 HOLIDAY BID PROCEDURE *

All holiday bids should be conducted on the second Friday before the holiday. Bids shall be posted in time to allow the employee, including

RDOs, to have a copy forty-eight (48) hours prior to the bid date. The results of the bid shall be posted within twenty-four (24) hours of completion. On the fourth (4th) day, after the bid, the District and the Union representative shall meet to make any adjustments of errors. These results shall be posted within twenty-four (24) hours and shall be final. It shall be the responsibility of the employee to bring the errors to the attention of his/her Union representative who assisted in the holiday bid before the third (3rd) day. If there are no changes, the original posting will not be re-posted.

It shall be the responsibility of the employees who are on non-pay status or vacation on the date of the bid, but will be available for work on the holiday, to contact the Union and leave a proxy. If no proxy is left, it shall be assumed that said employee does not wish to work the holiday unless inversely assigned. It shall be the employee's responsibility to contact the Crew Office and Yards to determine whether he/she was assigned to work the holiday.

The Union shall designate the one (1) Union representative on each Line/Yard to assist in the holiday bid.

*** See ATU/SL-22-01**

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## S28.0 PREMIUM PAY *

### S28.1 OVERTIME *

All hours worked in excess of eight (8) hours in the scheduled work day for employees on a 5/8 schedule and in excess of ten (10) in a scheduled work day for those on a 4/10 schedule or forty (40) hours in the scheduled work week shall be compensated at one and one-half (1-½) times the existing straight time rate of pay for actual overtime hours worked.

If an employee works on one (1) of his/her scheduled days off, the hours worked shall be compensated at one and one-half (1-½) times the employee's regular straight time rate of pay only after they have completed forty (40) hours in paid status other than sick leave that is not fully covered by the employee’s ordinary sick leave accrual. If the employee works on both scheduled days off, and is otherwise eligible to receive overtime pay as specified herein, the hours worked on the second and/or third scheduled day off shall be compensated at two (2) times the employee's regular straight time rate of pay.

Overtime shall be paid in increments of fifteen (15) minutes.

*** Minute Clarification**

The Union and District shall continue the practice of developing RDO overtime request procedures for each classification.

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## S28.2 HOLIDAY HOURS WORKED COMPENSATION

Employees working on a holiday and who are normally scheduled to work that day will receive one and one-half (1½) times their regular rate of pay in addition to straight time holiday pay with holiday pay not to exceed pay for the employee's regular scheduled shift.

All hours worked in excess of regularly scheduled work day on a contractual holiday shall be compensated at two (2) times the employee's regular straight time rate of pay, in addition to straight time holiday pay, with holiday pay not to exceed pay for the employee's regular scheduled shift.

Employees on their regular days off who work on a contractual holiday shall be compensated at two (2) times their regular straight time rate of pay, in addition to straight time holiday pay, with holiday pay not to exceed pay for the employee's regular scheduled shift.

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## S28.3 SHIFT CHANGE PREMIUM

When a shift change is made as a result of an employee voluntarily bidding for such change, no premium (overtime) pay shall be expected with the exception that no individual employee shall be expected to work a continuous sixteen (16) hours in a shift changeover without premium pay, nor shall an employee be paid for less than forty (40) hours in any work week around a shift change-over. This Section shall not apply in the case of schooling, on the job training, or where an employee is forced to bid because of job elimination or other actions initiated by BART Management.

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## S28.4 RDO OVERTIME REQUESTS / OVERTIME ADMINISTRATION *

Overtime worked, including work in excess of eight (8) hours on a holiday, except in the case of an emergency, shall be on a voluntary basis and shall be rotated equally among those employees who normally perform said functions during the regular schedule. As much advance notice as possible shall be given on all scheduled overtime.

In the event the Line/Yard extra board is exhausted and a shift becomes vacant, the following sequence shall be utilized in filling a vacancy:

A. Poll the System-wide extra board in seniority order for volunteers who are on the clock but not on a shift assignment. In the absence of volunteers, inversely assign an employee who is on the clock but not on a shift assignment, or;

B. Go to that Line/Yard off-day overtime list;

C. Go to System-wide off-day overtime list;

D. Poll available on-duty employees in seniority order who normally perform said function within the location having overtime available;

E. In the event no volunteers are available for the location, other available Line employees shall be polled in seniority order to fill overtime need; (Station Agents only)

F. Poll available early call-in employees in seniority order who normally perform said function within the location;

G. Fill by first available employee currently working within that classification.

Shop stewards shall assist Transportation Administration Specialists in maintaining posted overtime lists, and said lists shall be open to inspection by all employees. The District shall monitor the preparation and maintenance of these lists. The District and the Union shall meet as necessary to resolve problems and implement changes related to the RDO overtime request lists. Employees refusing overtime shall be credited with the number of hours of overtime offered and refused. Employees on vacation or other leave for five (5) or more consecutive work days shall not be charged with refusal of overtime.

Subject to the necessity of manning assigned shifts and providing required service to the public, no employee shall be required to perform overtime on days off or after completion of an assigned shift (and overtime incident thereto) if employees with lesser seniority are available for such an assignment, except on a voluntary basis.

*** Minute Clarification**

In the absence of a Transportation Administration Specialist the steward may compile and transmit to the primary Tower Supervisor the overtime list. The steward will not be held responsible for any errors associated with the compilation and transmission of the overtime list. This practice shall extend to Daly City Terminal Zone and/or Daly City Yard.

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## S28.5 SHIFT DIFFERENTIAL

A. Swing Shift: Where fifty percent (50%) or more of an employee's shift occurs between the hours of 4:00 p.m. and 12 midnight, a swing shift premium of seven percent (7%) will be paid for all hours worked during the shift at the existing straight time rate of pay.

i. When an employee performs lead work and/or instruction and receives a lead pay premium of 10%, in accordance with Section S13.3 or S28.8, this swing shift premium shall additionally be increased by the lead pay premium (i.e., an additional 0.7% for a total of 7.7%).

ii. When an employee works on a holiday and receives one and one

half times their regular rate of pay, in accordance with Section S27.4, this swing shift premium will be multiplied by one and one half times, as well (i.e., 10.5%).

B. Graveyard Shift: Where fifty percent (50%) or more of an employee's shift occurs between midnight and 8:00 a.m., a graveyard shift premium of nine and one-half percent (9-½%) will be paid for all hours worked during the shift at the existing straight time rate of pay.

i. When an employee performs lead work and/or instruction and receives a lead pay premium of 10%, in accordance with Section S13.3 or S28.8, this graveyard shift premium shall additionally be increased by the lead pay premium (i.e., an additional 0.95% for a total of 10.45%).

ii. When an employee works on a holiday and receives one and one half times their regular rate of pay, in accordance with Section S27.4, this graveyard shift premium will be multiplied by one and one half times, as well (i.e., 14.25%).

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## S28.6 STAND-BY PAY

Employees required by Management assignment to remain on stand-by duty, subject to call-in, shall be paid a minimum of one-half (½) of a day's pay per day during the employee's assigned work week and a full day's pay per day on off-duty days unless such employee is called and released from such stand-by assignment by Management prior to the beginning of stand-by duty. All stand-by pay shall be paid at the existing straight time rate of pay.

Employees who are called in while on stand-by shall receive stand-by compensation for only those actual hours they were on stand-by.

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## S28.7 UNSCHEDULED CALL-BACK *

In the event an employee is called back for unscheduled work outside of his/her regular work day or work week, compensation will be based on a minimum of one-half (½) day's pay per day at the applicable rate of pay. This Section shall be limited to a specific assignment where broken time is involved. In no event shall an employee be eligible for both stand-by and call-back compensation for the same hours.

*** Minute Clarification**

The understanding of the parties signing off this Section is that the change to existing language which provides that "a minimum of one-half (½) day's pay per day" shall be paid is inserted to accommodate the five-day (5) and four-day (4) work week.

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## S28.8 LEADWORKER & INSTRUCTOR PREMIUM

Whenever an employee is assigned to formally instruct another employee, he/she shall receive ten percent (10%) per hour additional to his/her applicable rate of pay for such time so assigned.

Whenever an employee in a foreworker classification is assigned or directed to conduct orientation or class-room instruction or to prepare instructional material as his/her primary assignment for any part of a day, he/she shall receive ten percent (10%) per hour additional to his/her applicable rate of pay for such time so assigned. These provisions shall be applicable to incidental instruction by Foreworkers in the course of his/her primary assignment during any such hour.

An employee assigned, in the absence of supervision, as a leadworker to routinely and consistently lead other bargaining unit employees shall be paid a leadworker premium of ten percent (10%) per hours additional to his/her applicable rate of pay for such time so assigned. An employee is considered to be “routinely and consistently” performing lead duties whenever he/she is assigned as leadworker because they are part of the normally required duties of this assignment.

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## S28.9 NO PYRAMIDING OF RATES

Where two (2) overtime rates are applicable to the same work period, only the higher shall be paid.

Whenever an employee commences an assignment during a swing or graveyard shift, and works sufficient hours during such shift to be eligible for a shift differential, he/she shall receive such shift differential for all continuous hours worked during such assignment, in addition to any overtime and other premium to which he/she is entitled for such assignment.

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## S29.0 UNIFORMS

## S29.1 DISTRICT PROGRAM / REGULATIONS

The uniform program shall be maintained as outlined in the Transportation Uniform Regulations Booklet. Employees will be allowed the use of discretion in choosing the uniform configuration and the dates those configurations are to be worn, but in no case shall employees be permitted to wear a uniform consisting of uniforms components other than those specified in the Transportation Uniform Regulations Booklet without prior approval of a supervisor.

To the extent not inconsistent with applicable statutory or regulatory requirements the District shall specify a preference for “Made in America” when issuing any request for proposals related to uniforms or otherwise

seeking uniform suppliers. Any such contract for uniform suppliers shall include an option allowing employees to choose uniforms made of natural fibers.

The District agrees that any request for proposal for a new uniform contract shall require a two part process whereby the contractor's bid shall only be opened if the contractor is determined to be qualified by the completion of a questionnaire. That questionnaire shall include information regarding the contractor's prior performance. If a Contractor has previously failed to deliver in a timely manner then that bid shall not be opened.

Employees shall be provided with a date certain when uniform orders must be complete and be clearly advised that in the event that no order is received that uniforms in accordance with the prior allotment will be provided. If 75% of the employee's uniform allotment is not timely delivered then the District shall pay the employee $15/month for each month that the uniforms are not delivered.

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## S29.2 PROPERTY

Uniforms required under this program will become the property of the employee after six (6) months of active service.

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## S29.3 CONDITION OF APPAREL

Employees shall maintain their uniforms in a neat and clean condition, unless in circumstances beyond their control.

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## S29.4 UNIFORM ON DUTY

Employees receiving a uniform under this Section shall be required to wear the uniform at all times while on duty. Employees who fail to comply with this regulation may be relieved from duty and shall if relieved, forfeit compensation for the balance of that shift.

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## S29.5 UNIFORM ALLOWANCE

Employees shall be provided a uniform allowance as follows:

Upon hire, employees shall be provided with uniforms, appropriate to their classification as specified by the District. Replacement of uniforms shall be made each year appropriate to the employee's classification and in accordance with the replacement schedule developed by the Uniform Committee with delivery dates as provided for in the contract with the uniform supplier. The value is anticipated to be less than $1600 per employee per year with an anticipated increase of 5% (compounding) per

year of this Labor Agreement.

In addition, effective upon ratification of this Labor Agreement, employees shall be provided a uniform maintenance allowance of thirty dollars ($30.00) per month to be included as a separate item in the employee's paycheck each month. Said amount shall be increased by five dollars ($5.00) per month on July 1 of each fiscal year during the term of this contract.

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## S30.0 FURLOUGH

A. Employees furloughed on account of reduction in force will be privileged to work elsewhere and retain their seniority for four (4) years from date of layoff. They must maintain on record with the District their correct mailing addresses. Employees will be called back to the service in their seniority order according to the following procedure. The District will advise each employee to be recalled by certified United States mail, return receipt requested, telegram, or by recorded telephone call. If the recall notice is given by mail or telegram, a copy of such recall notice will be furnished the Union. Upon receipt of a recall notice, an employee will inform the District, in writing, by recorded telephone call, or telegram, within seventy-two (72) hours of receipt of the recall notice of his/her decision to return to work. However, each recalled employee may take up to ten (10) calendar days from the date of receipt of a recall notice to return to work. Employees having other employment being recalled for periods of sixty (60) days or less, will be given permission to reject same without loss of seniority. Furloughed employees failing to comply with these regulations will forfeit seniority rights and will no longer be considered employees of the District. In the event failure to comply is attributable to illness and/or disability, notice and proof of illness and/or disability must be supplied to the District.

B. Employees recalled from furloughs will report for duty on date specified in District's notice, unless excused.

C. Employees furloughed more than thirty (30) days may be required by the District to undergo retraining prior to assuming regular duties, provided however, such employees shall receive at their regular rate of pay, full compensation and benefits for all time spent in said retraining.

D. As a result of a reduction in force, employees in a classification higher than Transportation Worker II within the Bargaining Unit, with more than six (6) months of continuous service in that classification will be allowed to come back to their previous classification with an additional six (6) months of seniority plus the seniority he/she had acquired in their previous classification.

E. Probationary employees within the job classification and part-time employees will be furloughed first. Employees within a job classification in which a furlough occurs will be furloughed in the inverse order of their

classification seniority ranking.

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## S31.0 PROBATIONARY PERIOD

Any new or rehired District employee (other than recall from layoff) shall, during the period of time required for certification, and for a period of 90 calendar days following certification, be considered a probationary employee. Employees who hold positions not requiring certification shall be probationary for 90 calendar days commencing with the first day of employment.

During the 90-day period, the District shall evaluate each such employee following the thirtieth (30th), sixtieth (60th) and eightieth (80th) calendar day of employment, and evaluations shall be reviewed with each employee.

Each employee, upon request, shall be entitled to Union representation with regard to such evaluation. However, probationary dismissals shall not be subject to the grievance procedure except where evaluations have not been written in a timely manner or where discrimination, as defined elsewhere in this Agreement, is charged.

A probationary employee shall have no seniority rights but, upon completion of the probationary period, such rights will date back to the date of employment.

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## S32.0 TRAINING *

### S32.1 GENERAL *

The Union and the District agree the District will provide training for each job category and for each employee which will result in a competent staff and provide individuals with reasonable growth opportunities.

The District will provide training programs which will enable each individual to maintain his/her basic skills, knowledge and abilities. Such programs will encompass job training to maintain and develop skills and to provide opportunities for personal growth of all employees. Such programs will include training programs to develop journeyman skills in the transportation and clerical groups, subject to funds available for such programs. The District retains the right to establish training classes, i.e., recertification, refresher, etc.

*** Minute Clarification**

The parties agree that the present practice regarding the Union's participation in the District orientation for new TWIs shall continue.

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## S32.2 TRAINING CLASSES, I.E., RECERTIFICATION, REFRESHER

The District shall post schedules of each training class indicating weeks available for the training and the number of slots for each week. Train Operators and Station Agents who are scheduled for recertification shall bid in conjunction with the System sign up held in January and August of each year. Employees shall bid their work assignment, vacation if applicable and recertification. It shall specifically include the following option for days off:

A. The person may take off Saturday and Sunday at the beginning or the end of the training period. If this option is selected, the employee shall be paid straight time for such of his/her regular days off that would fall during the training week.

B. If the employee does not take the above option, then such employee shall receive the premium pay per Agreement for his/her regular day(s) off that occurred during the training week but it should be noted that an employee under this option can work twelve (12) days without a day off.

In the event the bidded recertification class is cancelled, the District will post a revised training class schedule for bid.

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## S32.3 TRAINING LOCATION / PAY

While in training, report location shall be the actual training location and employee will not be compensated for travel time. In no case will shift differential be denied to employees who normally receive such differentials. In training of less than one (1) week, the same provision shall apply. Individual training assignments shall not be subject to bid.

It is agreed the District will establish a goal to provide maximum personnel and job growth opportunities for each employee subject to the funds available.

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## S32.4 UPDATE OF CLASSIFICATION, WORK PROCEDURES

In the District's discretion, an employee absent thirty (30) or more consecutive working days, may on his/her return be updated on methods and procedures applicable to his/her seniority classification which have changed during his/her absence.

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## S32.5 JOINT UNION / MANAGEMENT TRAINING COMMITTEE

The District agrees to the formation of an On-the-Job Training (OJT) Advisory Committee, three (3) to be selected by the Union and three (3) by

Management, to discuss and consider Union-Management training proposals. The Committee shall also pursue discussion toward the development of appropriate apprenticeship programs.

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## S33.0 JOINT EVALUATION COMMITTEE *

### S33.1 PURPOSE *

A Joint Evaluation Committee will be established to assist in evaluating employees during the probationary period of entry rate classifications and to recommend individuals for promotion and permanent status in such positions. The Committee shall be composed of three (3) District-designated representatives and two (2) Union representatives.

In evaluating entry rate classifications the Committee shall recommend whether probationary employees should be terminated, continued in training or determined to have passed probation, and said recommendation will not be subject to the grievance procedure.

The Joint Evaluation Committee shall evaluate probationary Foreworkers and shall make recommendations to the Department on the individual's status as far as reversion, passing of probation, or continuation of training, including the extension of the training period. Said recommendation shall not be subject to the grievance procedure.

*** Minute Clarification**

By the continuation of the present language, neither party modifies its position on the proper interpretation of the existing language.

**See ATU/MOU Joint Evaluation Committee Clarification**

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### S33.2 JOINT EVALUATION COMMITTEE

A Joint Evaluation Committee shall be concerned with promotions to Operations Foreworker and Senior Operations Foreworker and this Committee shall be composed of three (3) individuals designated by Management and two (2) by the Union. The individuals designated by the Union shall be from the promotion classification for which bids are being received or from a higher classification. There shall also be one (1) Union observer appointed. The Committee shall consider all bids received and will review personnel files and interview eligible applicants. The Committee shall establish procedures for making recommendations for promotion consistent with the District Affirmative Action Policy. The recommendations by the Committee shall not be reversed by the District except for just cause or unless it is clearly demonstrated that the Committee has abused its wide discretion to make selections among applicants. Criteria for promotion will include examination of the personnel file, attendance record, health, ability to perform duties in the position,

leadership potential and education. Where qualifications are relatively equal, seniority shall prevail in making recommendations and any employee who applied for promotion with a higher seniority than the employee selected will be given an interview with a Management member of the Committee explaining its decision. The Union may submit to arbitration under the arbitration terms of the Agreement any grievance of such individuals. The issue in said arbitration will be whether the Joint Evaluation Committee clearly abused its discretion or violated the District Affirmative Action Policy or whether the District representative making the final decision reversed the recommendation of the Committee without just cause. Pending such appeal, the selected individual or individuals shall serve in the position(s).

**See ATU/MOU Joint Evaluation Committee Clarification**

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## S34.0 HEALTH AND SAFETY *

### S34.1 GENERAL *

The District will furnish safe, sanitary and healthful working conditions and facilities.

The District will furnish adequate devices to ensure health, safety and sanitation within the requirements of existing laws or regulations applicable to the District. The District and all of its employees shall observe the letter and spirit of all applicable safety standards within federal, state and CPUC provisions for both employees and patrons.

Should sufficient evidence exist that any law or regulation is not being complied with; such evidence must be submitted to the District.

All matters arising out of this Section shall be handled expeditiously by all parties to effect the correction of any valid safety or health hazard.

Each employee shall be responsible for the proper care and maintenance of his/her tools, equipment and work area. Required tools and equipment and protective garments necessary to safeguard the health of or to prevent injury to a worker shall be provided by the District. The District shall ensure that a dolly to assist with moving heavy objects and a lightweight fire extinguisher are readily available and, if requested, shall provide other reasonable assistive devices required to accommodate employees.

No employee shall be expected to work in the presence of a valid safety or health hazard which he/she can demonstrate to Management as being an imminent threat to his/her health or safety. Should any employee believe that such conditions exist, he/she should so notify his/her immediate supervisor and a Safety Engineer shall be contacted to determine the degree of the existing hazard.

*** Minute Clarification**

The parties agree that "demonstration" of a safety hazard in Section S34.1 is accomplished through a reasonable showing by means of explaining, displaying, and pointing out that a valid safety hazard exists.

The parties further agree that the word "periodic" in Section S34.2 means: "occurring, appearing, or recurring at regular intervals" (Webster's New World Dictionary, Second College Edition).

The parties further agree that employees may equip health and rest facilities (Section S34.4 of the Collective Bargaining Agreement) with personal items and furniture (excluding radios, television sets and other video equipment) on the condition that the District will not be liable for the loss of or damage to such personal items.

Both parties agree that guests and advisors shall be permitted to participate in Committee functions upon advance notice. Said guests/advisors shall not be a voting part of the Committee.

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## S34.2 JOINT / UNION MANAGEMENT HEALTH AND SAFETY COMMITTEE

Three (3) representatives selected by Management and three (3) employee representatives selected from the Union Safety and Health Committee shall constitute a Joint Union/Management Health and Safety Committee.

Appointed representatives from Management and representatives from the Union shall meet on a monthly basis on a regularly scheduled day to be mutually agreed upon. The Committee shall designate an Accommodation Sub-Committee, the members of which shall include the Manager of Human Resources, EAP Manager and a representative of the Office of the General Counsel, and up to three representatives of each Union, who may or may not also serve on the Health and Safety Committee.

The purpose of these meetings is to recommend and promptly address health and safety regulations, guidelines, training programs and necessary corrective action concerning conditions associated with the work environment. The Accommodation Sub-Committee shall specifically address issues related to employee injuries, injury prevention and potential accommodations. Specifically, the sub-committee shall identify ergonomic hazards in the workplace and develop strategies to minimize or avoid repetitive strain injuries.

A Union representative of the Joint Union/Management Health and Safety Committee shall investigate and inspect on a periodic basis, without loss of wages, employee safety and health complaints which have not been corrected by the responsible supervisor. Such investigation and inspection shall be made in conjunction with the Safety Engineer appointed as

Management's representative to the Joint Union/ Management Health and Safety Committee.

The findings of this investigative team shall be presented to the Joint Union/Management Health and Safety Committee for appropriate action. All resolutions and/or recommendation will be reported back to the Joint/Union Management Health and Safety Committee Chair, then to the Committee.

The District shall provide a secretary to record and prepare minutes of each monthly Joint Union/Management Health and Safety Committee meeting and the minutes shall be distributed as determined by the committee.

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## S34.3 DISTRICT FIRST AID

Prompt ambulance service and first aid to injured employees shall be provided on all shifts. A first aid facility room will be maintained at Hayward, Concord, Richmond and Oakland Shops.

Adequate first aid equipment shall be furnished and maintained in all work areas as designated by the Joint Union/Management Health and Safety Committee or the Safety Department.

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## S34.4 HEALTH AND REST FACILITIES

Present health and rest facilities for use by employees shall continue to be maintained. District and Union shall jointly review areas where said facilities do not presently exist, and shall make every effort to provide same where space is available to stations and other work locations.

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## S34.5 HEALTH / SAFETY PHYSICAL EXAMINATION

The District agrees to provide without cost to the employee’s physical examinations and other appropriate tests including audiometric examinations on an annual basis for those employees whose work environment can be detrimental to his/her health or the safety of patrons.

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## S34.6 STATION AGENT SAFETY

A. When the closing Station Agent has properly secured and closed the station, the closing Station Agent may leave the station before the scheduled end of the shift with no loss of pay as long as the last revenue train and all patrons have left the station.

B. The District agrees to complete a proto-type installation of bullet-proof glass and Dutch doors at the Coliseum Station booth within one year.

Within six (6) months following the completion of the installation, the District shall meet and confer with the Union for the purpose of evaluating the success of the project. If the proto-type is determined to be successful the Parties shall identify fifteen (15) additional booths to be equipped with bullet proof glass.

C. The District shall install Dutch doors and height markers in all stations agent booths and shall install safety film over the glass in all remaining booths as soon as feasible.

D. During pre-posting, the Parties shall discuss non-primary flex-core assignments and the extent to which flex-core FTEs may be assigned to ensure that a Station Agent is not assigned to work alone after 10:00p.m. or before 6:00a.m.

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## S34.7 TRANSPORTATION PEER SUPPORT PROGRAM

No later than ninety (90) days following ratification of this Agreement, the parties shall establish a Transportation Peer Support Program Committee. Said Committee shall function as set forth in the Transportation Peer Support Program guidelines mutually agreed upon on October 4, 2013, as incorporated into the attached Addendum.

October 4, 2013

Transportation Peer Support Program

PURPOSE AND SCOPE

Common experiences bind individuals together. Shared experiences are the foundation for peer support, as they foster the initial trust and credibility necessary for developing relationships in which individuals are willing to open up and discuss their problems despite concerns about stigma. Peer-to-peer programs facilitate opportunities for individuals to talk with trained peer supporters who can offer educational and social support and provide avenues for additional help if needed.

During the course of employment front line transportation employees may be a witness to or directly involved in traumatic events or incidents. These events can result in feelings of fear, nervousness, anger which may impact the employee's ability to return to the location where the event occurred or otherwise continue to engage in regular employment duties.

In an effort to minimize the effects of these events or incidents, the Transportation Peer Support Program (TPSP) is committed to developing policies, procedures and training to enable peer group personnel to provide routine follow-up and support. The TPSP Committee shall consist of six individuals: the Manager of Employee Services and two other District Representatives, including a member of the Transportation Department; and the ATU President, Station Agent Representative and Train Operator Representative or their designees. The Committee with provide oversight

for the program as a whole, and will develop for joint approval the procedures and practices that will govern the program.

INITIAL RESPONSE

Studies have shown that psychological trauma may occur when an individual has caused or witnessed the death or serious injury of another human being or has been directly involved in these or other traumatic situations. These same studies also show that early intervention by a trained and sympathetic colleague can often reduce the severity of the trauma. This procedure outlines an effort to provide this kind of assistance and support.

Employees who are subjected to severely stressful situations including, but not limited to the following events are eligible to participate in the TPSP.

a. Involvement in the death or serious injury of a human being;

b. Involvement in a situation when an employee or other individual is injured or physically assaulted;

c. Experiencing serious or reoccurring threats, harassment or intimidation including but not limited to verbal and sexual harassment.

When an employee is directly involved in a traumatic event or incident as described above, the incident commander shall contact a TPSP Committee member to request the immediate assistance of a peer counselor. In the event that a peer counselor cannot be made available, the TPSP will facilitate appropriate contact with the employee through the Employee Assistance Program (EAP). In addition, the Manager of Employee Services or designee and/or the EAP may make a referral to the TPSP on a case by case basis as appropriate.

PROFESSIONAL COUNSELING

Peer counseling is not a substitute for professional counseling; nor is professional counseling a substitute for peer counseling. Immediately after an incident occurs, an Operation Supervisor or Foreworker shall also dispatch to the affected employee's location and responsible for providing informational packet including EAP, SRI, Threat or Violence Incidence reporting form, peer counselor checklist and evaluation forms, and Operation Supervisor incent form, workers' compensation and disability insurance forms and a summary of this program.

Peer counselors will complete and submit a counseling checklist to the Employee Services Manager or designee within twelve hours of any counseling experience, and the Employee Services Manager will promptly respond to any indication that additional professional counseling is indicated. If so, The Employee Services Manager will offer the assistance of the District's Employee Assistance Program, including the Trauma Response Program if applicable, to the employee, and will facilitate the employee's entry into it if the employee expresses interest.

An employee may also seek assistance and confidential counseling on his or her own through the EAP by contacting Claremont EAP at (800) 788-8829. Claremont EAP can be reached 24 hours a day 7 days a week and is available to all employees and their families. All referrals will be kept confidential to the extent permitted by law.

Assistance beyond the scope of the EAP is available through the District's health plans.

GUIDELINES FOR THE TRANSPORTATION PEER SUPPORT PROGRAM

The Transportation Peer Support Program will be conducted in accordance with the following guidelines:

*Purpose:*

1. To facilitate access to peer counselors who are trained to provide support, non-judgmental active listening and share coping skills learned during similar experiences to fellow employees who have experienced a seriously stressful situation.

2. To provide comfort and support to employees who have experienced a seriously stressful situation in a timely manner, with periodic follow-up.

3. To facilitate the understanding and expression of feelings and/or perceptional distortions experienced during or as a consequence of a traumatic event or series of events in a safe and supportive environment.

4. To recommend and facilitate further professional counseling and/or treatment as indicated.

*Methodology:*

Utilize trained peers to provide (1) social support, (2) experiential knowledge, (3) trust, (4) confidentiality and (5) timely access.

Social support has been shown to increase resilience by moderating the impact of a potentially stressful event. It has also been demonstrated as a mechanism for reinforcing positive behavior change. Individuals under duress from stress or other conditions may begin to withdraw from social situations or may have a limited support network. Participating in a peer-to-peer support program broadens an individual's support network. Individuals may develop friendships with other participants that expand beyond the formal program. These relationships provide additional sources of support in times of need for physical assistance (e.g., a ride to work) or emotional assistance (e.g., someone who will listen). Peer-to-peer programs that provide sustained contact will facilitate opportunities for the development of stronger relationships and strengthen a participant's social support network.

The concept of empowerment is central to the use of peers. By learning from peers who are "like me," participants build their view of what is possible for them. Peer supporters provide education and support that is

easier to accept than instructions from a medical professional or supervisor who "tells you what to do." Participation in a peer program also gives individuals the opportunity to take care of each other and empowers them to be a part of the solution by helping others.

This desire to help one another is a motivating force in peer-to-peer programs. The peer supporters gain value from helping others with their problems. Key components for realizing the empowerment benefit are that participants voluntarily choose to attend, and that the peers control the program itself.

*Confidentiality:*

The District and all Peer Counselors shall treat the content of all peer counseling discussions as confidential and will not rely on any statements made in the context of peer counseling in any formal or informal disciplinary proceeding. The District will oppose judicial process to compel testimony of a peer counselor on the subject of testimony of a peer counsel but cannot guarantee the counselor's immunity from judicial subpoena.

In order to maximize confidentiality, peer counselors will strongly discourage employees from making statements about causation or responsibility that may bear on subsequent disciplinary or other action; the peer counselor's only purpose is to provide comfort and support to an employee who has experienced a traumatic event. In the event that employees make any statements which may be of interest or concern to third parties, the peer counselor will make every effort to preserve the confidentiality of the peer counseling conversation(s).

Any intentional breach of confidentiality will result in the peer counselor's removal from the program. Further, if the peer counselor believes the employee is a threat to themselves or others they will relay that information to the Manager of Employee Services.

*Training / Certification:*

The criteria for peer counselors shall be developed by the Committee, which shall also be responsible for the selection of peer counselor trainees.

Training shall be conducted and developed in consultation with a mutually agreed upon EAP professional, psychologist or other appropriately trained individual with experience in the development and operation of such programs.

There shall be clearly defined guidelines and boundaries governing the role of the peer counselor which shall be developed by the Committee in consultation with the retained consultant.

*Implementation:*

The procedures, when developed, shall be distributed to all ATU employees and presented in certification and recertification programs as they take place from time to time. These presentations will provide

instructions outlining the program and how to initiate assistance under the program.

Following training and certification of peer counselors, all Operations Supervisors and Foreworkers shall be provided with a list of all such counselors. In the event of a qualifying incident the incident commander shall contact the TPSP Committee to request the assignment of a peer counselor. An employee's request for a specific peer counselor will be honored where reasonably possible.

The Committee will contact a peer counselor on duty and the appropriate Foreworker advising of the need for the Peer counselor, who will be dispatched to the incident. Regular backfill procedures will apply when an employee is called off to attend to peer counseling responsibilities. Every effort shall be made to have the peer counselor meet with the affected employee promptly after the incident occurs. If, however, the affected employee is or will be no longer available by the time the peer counselor arrives, the peer counselor shall be dispatched to meet with the affected employee at the next appropriate time and place.

*Follow-up / Aftercare*:

A peer counselor will be responsible for post incident follow-up with the employee. Guidelines for one-week and one-month follow-ups will be included in peer counselor training, and shall be activated as appropriate on a case-by-case basis. The District's peer counseling checklist is to be completed for all follow up or after care meetings on the same basis as for the initial contact.

In order to support an employee's return to work after a traumatic incident, the TPSP shall consider an affected employee's request for the presence of another Station Agent or Train Operator during the initial days or weeks of his or her return. If possible, that second station agent shall have been trained as a peer counselor. The District may also arrange for another individual with specialized training to assist with the employee's return to work. If that individual is not a Station Agent or Train Operator, however, he or she shall not perform any Station Agent or Train Operator duties.

*Program Documentation and Data Collection and Analysis*:

All peer counseling will be documented by the incident supervisor, by the Committee, and by the peer counselor in a form to be prescribed by the Committee, and this documentation is to be timely completed. Employees who participate in the program will also be encouraged to complete a survey relating to their experience.

The peer counselors and the TPSP Committee shall meet quarterly, along with other interested managers and advisors to debrief best practices and lessons learned, and to incorporate participant and peer counselor feedback, and to identify changes to improve the program.

Program documentation will include data on program outcomes, such as number of days lost per incident, and per employee participant; the number

of on duty hours used by peer counselors; the number of incidents for which peer counseling is requested, etc. This data will be analyzed as one input in the overall program evaluation.

*Pilot Program; Evaluation Process:*

This is a pilot program which may be modified during the term of this Agreement, and/or extended past the term of this Agreement upon recommendation of the TPSP and agreement of the parties.

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## S35.0 UNION REPRESENTATIVES *

An agreed upon number of Union representatives employed by the District in the Transportation Department shall be recognized to assist employees in resolving grievances at the lowest possible administrative level. These employees shall be afforded reasonable time to conduct Union business for investigation and processing of grievances, and meetings with Management, and to meet with members in order to prepare for arbitrations and hearings. Said Union business shall be without loss of pay or benefits upon notification to their immediate supervisor, and so long as it is conducted on the property and advance notification is provided by submitting the completed Union Business Time Record Form, to their immediate supervisor, in compliance with the present Union Business procedure.

The total amount of paid Union Business leave allowed shall not exceed 8320 hours per fiscal year of this Agreement, prorated for partial year. This number excludes the time allotted for conducting bids and joint bid committees, other contractual joint committees, and the paid time provided the Union Vice President. In addition, beginning with the effective date of this Agreement, the Station Agent, Foreworker and Clerk Med-Arb Implementation committees will limit attendance to two (2) union representatives in addition to the President and will meet quarterly.

In order to effectively monitor the usage of the above allocation, the District will provide the Union President with timely and relevant data on the current Union Business usage.

Upon formal designation, Union representatives employed by the District will not be transferred from the assignment, shift or location they hold at the time of their election or appointment unless in accordance with seniority bid but at no time will the District be under obligation to retain an employee because of his/her Union status for whom there is no work to perform or who cannot perform available work in a qualified and acceptable manner. They will be given the privilege of utilizing the District's inter-office mail and existing telephone facilities as may reasonably be necessary in the conduct of Union business.

Each member of the duly elected or appointed Union Negotiating Committee, recognized by the District shall be placed on paid release time

for the purposes of preparation for and participation in collective bargaining as follows: Commencing ninety (90) days before the expiration of the contract, those members who attend Union- Management meetings will be compensated by BART for actual time lost as a result of such meetings in increments of eight (8) or ten (10) hours. Commencing sixty (60) days before the expiration of the contract all members of the Union Negotiating Committee shall be placed on full time paid release, which shall continue until the Board of Directors ratifies the contract. At that time, members will be placed on a Monday through Friday 0900 to 1700 baseline schedule. Employees on such release may bid for overtime and holidays outside such hours provided that such overtime hours do not interfere with attendance at Union-Management bargaining sessions. Employees who are on a shift which regularly receives shift differential shall continue to receive that differential while on full-time release. Employees who are on a four-ten (4/10) schedule will continue to receive and charge holidays, sick leave and vacation as though they remain on that schedule while on paid release.

BART employees selected by the Union and recognized by the District as full-time Union officials shall have recall rights to their former position at BART with seniority accruing during such leave. An employee on leave of absence under this Article shall have the option to pay into and continue in Health and Welfare Programs. PERS contributions shall continue to the extent provided by law.

The parties agree to continue the practice of prior notification for the conduct of Union business.

The District shall allow recognized Executive Board members time off without pay once a month to attend regularly scheduled Executive Board meetings. During such meetings, the Union agrees that Foreworkers attending meetings shall remain in contact with the District through use of pagers in order to respond to emergencies that occur in their areas of responsibility.

The Vice President of the Union shall be on full-time paid release. The Vice President shall bid in accordance with his/her seniority and be given a baseline schedule, without loss of pay or benefits, as described above, for the Union Negotiating Committee. The Vice President shall be required to maintain any required certifications and attend recertification. The purpose of this time off shall be to handle fact finding, investigate and process grievances, prepare for and attend hearings and arbitrations, act as a District-wide steward where no other steward is available and meet with Management as appropriate. No other time off for Union business will be allowed unless it is in compliance with the Field Services present Union business procedures.

The Financial Secretary/Treasurer shall have one (1) day a week off without pay on Union business subject to the advance notification requirement. The Recording Secretary shall have one (1) day a month off without pay on Union business subject to said advance notification

requirement. The purpose of the above- mentioned time off shall be to allow officers to conduct their Union duties and meet with management as appropriate.

*** Minute Clarification**

The District shall not pay for Union business conducted off the property. The Union hall shall be considered on property for purposes of Union business. Release for off-property Union business shall continue to be governed by the present Union business procedures.

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## S36.0 JOINT UNION / MANAGEMENT COMMITTEES *

A. Joint Union/Management Committees shall be governed by applicable provisions from this Agreement.

B. Each member of the Union Committee who attends Union/ Management meetings shall be made whole.

*** Minute Clarification**

Each Committee shall schedule meetings after reasonable notice and conference upon the date and time of the meeting with reasonable accommodation to the time constraints on the Committee members to attend on any proposed date or time.

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## S37.0 WORKSHOP

There shall be one (1) two-day (2) Labor/Management Workshop during the life of this Agreement.

The purpose of a Labor/Management Workshop is to bring a closer understanding between stewards and District personnel of the purposes of grievance handling and administration of the Collective Bargaining Agreement. Management and the Union will develop an agenda to accomplish these objectives.

The Labor/Management Workshop shall be for Union officers and stewards concerned with the administration and enforcement of the Collective Bargaining Agreement.

The two-day (2) program shall be held at a location away from District facilities.

Any Workshop registrant may bring a guest at his or her personal expense, and any employee who is not a registrant may attend at his/her own expense. Recognized Union representatives participating in the Workshop, not to exceed a total of thirty-five (35), shall be made whole for attendance at the Workshop, and attendance shall be purely voluntary.

The first seven thousand dollars ($7000) of expenses of lodging and meals for the two-day (2) program shall be paid by the District, and the balance shall be paid by the Union.

The details of the Workshop and the location shall be developed by agreement of the parties.

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## S38.0 DEROGATORY MATERIAL *

In any disciplinary, discharge or grievance proceeding, and in evaluating an individual for promotion, the District may not consider and/or utilize any entry or material adverse to the employee, unless that material is contained in the employee's personnel file and/or department file; provided, however, that the District may not consider and/or utilize such entry or material if it has been in the file for more than eighteen (18) months. In the case of discipline that may be appealed to the 3-3-1 Arbitration Committee, the entry or adverse material shall be placed in the employee's personnel file and/or department file immediately upon being given to the employee. In the case of discipline that may be appealed to 2-2-1 or formal arbitration, the entry or adverse material shall not be placed in the employee's personnel file and/or department file until the discipline is implemented either after the arbitration process is completed or pursuant to Section 39.4A.

Upon written request of an employee, the District shall remove from his/her personnel file all adverse and/or derogatory entries and materials that have been in the file eighteen (18) months or longer as of the date of the request.

No anonymous hearsay, rumors, or similar material shall be retained by the District reflecting adversely upon any employee.

No entry or material adverse to the reputation or merit of the employee shall be retained by the District unless a copy of such adverse entry or material is given to the employee within fifteen (15) days after its receipt by the District.

The employee shall be permitted at any time during regular office hours upon giving reasonable notice, to inspect his or her personnel file. He/she may also authorize in writing the Union representative to also inspect his/her personnel file. No matter not in the personnel file or referred to in the personnel file shall be used as the basis of discipline, except in cases where discipline pending before a 3-3-1 Committee is merged with a suspension or discharge action as provided for in Section S40.6.

All reports, letters, written statements and written evaluations favorably reflecting upon the employee shall be placed in his/her personnel file and a copy supplied to the employee.

An employee may appeal through the Grievance Procedure (Article S40.0) any adverse entry not arising from any action previously taken under Articles S38, S39 or S41.

*** Minute Clarification**

The storage location and custodian for the departmental file shall be determined by the Chief Transportation Officer.

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## S39.0 DISCIPLINE AND DISCIPLINARY HEARING PROCEDURES *

## S39.1 DISCIPLINE PROCEDURES *

No employee shall be disciplined, suspended, or discharged except for just and sufficient cause. In all cases of discipline no employee shall be suspended or discharged, and he/she shall be allowed to remain in the paid status he/she held before such action was proposed until the proposed discharge, or suspension is sustained before a hearing officer, the 2-2-1 Arbitration Committee or formal arbitration.

No discharge or other discipline shall be based in whole or in part on any event or act involving the employee unless a charge against the employee specifying the alleged offense is made within twelve (12) calendar days after knowledge of the alleged event or act by an employee of the level of Foreworker or higher authorized to initiate or implement disciplinary procedure.

*** Minute Clarification, 19.1 and ATU/MOU-03-82**

The parties discussed ATU 1555's proposal Section S32.7 entitled "Non-Penalty Absences." The District took the position that the proposed Section was unnecessary because the topic it dealt with was already covered by other Sections of the Agreement. It was agreed that the proposed Section would not be included in the Agreement. The District will attempt to ensure that its supervisors comply with the terms of the Agreement and will speak specifically with any supervisors who appear to be having a particular problem following the Agreement. The parties also discussed the last paragraph of Section 33.2 of BART's counter proposal dated May 11, 1982. The Union expressed its concern over the use of the words "specific" and "clear" and with the last sentence of the paragraph. Union representatives who draft grievances are not attorneys and cannot be expected to draw up grievances that are letter-perfect. It was agreed that the words "specific" and "clear" and the last sentence would be eliminated from the BART proposal. The Union will attempt to assure that grievances provide the District with notice of the Sections of the Agreement that have allegedly been violated; the nature of the alleged violation; and the remedy or resolution desired.

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## S39.2 INTERROGATION

No employee shall be interrogated under circumstances where the District has reason to believe the interrogation may assist in establishing that the

employee has committed any act that may result in suspension or discharge, unless:

A. The employee is notified in writing of the matter to be the subject of the interrogation, and

B. The Union is given a duplicate copy of such written notice and a reasonable opportunity to consult with the employee on the subject, and

C. The Union is given an opportunity to be present at any such interrogation and to represent the employee in such interrogation or investigation.

D. This interrogation procedure shall be inapplicable to those interrogations conducted in the pursuit of criminal investigations by BART Police Services personnel where such investigations would be carried out by other authorities if the District did not employ a legally authorized police services staff.

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## S39.3 HEARING PROCEDURES: SUSPENSION / DISCHARGE

Whenever the District proposes to suspend or discharge an employee, a hearing before a hearing officer designated by the District shall be heard within twelve (12) calendar days after the charge against the employee specifying the alleged offense is made.

In cases of progressive discipline reaching a suspension or discharge, all related non-suspension disciplines pending appeal shall be merged with the suspension or discipline action and shall be dealt with by the hearing officer at the suspension or discharge hearing.

A notice of the proposed discipline shall be given to the employee specifying the charges against him/her. The time and place of the hearing shall be specified and such notice shall be delivered to the employee and the Union.

A record or recording of the proceedings may be taken at the request of either party. The selection of the hearing officer by the District for suspension or discharge cases shall be from a panel which has previously been submitted to the Union for review.

The employee or his/her representative shall be entitled to cross-examine all witnesses appearing against him/her. No hearsay evidence shall be admissible. He/she shall be entitled to call witnesses in his/her defense. If such witness is on pay status at the time the hearing is scheduled, he/she shall be continued in pay status for a reasonable time to permit him/her to come to the hearing and to testify and return to his/her work assignment.

Such hearing shall be a full and fair hearing, and the individual conducting the hearing in suspension and discharge cases shall not be the individual who recommended discipline. The hearing officer shall have the authority to confirm or reduce the proposed discipline.

The determination of the hearing officer shall be implemented unless the employee subject to the discipline appeals the decision in writing to the hearing officer within twenty-four (24) hours after the determination of the hearing officer.

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## S39.4 APPEALS *

A. Appeals shall be processed as follows:

1. If the discipline is a suspension of ten (10) days or less, the discipline shall be stayed for a hearing before an appeals board within fifteen (15) calendar days of the hearing officer's determination. The members of the appeals board shall consist of two (2) members appointed by the District, two (2) members appointed by the Union, and one (1) member (hereinafter the "neutral") to be appointed from a mutually agreed to list. The list shall be established by the parties within thirty (30) days of the signing of this Agreement. The parties shall, prior to appointment of the neutral, estimate the number of days necessary for the appeals board to complete the hearing. The first person on the list sequentially available to serve for the number of days estimated for the hearing shall be selected as the neutral.

2. The parties may mutually agree to add, delete, or substitute new or additional names to the above list or may mutually agree to alter the sequential order from which the names are to be called. The decision of the board shall be final and binding and non-precedent setting and not subject to any further appeal or to arbitration.

3. The 2-2-1 arbitration committee shall be scheduled to take place within fifteen (15) days of the hearing officer’s determination, unless the parties mutually agree to extend the stay period further or unless the appeals board cannot be scheduled to complete its hearing within fifteen (15) days of the hearing officer's determination because no neutral is available for full estimated number of days necessary for a hearing. In the latter case, the parties shall poll all persons on the list as to their earliest availability.

4. The person on the agreed to list earliest available for the full estimated number of days shall be selected as the neutral and a hearing scheduled on his/her indicated availability dates. In the event more than one (1) person is available on the same early date, the person listed highest on the list sequentially shall be selected. The District shall stay the discipline for up to three (3) hearing days. No further stay will be permitted even if the hearing is not completed unless the parties mutually agree. The parties may reschedule the hearing if another neutral becomes available sooner for the full estimated number of days. Failure to comply with the above procedure shall cause the discipline to be implemented fifteen (15) days after the hearing officer's determination.

B. The 2-2-1 panel shall have the authority to confirm or reduce the hearing officer's determination. The parties shall endeavor to utilize each scheduled hearing date to facilitate the maximum number of pending cases. Attorneys shall not appear as advocates in any 2-2-1 hearing dealing with suspensions of ten (10) days or less. The parties may by mutual agreement exclude the use of attorneys in any 2-2-1 hearing dealing with suspension of eleven (11) days or more or discharge.

C. If the discipline is a suspension of eleven (11) days or more or discharge the disciplined employee or Union may appeal by requesting formal arbitration or requesting submittal to the 2-2-1 procedure set forth in Subsection "A" above. The election of one procedure precludes the use of the other. The scheduling of an arbitration shall not extend the time of the stay of discipline beyond fifteen (15) calendar days after the hearing officer's determination, unless the parties mutually agree to extend the stay period further.

D. In formal arbitration for the purpose of this Section, the parties may mutually agree to substitute the subject grievance in lieu of an arbitration which is scheduled between the parties for another matter.

*** See ATU/MOU-003-4 and ATU/MOU-02-82**

*** Minute Clarification**

The Union shall select the arbitration forum (2-2-1 or formal arbitration) and the parties shall mutually select an arbitrator in a discharge case, within forty-five (45) days of the date of appeal. If the Union is unable to contact a discharged employee by mail, telephone or other means prior to the scheduled arbitration, the District shall be notified. In no event shall the District's back pay and/or benefits liability extend beyond the date set for the arbitration.

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## S39.5 EMPLOYEES REPORTING LATE FOR WORK*

An employee reporting late for work will be governed by the following steps:

**Step 1** First (1st) day tardy, the employee shall assume the remaining time on his/her shift. A report person who reports late shall be guaranteed a minimum of four (4) hours' pay.

**Step 2** Second (2nd) tardy, the employee shall be guaranteed a minimum of four (4) hours' pay.

**Step 3** Third (3rd) tardy, the employee will lose that day's pay plus the next two (2) day's pay.

**Step 4** Fourth (4th) tardy, the employee will lose that day plus the next four (4) day's pay.

Any further tardies of an ongoing nature will be governed by disciplinary procedures.

An employee who is less than fifteen (15) minutes late reporting for work will not be placed on a tardy step for that tardiness unless advised by a Foreworker of such action before the end of the employee's shift. A notation in a Foreworkers log or a crew sheet that such notice has been delivered shall be proof of such notice. Nothing herein shall be construed as authorizing pay for the portion of the shift missed due to tardiness. Failure to place an employee on a tardy step pursuant to this paragraph shall not be characterized as discriminatory enforcement in any later labor relations setting.

At any time an employee has one hundred-twenty (120) calendar days without a tardy, all past tardies will be voided and the procedure will go back to the zero (0) step. At the District's option, an employee may be utilized on a day that he/she is tardy, depending on staffing requirements. The penalty for that tardy will not be put into effect.

*** See ATU/MOU-03-82**

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## S39.6 COMPENSATION FOR INTERVIEWS, TESTIMONY, AND INVESTIGATIONS *

Employees on shift who are required to be absent from duties to obtain information, give testimony, or for any other purposes in connection with an accident, injury, criminal or arbitration proceedings shall not suffer loss of wages for this service.

Employees off duty who are requested by the District to give testimony or to come in for any other purpose in connection with an accident, injury, criminal or arbitration proceedings shall receive the applicable overtime rate for each hour of service with a minimum of four (4) hours guaranteed.

*** See ATU/MOU-04-82**

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## S39.7 JOB ABANDONMENT

A. Except as provided in subsection B below, an employee who is absent from work without authorization for seven (7) or more work days shall be tentatively deemed to have abandoned his or her District employment. In that event, the District may implement the following procedure:

   1. The District will send a dated notice by certified mail (return receipt requested) to the employee’s last home address on record with the District. Such notice shall indicate the District’s intent to terminate the employee and the date, time, and location of the employee’s pre-termination hearing. The District shall send a copy of the notice to the Union at the same time.

   2. The hearing shall commence at the appointed time as per 1 above, but no sooner than seven (7) days after the notice is first delivered to

the employee's address. If the employee does not appear at the hearing, the District may implement the termination.

3. An employee, who returns after the seven (7) day absence, but before the hearing in A.2, shall be allowed to return to work until the hearing process is completed as long as the employee is otherwise fit for duty.

4. If the employee appears at the hearing, the Hearing Officer shall make his or her decision after hearing the employee's evidence.

5. If the District terminates the employee, the employee may within ten (10) working days grieve the termination directly to 2-2-1 or formal arbitration. However, the only issues before the arbitrator shall be whether the procedure set forth in this subsection A has been properly followed and whether the employee was absent without leave for reasons not reasonably within the employee's control. The District shall have the burden of proof on the former issue. The employee shall have the burden of proof on the latter issue.

B. If an employee who is absent from work without authorization provides his or her supervisor with sufficient evidence to establish that the employee's unauthorized leave was due to reasons not reasonably within the employee's control, subsection A.5 shall apply unless the supervisor reverses or withdraws the termination process.

C. An employee is absent without authorization as the term is used in Section A above, if the employee fails to appear for work on a date and time when he or she is scheduled to work and fails to provide notification of the absence to the designated manager, supervisor or Foreworker. With respect to employees who were away from the workplace prior to the alleged job abandonment period, the District must provide evidence, by proof of service on the employee at the employee's last address on file with the District, that the employee received timely notification that he or she was scheduled to appear for work.

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## S40.0 GRIEVANCE PROCEDURES *

## S40.1 GRIEVANCE DEFINED *

A grievance is any dispute between the District and the Union including grievances involving the interpretation and application of this Agreement.

*** See Minute Clarification following S39.0**

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## S40.2 GRIEVANCE FILING *

A dispute or grievance, if filed by the Union shall be first filed with the grievant's immediate Foreworker/Operation Supervisor, as appropriate, with a copy sent simultaneously to labor relations, if it is an individual

grievance.

If the dispute or grievance concerns a decision or action of a higher level Management individual, the dispute or grievance shall be filed with the individual who made the determination leading to the dispute or grievance, with a copy sent simultaneously to labor relations.

If the District files the grievance or dispute, it shall file it in writing at the Union office within forty (40) working days of the occurrence of the disputed action or determination.

A written grievance must contain reference(s) to the Section(s) of the contract allegedly violated, a description of the alleged violation and a remedy or resolution desired.

*** Minute Clarification**

Foreworkers may process and resolve grievances through all the steps of the Grievance Procedure.

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## S40.3 TIMELINESS OF GRIEVANCE FILING

No dispute or grievance, originating from an act or decision occurring from and after July 1, 1982 shall be deemed timely unless filed within forty (40) working days of the occurrence of the dispute or forty (40) working days from such time as the employee or Union could have been aware of the occurrence.

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## S40.4 TIMELINESS OF GRIEVANCE RESPONSE

The District and the Union shall have twenty-five (25) calendar days after receipt of a dispute or grievance to review and respond to the grievance or dispute. Failure to respond shall result in the grievance or dispute being deemed resolved in favor of the grieving party.

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## S40.5 GRIEVANCE COMMITTEE *

A. The Grievance Committee, comprised of at least three (3) representatives of the Union, will meet with the District each month to review all grievances, disputes, and non-suspension disciplines filed more than fifteen (15) calendar days prior to the date of such meeting and make all reasonable efforts to resolve any grievances, disputes and non-suspension disciplines under appeal.

B. The Grievance Committee and District representatives participating in the grievance review process shall have the power to act and resolve the disciplines, grievances and any resolution by the Grievance Committee shall be final and binding.

C. If a grievance and/or a discipline is not resolved by the Grievance Committee within sixty (60) calendar days from the date the grievance was referred to the Committee, the grievance and/or discipline shall automatically move to either the 3-3-1 Arbitration Committee for resolution or to formal arbitration.

*** See ATU/MOU-01-82**

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## S40.6 3-3-1 ARBITRATION COMMITTEE *

A. Unless resolved by the parties, or mutually referred to arbitration under Article S41, the following matters shall be appealed to an Arbitration Committee: any proposed adverse entry, minor pay claim, discipline not involving any loss of pay, or any non-disciplinary grievance jointly stipulated by the parties to the Arbitration Committee. The Arbitration Committee shall not hear any discipline case in which progressive discipline reaches a suspension or discharge level.

B. The 3-3-1 Committee shall operate in the following manner:

1. There shall be three (3) representatives of the Union and three (3) representatives of the District and a neutral chairperson.

2. The Arbitration Committee shall meet as often as necessary and at least quarterly in undecided cases requiring decision.

3. In any such committee no lawyers or professional counsel shall participate and the Arbitration Committee may receive any evidence they desire and shall conduct themselves informally. The involved member and Management personnel may be interrogated separately and informally and then be excused from attendance. Hearsay evidence may be admitted. The proceeding shall be non-adversary as far as practicable and the objective of the participants on the Committee shall be to ascertain the facts they deem desirable to reach a fair decision.

4. In recognition of the fact that this Committee is dealing only with minor pay claims and other discipline as defined in Paragraph "A" above, the Committee shall not be required to receive exhaustive testimony, permit written summations, maintain a transcript of proceedings or detailed records of matters considered.

5. No decision of the Arbitration Committee shall be considered a precedent for the disposition of any similar case.

6. After considering the matter, the members of the Committee shall vote by secret ballot in such manner that the ballot is not visible to any other member. The neutral arbitrator may devise a different ballot in any case where he/she considers such necessary or desirable.

7. The arbitrator shall alone count the ballots and announce whether the

majority vote is in favor or against the proposed action but shall not announce or reveal the number of ballots cast for or against the proposed action. The purpose of this restriction is to allow all parties to vote in accordance with their conscience.

8. The decision of the Arbitration Committee shall be final and binding on all parties.

9. The neutral arbitrator and the alternate shall be set forth in a separate Memorandum of Understanding, which shall be mutually agreed upon by the parties.

10. No written opinion by the neutral arbitrator shall be issued but he/she shall maintain a permanent docket of the decisions of the Committee.

11. The Committee may adopt and change rules of procedure not in conflict with the letter and spirit of the foregoing provisions of this Section.

12. This procedure is established on an experimental basis for the duration of this Agreement. At the completion of every twenty (20) cases, the arbitrator shall have discretion to announce the number of cases on which a deadlock has occurred or in his/her opinion whether the objectives of the parties are being attained and any recommendations he/she may deem appropriate for improvement of the process.

*** See ATU/MOU-002-4 and ATU/MOU-02-82**

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## S41.0 FORMAL ARBITRATION *

## S41.1 REQUEST FOR ARBITRATION *

In the event the dispute or grievance remains unresolved as of, at least, the passage of twenty-five (25) working days after it has been initially filed, either the Union or the District may request arbitration of the matter by an impartial arbitrator whose decision shall be final and binding. Within ten (10) days after the request for arbitration, the parties shall strike for an arbitrator. Either party may thereafter contact the arbitrator to initiate the scheduling of a hearing date. The parties agree to exert all reasonable efforts to avoid undue delay in the scheduling process. A request for arbitration by either party shall be honored by the other party.

*** See Minute Clarification following S39.0**

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## S41.2 TIME FOR AWARD / CONSOLIDATION

The arbitrator's award shall be rendered promptly and in no event more than thirty (30) days after the dispute or grievance has been fully submitted to him/her.

The parties shall use their best efforts to consolidate cases for arbitration if it can be reasonably assumed that two (2) or more disputes could be resolved by arbitration on the same hearing day or if the disputes are related by subject matter.

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## S41.3 SELECTION OF ARBITRATOR / COST *

The arbitrator shall be chosen by lot from an agreed upon list of arbitrators which shall be set forth in a separate Memorandum of Understanding which shall be mutually agreed to by the parties. The parties may mutually agree to add, delete or substitute new or additional names to the above list. In the event none of the named arbitrators are able to serve, the parties within five (5) days after knowledge that none are able to serve, shall request from the California State Conciliation Service a list of seven (7) names of neutral arbitrators experienced in labor/management relations from which the arbitrator shall be selected in the following manner:

If the parties are unable to agree upon an arbitrator from the list of seven (7), the parties shall each alternately strike names from the list, with the party initiating the dispute or grievance striking first, until only one (1) name remains. The arbitrator whose name remains after the parties have so alternately stricken shall be the neutral arbitrator for the dispute or grievance.

Costs of the arbitration such as fees of the arbitrator and court reporter shall be borne equally by both parties unless, by prior agreement, the parties agree the losing party shall bear all such costs and each side will pay its own attorneys' fees and non-employee witness fees.

*** See ATU/MOU-02-82**

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## S41.4 POWERS OF THE ARBITRATOR

In any arbitration held pursuant to the Agreement (i.e., 2-2-1, 3-3-1, immediate or formal), the person or persons acting as arbitrator(s) shall act in a judicial, not legislative manner. The arbitrator shall not amend, modify, nullify, ignore, add to or subtract from the provisions of the Agreement but, rather, shall interpret and apply its terms. The arbitrator shall consider and decide only the issue - or issues agreed upon by the parties, including the issue of arbitrability. If the parties are unable to decide upon the issue or issues to be submitted to the arbitrator, the arbitrator shall decide what the issue or issues are, based upon the grievance that was filed. If the arbitrator sustains the grievance, he/she shall fashion an appropriate remedy that does not conflict with provisions contained in the Agreement.

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## S41.5 IMMEDIATE ARBITRATION

Either party may waive the grievance procedure time limits as specified in Article S40 and proceed to immediate arbitration only in cases where either party alleges that the other is threatening to violate Section 1.6 of this Agreement, "No Strikes/No Lockouts."

In any such case, the arbitrator selected to decide the dispute or grievance shall have full and equitable powers to frame a decision, including an order to the party initiating the dispute or grievance to abide by the time limits provided in Article S40 or a restraining order against the party threatening the action or any other form of arbitration order that would resolve the matter in an equitable and just manner.

Note: All side letters, MOUs and Minute Clarifications inconsistent with the changes made to Sections 40 and 41 on July 30, 2009, will be superseded by those changes in contract language.

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## S42.0 NON-DISCRIMINATION, EQUAL EMPLOYMENT OPPORTUNITY

## S42.1 PURPOSE

There shall be no discrimination in the application of provisions of this Agreement. In recognition of such, the parties are committed to ensure these provisions are applied equally to all employees without regard to race, color, marital status, sexual orientation, religion, national origin, ancestry, age, sex, gender identity, disability, medical condition (cancer), family and medical care leave, pregnancy, disability leave or veteran status and in a manner consistent with the District's Equal Employment Opportunity (EEO) Policy.

The intent of this Section is to continue efforts of equal employment opportunity for all persons and to establish methods for resolution of defined equal employment problems.

Further, the intent is designed to meet the spirit and letter of the Federal Civil Rights Law, Executive Orders and Amendments and the State of California Fair Employment and Housing Act.

Finally, the parties agree no employee covered by this Agreement shall suffer discrimination because of his/her membership and participation in the Union.

Should procedures negotiated relating to promotion and/or reduction in force produce results contrary to these objectives, the parties may, by mutual agreement, seek to achieve these objectives by ways and means outside the established seniority procedures.

Nothing in this provision shall be construed as a waiver of an employee's individual statutory rights, remedies and/or procedural protections.

## S42.2 JOINT UNION / MANAGEMENT EQUAL EMPLOYMENT OPPORTUNITY COMMITTEE

The Union shall share equally with the District the responsibility for applying this Section by establishment of a joint Union/Management Committee, not to exceed three (3) committee members selected by the Union and a like number selected by Management, with each Subunit to monitor equal employment opportunity policies.

The District Office of Civil Rights has responsibility for investigating and resolving complaints alleging Equal Employment Opportunity (EEO) discrimination or harassment (including sexual harassment) to assure prompt, consistent and appropriate action.

## S43.0 SPECIAL PROVISIONS – REMOTELY STAFFED STATIONS (RSS)

Should the District decide it wants to reinstate the Remotely Staffed Stations Program (RSS), it may do so consistent with the operating rules set forth in Sam Kagel's RSS Award of April 28, 1978. The parties, however, reserve the right to modify such operating rules by mutual agreement.

## S44.0 SPECIAL PROVISIONS – PART-TIME TRAIN OPERATORS AND STATION AGENTS *

The provisions set forth in this Article shall be applicable only to Transportation Workers I and II Part-Time Station Agents and Train Operators. Provisions in this are intended to supersede where they may conflict with other provisions of this agreement. All other provisions set forth in this agreement shall be applicable to Transportation Workers I and II Part Time Station Agents and Train Operators with the exception of the following:

| | |
|---|---|
| 3.5 | Educational Assistance Program |
| 4.1 | Vacation |
| 4.5 | Leave of Absence |
| 5.3 | Dental Plan* |
| 5.4 | Vision Care* |
| 5.8 | Survivor Benefits |
| 5.9 | Disability Coverage |
| 6.3 | Pensioners’ Life Insurance |
| 9.1 | Sick Leave |
| S13.3 | Premium Pay/ Primary Booth |
| S26.0 | Available Vacations/ Vacation Increments* |

S26.1 Vacation Bid
S27.1 Holidays
S27.2 Employees Birthday
S28.1 Overtime
S28.3 Shift Change Premium
S28.4 RDO Overtime Requests/Overtime Administration
S28.6 Stand-By Pay
S28.7 Unscheduled Call-Back
S28.8 Leadworker & Instructor Premium

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## S44.1 DEFINITIONS

A Part-Time Station Agent is a Station Agent employed by the District on a continuing basis who is regularly scheduled to work no more than twenty-five (25) hours during a work week.

A Part-Time Train Operator is a Train Operator employed by the District on a continuing basis who is regularly scheduled to work no more than twenty-five (25) hours during a work week.

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## S44.2 PART-TIME APPLICANTS *

The District may establish Part-Time Station Agent and Train Operator positions within the Amalgamated Transit Union bargaining unit. Part-time provisions under this Article shall be applicable only to Transportation Workers I and II. In filling part-time positions in either Station Agent or Train Operator categories, the District intends to recruit applicants who are seeking either career part-time positions or career full-time positions, and who recognize that the route to full-time positions is through part-time employment.

Applicants for the part-time positions may be selected from among non-District employees. However, priority consideration shall be given for the hiring of Part-Time and Full-Time Station Agents and Train Operators in the following order:

1. Full-time Amalgamated Transit Union members employed by the District;

2. Other full-time District employees;

3. Applicants from outside the District.

District full-time employees who apply for part-time positions must agree to all the terms and conditions that accompany part-time work (no fringe benefits, part-time work, etc.) in order to be eligible for appointment to a part-time position.

*** See ATU/MOU-01-91**

## S44.3 APPOINTMENT TO FULL-TIME STATION AGENT AND TRAIN OPERATOR POSITIONS *

The District shall specify the number of positions in each new class of Station Agents or Train Operators that shall be restricted to applicants for either part-time or full-time positions. As full-time positions become vacant, appointments to the positions may be made from among the Part-Time Station Agents or Train Operators based on seniority as appropriate. However, a certain number of full-time positions shall be designated for current District employees so as to promote the District's promotion from within policy.

The District reserves the right to fill full-time positions with outside applicants.

*** See ATU/MOU-01-91**

## S44.4 NUMBER OF PART-TIME POSITIONS

The maximum number of Part-Time Station Agents and Part-Time Train Operators shall not exceed fifteen percent (15%) of the combined total of Full-Time Station Agents and Train Operators including those Full-Time Station Agents and Train Operators on sick leave, disability leave or other leaves of absence.

Subject to the above percentage limitation, there shall be no restriction on the District's ability to hire Part-Time Train Operators and Part-Time Station Agents in any sequence or combination.

TWI Train Operators and TWI Station Agents who are in a training class shall not be included in the ratio for the fifteen percent (15%) calculation of Part-Time Train Operators and Part-Time Station Agents. TWII's in a training class shall be included in the ratio. Upon certification as Train Operators or Station Agents (i.e., TWII), Train Operators or Station Agents (i.e., TWII) shall be included in the ratio for the fifteen percent (15%) calculation.

## S44.5 MINIMUM/MAXIMUM HOURS OF WORK *

Each Part-Time Train Operator and Station Agent shall be guaranteed a minimum of four (4) hours pay for reporting to work under authorization of proper authority. Each Part-Time Train Operator and Station Agent shall be guaranteed a minimum of twenty (20) hours work during a work week.

Each Part-Time Train Operator and Station Agent shall be scheduled to work no more than five (5) hours per work day and twenty-five (25) hours

per work week, except during training. Part-Time Train Operators and Station Agents may be scheduled to work more than twenty-five (25) hours a week during periods of training.

*** Minute Clarification**

The five (5) hour per work day limitation shall be inapplicable to Part-Time Station Agents who work on weekends. In no event, shall a Part-Time Station Agent's work week extend beyond twenty-five (25) hours, except during training.

The five (5) hour per work day limitation shall be inapplicable to Part-Time Train Operators who work on weekends. On Saturday and/or Sunday, the District may schedule Part-Time Operators shifts of eight (8) or ten (10) hours. In no event shall a Part-Time Train Operator's work week extend beyond twenty-five (25) hours, except during training.

The parties reserve their respective positions regarding this provision.

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## S44.6 PAYMENT IN LIEU OF FRINGE BENEFITS

Except as set forth in this Article or otherwise required by law, Part-Time Train Operators and Station Agents shall receive no fringe benefits. An additional ten percent (10%) of the employee's base pay shall be paid in lieu of all other fringe benefits.

Part-time Train Operators and Station Agents may enroll, at their own expense, in one (1) of the District provided health care plans (medical and prescription only) unless prohibited by the Provider. Payment for the plan shall be by payroll deduction at the District composite rate, subject to any increases that occur during the term of this Agreement.

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## S44.7 SHIFT DIFFERENTIAL

Where a Part-Time Station Agent or Train Operator works a minimum of four (4) hours between 4:00 p.m. and 12:00 midnight, a swing shift premium of seven percent (7%) will be paid for all hours worked during the shift at the existing straight time rate of pay.

Where a Part-Time Station Agent or Train Operator works a minimum of four (4) hours between midnight and 8:00 a.m., a graveyard shift premium of nine and one-half percent (9-½%) will be paid for all hours worked during the shift at the existing straight time rate of pay.

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## S44.8 SENIORITY *

The District shall maintain two (2) separate seniority rosters for Part-Time and Full-Time Train Operators and Station Agents.

Seniority for Part-Time Train Operators and Station Agents shall be governed by their date of hire. In the event two (2) or more people have the same date of employment or assignment, the ranking of such individuals for seniority purposes shall be in the order of age and the oldest individual with the same seniority date shall be assigned the higher seniority ranking. In the event two (2) individuals have the same birthday, the matter shall be resolved by lot between the individuals concerned.

Seniority shall be used to determine priority status for shifts, location, RDOs and appointment to Full-Time Station Agent or Train Operator positions.

A Part-Time Train Operator or Station Agent who applies and is accepted for employment as a Full-Time Train Operator or Station Agent, shall for all purposes accrue full-time seniority only from the date of his/her employment as a Full-Time employee.

Seniority accrued by employees while in a part-time status shall not be transferable to full-time seniority.

*** See ATU/SL-6-4**

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## S44.9 REST BREAKS

Part-Time Station Agents shall receive one (1) paid fifteen (15) minute rest break approximately mid-shift. Part-Time Station Agents assigned a shift of seven (7) hours or more will receive two (2) fifteen (15) minute paid breaks (one in the first half of the shift and the second in the last half of the shift) and a thirty (30) minute paid lunch break between the beginning of the fourth (4th) hour and before the end of the sixth (6th) hour.

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## S44.10 COVERAGE FOR VACANCIES / BREAKS *

Part-Time Train Operators and Station Agents shall not be allowed to temporarily fill full-time slots. The full- time extra board shall be used to cover vacancies occurring in part-time slots. Vacancies occurring in part-time shifts shall not be filled by a hold-down and shall be filled on a day-to-day basis from the full-time extra board.

Lunch and rest breaks of Station Agents in single- centroid stations may be covered by Part-Time Station Agents.

*** Minute Clarification**

The District agrees to schedule as many Full-Time Station Agents for weekend RDOs as operationally permissible.

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## S44.11 LIMITATIONS ON PART-TIME WORK

A. **Train Operators**

Part-Time Train Operators will not be allowed to perform work on the test track, perform acceptance testing or operate test trains.

B. **Station Agents**

Part-Time Station Agents will not be scheduled by bid in a primary booth within a multi-centroid station unless a Full-Time Station Agent is also scheduled to work the primary booth. Vacancies in a primary booth within a multi-centroid station shall be filled pursuant to the procedures in Article S28.4 - RDO Overtime Request/Overtime Administration. In the event a Full-Time Station Agent is unavailable pursuant to the procedures in Article S28.4, and another Full-Time Station Agent is working the secondary booth, the Full-Time Station Agent in the secondary booth shall cover the primary booth and the Part-Time Station Agent shall cover the secondary booth.

C. **General**

Part-Time Train Operators or Station Agents shall not be promoted directly to a Foreworker position within the ATU bargaining unit.

Part-Time Station Agents or Train Operators shall not be assigned as On-the-Job-Training (OJT) instructors.

Part-time shifts shall not be scheduled for the purpose of circumventing a full-time shift (e.g. "yo-yoing" and/or "combining").

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## S44.12 FOREWORKER RATIO *

The number of Foreworkers shall not be increased as a result of the hiring of Part-Time Station Agents and/or Train Operators. Part-Time Station Agents and Train Operators shall not be included in determining the Foreworker ratio referenced in Article S19.2 - RATIO.

Except for reductions due to attrition, the District shall not reduce the current Foreworkers who are employed as of July 1, 1985 as a result of the implementation of the Part-Time Station Agent and Train Operator Program.

*** Minute Clarification**

See Stipulated Decision of Barbara Chvany, Med-Arbiter, and Memorandum of Understanding October 22, 2003 incorporated herein by reference.

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## S44.13 FREE TRANSPORTATION

Part-Time Train Operators and Station Agents will be eligible for the provisions of Section 7.1 - PASS PRIVILEGES.

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## S44.14 LEAVE OF ABSENCE *

Part-time employees may occasionally be required to request time off without pay. When such time off becomes necessary, it must be requested through the part-time employee's immediate supervisor.

A leave of absence, for the purposes of this Section, is defined as an absence from work requested in writing by a District part-time employee and approved in writing by the part-time employee's Department Head and by the Department Manager of the Human Resources Department. Such leaves must specify an agreed-upon period of time normally longer than two (2) days but not to exceed three (3) calendar months.

Leaves of absence generally fall into the following categories:

A. **Emergency Leave** - To assist a part-time employee in taking care of crisis circumstances or conditions which cannot normally be handled while working part-time.

B. **Leave for Personal Matters** - To allow part-time employees time off to attend to such matters which are not urgent and are purely personal in nature, but which are of such character as to require a short absence from work.

The District will determine the length of time it will grant for such leave in each individual case.

The District reserves the right to extend a given leave if it deems it desirable to do so.

During the period of time in which a part-time employee is on leave of absence, he/she shall accumulate service with the District.

Any part-time employee who fails to return to work upon conclusion of the agreed-upon leave of absence shall be considered to have voluntarily terminated his/her employment with the District, subject to the terms of Section S39.7 of the agreement for non-probationary employees.

*** Minute Clarification**

The parties agree that requests for leaves of ten (10) days or less shall be submitted to the part-time employee's immediate supervisor. Whenever practicable, the employee shall be informed within seventy-two (72) hours from acknowledged receipt of the request as to the decision regarding the request.

The District further agrees to continue its practice of notifying the Union on approved leaves of absence in excess of thirty (30) days. The District also

agrees that in the event it considers a request for extension of a leave of absence beyond a three (3) month period, it shall advise the Union prior to approving such leave. However, the District is not precluded from approving such extended leave in the event the Union objects.

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## S44.15 SHIFT ASSIGNMENT

All shift assignments shall be posted to show reporting location, starting time and rest days. All Sign-ups will be conducted by proxies in conjunction with the regularly scheduled system or yard bids.

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## S44.16 PREMIUM PAY

Part-Time Train Operators and Part-Time Station Agents shall not be scheduled to work on District reduced schedule holidays as defined in Section S27.3. However, Part-Time Train Operators and Station Agents shall be scheduled to work on District non-reduced schedule holidays as defined in Section S27.3. Part-Time Train Operators and Part-Time Station Agents will have the right to bid for work on all District Holidays. Part-Time Train Operators and Station Agents will exercise their right to bid after all provisions of the CBA concerning Full-Time Train Operators and Station Agents holiday bidding procedures have been met, and prior to Full-Time Train Operators and Full-Time Station Agents being inversely assigned. In all cases, the (11) eleven hour rest provision remains unchanged. Part-Time Train Operators and Part-Time Station Agents shall be paid time and one-half (1-1/2) for all hours worked on District holidays.

Part-Time Train Operators and Station Agents will have the right to sign-up for Special Overtime assignments which include the extension of revenue service hours or added trains. Part-Time Train Operators and Station Agents will be awarded Special Overtime assignments after all Full-Time Train Operators and Station Agents have the opportunity to fill the assignment. In all cases, Part-Time Train Operators and Part-Time Station Agents shall be paid at time and one-half (1-1/2) for all hours worked on Special Overtime assignments.

No other premium pay shall be paid Part-Time Train Operators or Station Agents for any other hours worked on a holiday unless otherwise required by law.

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## S44.17 MOVEMENT BETWEEN PART-TIME AND FULL-TIME POSITIONS *

Part-Time Train Operators and Station Agents may move to full-time positions pursuant to Sections S44.3 and S44.9. Full-Time Train Operators and Station Agents may move to part-time positions by electing

to do so in writing, submitted to Scheduling, between November 15th and December 15th of each year. Such election shall be irrevocable after December 15th and shall take effect with the start of the February bid. Train Operators and Station Agents who elect to move to Part-Time accept all limitations on Part-Time employment, including but not limited to Section S30.0E. The number of Part-Time positions shall not be increased through use of this provision. Upon transfer from Full-Time to Part-Time, all Full-Time seniority leave banks and entitlements, including vacation, sick leave and floating holidays, shall be frozen effective with the transfer to Part-Time status.

*** Minute Clarification**

During the negotiations of the 1985-1988 Agreement, the parties discussed lateral transfers between Full-Time Station Agent and Train Operator positions. The District restated its position that Station Agents will not be permitted to transfer to Train Operator positions unless they are selected for such positions through the District's normal hiring procedure and successfully complete Train Operator training and probation. The foregoing also applies to Train Operators who wish to become Station Agents.

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## S44.18 WORKFORCE REDUCTIONS / RECALL

A. **Workforce Reductions**

Except for reductions due to attrition, the District shall not reduce current Full-Time Station Agents and Train Operators who are employed as of July 1, 1985 as a result of the implementation of the Part-Time Station Agent and Train Operator Program.

Except for reductions due to attrition, the District shall not reduce the full-time workforce of Station Agents and/or Train Operators as long as Part-Time Station Agents and/or Train Operators are employed.

B. **Recall**

Full-Time Station Agents and Train Operators separated from the District by Reduction in Force shall be recalled in inverse order of layoff. After such Full-Time Station Agents and Train Operators have been recalled, Part-Time Station Agents and Train Operators shall be recalled in inverse order of layoff. Recall shall be subject to the provisions of Section S30.0 Furlough.

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## S44.19 DENTAL PLAN

The District shall offer part-time employees the option to purchase Dental Coverage at no cost to the District, i.e., part-time employees shall bear the total cost.

## S44.20 VISION PLAN

The District shall offer part-time employees the option to purchase Vision Coverage at no cost to the District, i.e., part-time employees shall bear the total cost.

## S44.21 SHORT TERM DISABILITY

The District shall offer part-time employees the option to purchase short-term disability at no cost to the District, i.e., part-time employees shall bear the total cost.

## S45.0 SPECIAL SUPPLEMENTAL PROVISIONS – KITCHEN SET-UPS

The District will maintain existing kitchen set-ups in Towers and Central Control.

## S45.1 UNION ACCESS TO LAKESIDE BUILDING

The District shall provide Union Executive Board members with a pass to all floors of the Lakeside Building (LKS) on which District employees are assigned to work with the exception of the floor(s) occupied by the District Human Resources Department and Labor Relations Department (the 20th floor at the time this 2013-17 agreement was signed). In addition, Union attorneys who receive passes pursuant to Section 7.1 of the agreement shall also have such access.

## S46.0 SIDE LETTERS AND MEMORANDA OF UNDERSTANDING (MOUS)

Two hundred (200) copies of each side letter agreed to within the life of the Agreement shall be provided by the District to the Union for attachment to each copy of the Agreement. The District will provide a copy of such side letter(s) to all current employees within two (2) weeks of receipt of printed copies, but, in any event, no later than sixty (60) days from the signing of such side letter. Such side letter(s) shall be printed by an Allied printing establishment.

The side letters shall be provided on pocket-size paper.

All memoranda of understandings, side letters of agreement or any other agreement existing prior to ratification of this Agreement, unless mutually

extended, are null and void.

The following Side Letters shall continue in effect during the term of this Agreement:

| Date | Control Number | Subject |
|---|---|---|
| 01/05/81 | GEN-4-4 | Deferred Compensation Plan and Qualified Money Purchase Pension Plan (signatory by: ATU 1555, UPE 790, BARTSPA and BPOA) |
| 11/06/81 | GEN-4-3(A) | Implementation of Transfer of 1.627% from PERS to Money Purchase Pension Plan (signatory by: ATU 1555, UPE 390, BARTSPA and BPOA) |
| 03/06/96 | GEN-4-5 | Donation of Vacation & Floating Holidays |
| 07/05/88 | ATU/SL-6-3 | Choice of Shifts/Sign-Ups – Train Operators |
| 07/19/89 | ATU/SL-6-4 | Seniority for Part-Time Train Operators and Station Agents |
| 05/23/94 | ATU/SL-22-01 | Electronic Bidding |
| 10/17/94 | ATU/SL-8-9 | Transportation and System Service Department |
| 11/01/99 | ATU/SL-8-10 | Special Schedules and Pay for 12/31/99 |
| 07/13/00 | ATU/SL-9-3 | New Classification – Senior Operations Support Systems Analyst |
| 07/12/00 | ATU/SL-9-4 | Flexible Spending Account |
| 12/12/12 | ATU/SL-1-10 | BAP Implementation |
| 08/16/09 | ATU/SL-10-1 | Retiree Medical Eligibility and Cost Savings |
| 10/23/13 | ATU/LOU | Letter of Understanding: Retiree Medical Eligibility |
| 12/02/14 | ATU/SL-14-01 | Program for Dedicated Operators for Special Testing Projects |
| 06/20/18 | ATU/SL-02-18 | Warm Springs and Berryessa Stations |

The following Memoranda of Understandings (MOUs) shall continue in effect during the term of this Agreement:

| | | |
|---|---|---|
| 07/01/97 | GEN/MOU-8-1 | Flexible Spending Account Program |
| 06/15/95 | GEN/MOU-95-01 | Random Substance Abuse Testing Representation |

| | | |
|---|---|---|
| 07/03/84 | ATU/MOU-002-4 | 3-3-1 Committee re: procedures for minor discipline and pay claim grievances |
| 07/01/85 | ATU/MOU-003-4 | 2-2-1 Committee Procedures – Rules and Procedures |
| 06/21/82 | ATU/MOU-01-82 | Time Off for Union Business |
| 07/01/97 | ATU/MOU-02-82 | Arbitrators |
| 07/21/82 | ATU/MOU-03-82 | Call-In Procedures |
| 07/21/82 | ATU/MOU-04-82 | Hearing, Notification of Hearing and Witnesses |
| 12/07/83 | ATU/MOU-15-4 | Use of Volunteers at the conclusion of the tentative Holiday Bid |
| 06/12/84 | ATU/MOU-16-4 | TVM/ET Training Program |
| 07/01/88 | ATU/MOU-17-4 | Foreworker/Grievance Procedure |
| 05/13/88 | ATU/MOU-01-88 | MOU Enabling EPA Use |
| 06/19/91 | ATU/MOU-01-91 | Full-time Train Operators and Station Agent Hires |
| 09/23/94 | ATU/MOU-01-94 | Appointment of Full-time Train Operators and Station Agents |
| 10/17/94 | ATU/MOU-02-94 | Resolution of System Service Arbitration |
| 10/24/94 | ATU/MOU-03-94 | Part-time Station Agent Bid and Bidding Procedures |
| 11/10/94 | ATU/MOU-04-94 | Resolution of Sick Leave Arbitration |
| 09/28/95 | ATU/MOU-01-97 | Training in Cairo, Egypt |
| 07/05/99 | ATU/MOU-01-99 | Promotion and Posting Procedures |
| 03/22/99 | ATU/MOU-02-99 | PERS Benefits for Local 1555 President/Business Agent |
| 06/28/00 | ATU/MOU-02-99 Addendum | PERS Benefits for Local 1555 President/Business Agent |
| 03/29/18 | Agreement added to MOU 02-99 and the Addendum | Compensation for Local 1555 President/Business Agent |
| 12/11/95 | Stipulated Decision/MOU | Grievance Resolution Project |
| 10/22/03 | Stipulated Decision/MOU | Foreworker Bargaining Unit Work |

| | | |
|---|---|---|
| 06/21/05 | Stipulated Decision/MOU | Clerical Extra Board |
| 11/10/05 | Stipulated Decision/MOU | Station Agent Staffing & Bidding |
| 10/06/08 | Stipulated Decision/MOU | Scheduling Analyst/Senior Scheduling Analyst |
| 12/19/08 | Stipulated Decision/MOU | Transportation Administrative Specialist |
| 01/13/10 | ATU/MOU-01-10 | Resolution of Use of Video Tapes for Discipline Arbitration |
| 05/08/12 | ATU/MOU-02-10- | Stipulated Decision of Luella Nelson, Med-Arbiter, and MOU Between the Parties Concerning Disputes Arising from BAP Implementation and All Issues Listed |
| 09/06/17 | ATU/MOU re SL-14-01 | Clarification of Side Letter 14-01 |
| 07/31/18 | ATU/MOU | Joint Evaluation Committee Clarifications |
| 01/18/19 | ATU/MOU-19-01 | Shift Differential and New Break Locations |
| 08/30/21 | ATU/MOU-21-01 | DMU Engineers Absence Reporting |
| 05/27/21 | ATU/MOU-21-02 | Temporary Upgrade |

## S46.1 DEFINITIONS

A. **Side Letter**: A binding agreement which changes existing contract language or adds or deletes language from the contract. Side Letters require ratification by the District's Board of Directors and the membership of the Union.

B. **Memorandum of Understanding (MOU)**: A binding agreement which clarifies existing contract language or sets forth procedures which implement contract language. MOUs do not require ratification by the District's Board of Directors or the membership of the Union.

## S47.0 BASE WAGE SCHEDULE

A. The base wage schedule will be implemented and administered as follows:

1. Employees will suffer no loss of pay as a result of the pay progression.

2. Entry and training rates are eliminated.

3. The pay progression of 85%, 87.5%, 90%, and 100% (top rate) is based on one year intervals, on the date of hire/anniversary date. All percentages are based on the top rate. The pay steps are applicable to employees hired on or after January 1, 1995. The pay progression will apply only one time to each such employee.

4. New employees that are hired will be placed at the first year pay progression rate (85%) of their classification pursuant to Section S47.0 Base Wage Schedule. New employees will progress through each successive step based on their date of hire/anniversary date with the District.

**B. Fiscal Year 2022 ("FY22")**

Effective July 1, 2021, and continuing until June 30, 2022, the base salary for bargaining unit members shall remain the same as the 2020-2021 base rate of pay with the addition of the Section 8.2 COLA which was effective on June 30, 2021.

**C. Fiscal Year 2023 ("FY23")**

Effective July 1, 2022, the base salary/wage schedule for bargaining unit members shall be increased by three and on-half percent (3.5%).

Additionally, there shall be the potential for wage increases which shall be dependent upon the average weekday ridership, calculated as a percentage of Pre-COVID Average Weekday Ridership, which was 410,000 riders. The Average Weekday Ridership shall be evaluated on July 1, 2022 and January 1, 2023 based on the preceding three (3) months. The calculation of the potential for an increase on July 1, 2022 shall be based on the average weekday ridership for April 2022 through June 2022 (FY22 Q4), and the calculation for the potential for an increase on January 1, 2023 shall be based on the average weekday ridership for October 2022 through December 2022 (FY23 Q2).

Any potential wage increases based on average weekday ridership shall cumulatively be no greater than the total percentage available based on the ridership. Therefore, if the ridership results in a wage increase in July and there is an increase in ridership between July and January sufficient to obtain a higher percentage wage increase for the year, the increase effective January 1 will be the difference between the prior increase and the amount associated with the ridership from FY23 Q2. The combination of the July and January increases may not exceed the wage increase amount associated with the higher of the two (2) ridership numbers from FY22 Q4 and FY23 Q2.

Wage increases based on average weekday ridership for FY23 shall be based on the table below:

| % of Pre-COVID Ridership (410,000) | Average Weekday Ridership | FY23 Wage Increase |
|---|---|---|
| 60% | 246,000 | 0.40% |
| 65% | 266,500 | 0.50% |
| 70% | 287,000 | 0.75% |
| 75% | 307,500 | 1.00% |
| 80% | 328,000 | 1.20% |
| 85% | 348,500 | 1.40% |
| 90% | 369,000 | 1.60% |
| 95% | 389,500 | 1.80% |
| 100% | 410,000 | 2.00% |

## D. Fiscal Year 2024 ("FY24")

Effective July 1, 2023, the base salary/wage schedule for bargaining unit members shall be increased by three percent (3.0%).

Additionally, there shall be the potential for wage increases which shall be dependent upon thef average weekday ridership, calculated as a percentage of Pre-COVID Average Weekday Ridership, which was 410,000 riders. The Average Weekday Ridership shall be evaluated on July 1, 2023 and January 1, 2024 based on the preceding three (3) months. The calculation of the potential for an increase on July 1, 2023 shall be based on the average weekday ridership for April 2023 through June 2023 (FY23 Q4), and the calculation for the potential for an increase on January 1, 2024 shall be based on the average weekday ridership for October 2023 through December 2023 (FY24 Q2).

Any potential wage increases based on average weekday ridership shall cumulatively be no greater than the total percentage available based on the ridership. Therefore, if the ridership results in a wage increase in July and there is an increase in ridership between July and January sufficient to obtain a higher percentage wage increase for the year, the increase effective January 1 will be the difference between the prior increase and the amount associated with the ridership from FY24 Q2. The combination of the July and January increases may not exceed the wage increase amount associated with the higher of the two (2) ridership numbers from FY23 Q4 and FY24 Q2.

Wage increases based on average weekday ridership for FY24 shall be based on the table below:

| % of Pre-COVID Ridership (410,000) | Average Weekday Ridership | FY24 Wage Increase |
|---|---|---|
| 60% | 246,000 | 0.75% |
| 65% | 266,500 | 0.85% |
| 70% | 287,000 | 1.00% |
| 75% | 307,500 | 1.25% |
| 80% | 328,000 | 1.50% |

| | | |
|---|---|---|
| 85% | 348,500 | 1.75% |
| 90% | 369,000 | 2.00% |
| 95% | 389,500 | 2.25% |
| 100% | 410,000 | 2.50% |

### E. Fiscal Year 2025 ("FY25")

Effective July 1, 2024, the base salary/wage schedule for bargaining unit members shall be increased by four percent (4.0%).

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## S47.1 SALARY/WAGES FOR 2021 – 2025

BASE WAGE SCHEDULE

EFFECTIVE 7/01/2021 - 6/30/2025

| A. Transportation Worker-Full Time | Hourly Rates | | | |
|---|---|---|---|---|
| **Grade Description** | **7/1/2021** | **7/1/2022** | **7/1/2023** | **7/1/2024** |
| Station Agent/Train Operator (TW II), Hire Rate | 35.0099 | 36.2352 | 37.3222 | 38.8150 |
| Station Agent/Train Operator (TW II), 2nd Year | 36.0396 | 37.3009 | 38.4199 | 39.9567 |
| Station Agent/Train Operator (TW II), 3rd Year | 37.0693 | 38.3667 | 39.5176 | 41.0983 |
| Station Agent/Train Operator (TW II), Top Rate | 41.1882 | 42.6297 | 43.9085 | 45.6648 |
| Station Agent/Train Operator (TW III), Hire Rate | 38.5109 | 39.8587 | 41.0544 | 42.6965 |
| Station Agent/Train Operator (TW III), 2nd Year | 39.6436 | 41.0310 | 42.2618 | 43.9523 |
| Station Agent/Train Operator (TW III), 3rd Year | 40.7763 | 42.2033 | 43.4693 | 45.2080 |
| Station Agent/Train Operator (TW III), Top Rate | 45.3070 | 46.8926 | 48.2993 | 50.2312 |

| A. Transportation Worker-Part Time | Hourly Rates | | | |
|---|---|---|---|---|
| **Grade Description** | **7/1/2021** | **7/1/2022** | **7/1/2023** | **7/1/2024** |
| Station Agent/Train Operator P/T, Hire Rate | 38.5109 | 39.8587 | 41.0544 | 42.6965 |
| Station Agent/Train Operator P/T, 2nd Year | 39.6436 | 41.0310 | 42.2618 | 43.9523 |
| Station Agent/Train Operator P/T, 3rd Year | 40.7763 | 42.2033 | 43.4693 | 45.2080 |
| Station Agent/Train Operator P/T, Top Rate | 45.3070 | 46.8926 | 48.2993 | 50.2312 |

BASE WAGE SCHEDULE

EFFECTIVE 7/01/2021 - 6/30/2025

| B. Professional and Supervisory Employees | Hourly Rates | | | |
|---|---|---|---|---|
| **Grade Description** | **7/1/2021** | **7/1/2022** | **7/1/2023** | **7/1/2024** |
| Operations Foreworker (FW II), Hire Rate | 42.6166 | 44.1082 | 45.4313 | 47.2486 |
| Operations Foreworker (FW II), 2nd Year | 43.8700 | 45.4055 | 46.7676 | 48.6382 |
| Operations Foreworker (FW II), 3rd Year | 45.1234 | 46.7028 | 48.1038 | 50.0279 |
| Operations Foreworker (FW II), Top Rate | 50.1372 | 51.8920 | 53.4487 | 55.5866 |
| Senior Operations Foreworker (FW III), Hire Rate | 46.8782 | 48.5190 | 49.9744 | 51.9734 |
| Senior Operations Foreworker (FW III), 2nd Year | 48.2570 | 49.9460 | 51.4443 | 53.5020 |
| Senior Operations Foreworker (FW III), 3rd Year | 49.6358 | 51.3730 | 52.9141 | 55.0306 |
| Senior Operations Foreworker (FW III), Top Rate | 55.1509 | 57.0812 | 58.7935 | 61.1452 |
| Scheduling Analyst, Hire Rate | 49.1056 | 50.8242 | 52.3488 | 54.4427 |
| Scheduling Analyst, 2nd Year | 50.5498 | 52.3190 | 53.8885 | 56.0440 |
| Scheduling Analyst, 3rd Year | 51.9941 | 53.8138 | 55.4282 | 57.6452 |
| Scheduling Analyst, Top Rate | 57.7713 | 59.7932 | 61.5869 | 64.0503 |
| Senior Scheduling Analyst, Hire Rate | 53.9407 | 55.8285 | 57.5034 | 59.8035 |
| Senior Scheduling Analyst, 2nd Year | 55.5272 | 57.4706 | 59.1947 | 61.5624 |
| Senior Scheduling Analyst, 3rd Year | 57.1137 | 59.1126 | 60.8859 | 63.3213 |
| Senior Scheduling Analyst, Top Rate | 63.4597 | 65.6807 | 67.6511 | 70.3571 |
| Time and Labor Admin Analyst (ATU), Hire Rate | 45.4341 | 47.0242 | 48.4349 | 50.3722 |
| Time and Labor Admin Analyst (ATU), 2nd Year | 46.7704 | 48.4073 | 49.8595 | 51.8538 |
| Time and Labor Admin Analyst (ATU), 3rd Year | 48.1067 | 49.7904 | 51.2840 | 53.3353 |
| Time and Labor Admin Analyst (ATU), Top Rate | 53.4519 | 55.3227 | 56.9823 | 59.2615 |
| Senior Oper Supp Sys Analyst, Hire Rate | 52.0664 | 53.8888 | 55.5054 | 57.7256 |
| Senior Oper Supp Sys Analyst, 2nd Year | 53.5978 | 55.4737 | 57.1379 | 59.4234 |
| Senior Oper Supp Sys Analyst, 3rd Year | 55.1292 | 57.0587 | 58.7704 | 61.1212 |
| Senior Oper Supp Sys Analyst, Top Rate | 61.2547 | 63.3986 | 65.3005 | 67.9125 |

BASE WAGE SCHEDULE

EFFECTIVE 7/01/2021 - 6/30/2025

| C. Training Employees | Hourly Rates | | | |
|---|---|---|---|---|
| **Grade Description** | **7/1/2021** | **7/1/2022** | **7/1/2023** | **7/1/2024** |
| Employee Development Specialist, Hire Rate | 49.1056 | 50.8242 | 52.3488 | 54.4427 |
| Employee Development Specialist, 2nd Year | 50.5498 | 52.3190 | 53.8885 | 56.0440 |
| Employee Development Specialist, 3rd Year | 51.9941 | 53.8138 | 55.4282 | 57.6452 |
| Employee Development Specialist, Top Rate | 57.7713 | 59.7932 | 61.5869 | 64.0503 |

| D. Clerical and Non-Professional Employees | Hourly Rates | | | |
|---|---|---|---|---|
| **Grade Description** | **7/1/2021** | **7/1/2022** | **7/1/2023** | **7/1/2024** |
| Transportation Admin Specialist, Hire Rate | 32.7710 | 33.9179 | 34.9355 | 36.3329 |
| Transportation Admin Specialist, 2nd Year | 33.7349 | 34.9155 | 35.9630 | 37.4015 |
| Transportation Admin Specialist, 3rd Year | 34.6987 | 35.9131 | 36.9905 | 38.4701 |
| Transportation Admin Specialist, Top Rate | 38.5542 | 39.9035 | 41.1006 | 42.7446 |
| Senior Secretary, Hire Rate | 32.7710 | 33.9179 | 34.9355 | 36.3329 |
| Senior Secretary, 2nd Year | 33.7349 | 34.9155 | 35.9630 | 37.4015 |
| Senior Secretary, 3rd Year | 34.6987 | 35.9131 | 36.9905 | 38.4701 |
| Senior Secretary, Hire Rate | 38.5542 | 39.9035 | 41.1006 | 42.7446 |
| Senior Transportation Clerk-Training, Hire Rate | 34.3316 | 35.5332 | 36.7768 | 38.0640 |
| Senior Transportation Clerk-Training, 2nd Year | 35.3414 | 36.5783 | 37.8585 | 39.1835 |
| Senior Transportation Clerk-Training, 3rd Year | 36.3511 | 37.6234 | 38.9402 | 40.3030 |
| Senior Transportation Clerk-Training, Top Rate | 40.3902 | 41.8038 | 43.0579 | 44.7802 |
| Senior Budget Clerk, Hire Rate | 32.7710 | 33.9179 | 34.9355 | 36.3329 |
| Senior Budget Clerk, 2nd Year | 33.7349 | 34.9155 | 35.9630 | 37.4015 |
| Senior Budget Clerk, 3rd Year | 34.6987 | 35.9131 | 36.9905 | 38.4701 |
| Senior Budget Clerk, Top Rate | 38.5542 | 39.9035 | 41.1006 | 42.7446 |

| E. DMU Engineers | Hourly Rates | | | |
|---|---|---|---|---|
| **Grade Description** | **7/1/2021** | **7/1/2022** | **7/1/2023** | **7/1/2024** |
| DMU Engineer, Hire Rate | 41.0980 | 42.5364 | 43.8124 | 45.5649 |
| DMU Engineer, 2nd Year | 42.3068 | 43.7875 | 45.1010 | 46.9050 |
| DMU Engineer, 3rd Year | 43.5156 | 45.0386 | 46.3896 | 48.2452 |
| DMU Engineer, Top Rate | 48.3507 | 50.0429 | 51.5441 | 53.6058 |

## AGREEMENT TO EXTEND THE LABOR AGREEMENT

## AND CREATE A SUCCESSOR AGREEMENT

**October 30, 2020**

The San Francisco Bay Area Rapid Transit District ("District") and Amalgamated Transit Union Local 1555 ("ATU") have agreed to extend the 2013-2021 Labor Agreement and create a successor agreement for the term of July 1, 2021 through June 30, 2024. All terms and conditions of the CBA shall remain in full force and effect throughout the new term with the exception of those terms which the parties have negotiated and agreed to modify.

This Agreement is expressly contingent upon the accretion of the employees represented by ATU at eBART into the BART transportation subunit represented by ATU, with the addition of certain terms and conditions to the Labor Agreement, as set forth in the tentative agreements, to be executed in accordance with the Early Implementation Agreement. The Parties expressly agree that effective June 30, 2021, or upon the reclassification of all eBART employees into an ATU BART classification, whichever occurs first, and contingent upon ratification of this Agreement, the ATU eBART Bargaining Unit shall be dissolved and the terms and conditions of the ATU eBART Collective Bargaining Agreement shall be dissolved and no longer applicable.

11/2/20

FOR THE DISTRICT

Robert M. Powers
General Manager
Bay Area Rapid Transit District

Shana Dines
Director of Labor Relations
Bay Area Rapid Transit District

FOR THE UNION

Jesse Hunt
President
ATU, Local 1555

APPROVED AS TO FORM

Victoria Nuetzel
Office of the General Counsel

# EXTENSION AGREEMENT

## June 14, 2022

The San Francisco Bay Area Rapid Transit District ("District") and Amalgamated Transit Union, Local 1555 ("ATU") have agreed to extend the 2021-2024 Labor Agreement through June 30, 2025. All terms and conditions of the CBA shall remain in full force and effect throughout the new term with the exception of those terms which the parties have negotiated and agreed to modify.

This Agreement is expressly contingent upon the execution and ratification of the tentative agreements by ATU and the BART Board of Directors.

Date: 6/14/22

FOR THE DISTRICT

Robert Powers
General Manager
Bay Area Rapid Transit District

David Coleman
Acting Director of Labor Relations
Bay Area Rapid Transit District

APPROVED AS TO FORM

Jeana Zelan
Office of the General Counsel

FOR THE UNION

Jesse Hunt
President
ATU, Local 1555

# BAY AREA RAPID TRANSIT DISTRICT

# AGREEMENT

# WITH

# DIVISION 1555
# AMALGAMATED TRANSIT UNION

# Effective
# July 1, 2021 – June 30, 2025
# Addendum

GEN-4-4 DEFERRED COMPENSATION PLAN AND QUALIFIED MONEY PURCHASE PENSION PLAN

January 5, 1981

**SIDE LETTER OF AGREEMENT: GEN-4-4**

BART Police Officers Association
Local 1008, SEIU
800 Madison Street
Oakland, California 94607

BART Supervisory and Professional Association
800 Madison Street
Oakland, California 94607

United Public Employees Local 790
522 Grand Avenue
Oakland, California 94610

Amalgamated Transit Union Local 1555
1440 Broadway Street, Suite 501
Oakland, California 94612

Re: Deferred Compensation Plan and Qualified Money Purchase Pension Plan

Gentlemen:

When signed below by all parties, this letter will constitute a Side Letter of Agreement between the parties regarding the above-mentioned subject.

The parties agree that with the exception of changes which are necessary or desirable to obtain or maintain the qualified status of the plans, the District shall not change, amend, terminate, alter or modify the written plan documents governing the implementation and administration of the District's Deferred Compensation Plan and Qualified Money Purchase Pension Plan adopted by the District's Board of Directors on December 18, 1980, insofar as such action would affect employees represented by United Public Employees Local 790, Amalgamated Transit Union Local 1555, BART Police Officers Association or BART Supervisory and Professional Association without the written mutual agreement of all parties signatory to this Side Letter of Agreement.

The parties further agree that the understandings contained in the letter dated September 30, 1980 from Paul Varacalli to Larry Williams together with the letter dated October 22, 1980 from Larry Williams to Paul Varacalli, copies of which are attached hereto, are made part of this agreement and by this reference incorporated herein.

The understandings and agreements contained in this Side Letter are to be considered a part of the consideration given for the establishment of the Deferred Compensation Plan and Qualified Money Purchase Pension Plan.

This Side Letter of Agreement shall continue in full force and effect from the date of execution until modified or terminated by the written mutual agreement of all parties to this agreement.

Keith Bernard
San Francisco Bay Area
Rapid Transit District

Gene Nixon
BART Supervisory and
Professional Association

Milt Waalkens
United Public Employees Local790

Glenn Nunes
BART Police Officers Association

Everett Riehl
Amalgamated Transit Union Local
1555

ROLE OF THE INVESTMENTS COMMITTEE

September 30, 1980

Mr. Larry Williams, Director
BART Employee Relations
800 Madison Street
Oakland, CA. 94607

Re: **ROLE OF THE INVESTMENTS COMMITTEE**

Dear Mr. Williams:

At yesterday's meeting (September 29), you are aware the Committee voted unanimously that, in the event employees vote to withdraw from Social Security coverage, Centrecorp of Oakland be designated to handle both the IRS Qualified Plan and Deferred Compensation as retirement/investment vehicles.

In response to your earlier questions concerning our interest in maintaining a continuing role for the Committee/Employee Organizations in such eventuality, you responded as follows:

1) The District has no objection to a 5-Party Agreement (the four organizations and BART operating as a Joint Trust) to enter into any Agreements to provide such programs; however

2) Any such Agreements would be reviewed by your Legal department and/or approved by the Board of Directors as necessary;

3) In the case of the Qualified Program, there appears to be no legal difficulties with the Joint Trust concept;

4) As to Deferred Compensation, BART has no opposition to a similar Joint Trust, provided such is legally permissible (there seems to be some question concerning BART being required to hold the Contract) or, as an alternate procedure, a format could be instituted to allow the Committee to effectively exercise authority over the Plan operation and funds;

5) The Committee would meet at least quarterly on District time, and on such special occasions as necessary to administer the Plans, although no paid time off would be authorized for individual members of the Committee acting independently;

6) The Committee would also function to review and approve requests for emergency withdrawal of funds due to hardship situations;

7) Actions by the Committee, unless otherwise specified, would continue to require a 4/5 vote.

8) Each entity (BART and the four organizations) would designate a Trustee and an alternate Trustee to serve on the Committee meetings (staff could also attend in nonvoting capacities).

9) The 6.65% annual contribution by BART (on a maximum salary of $29,700) in behalf of each employee would not be costed as a part of the economic package in future collective bargaining between any of the Unions and BART; however, any proposals and increases in such contributions resulting from negotiations could be considered as a part of the economic package offered by BART to represented employees. If the foregoing is also your understanding, and provided the other organizations concur, I suggest that you confirm same in writing so that an appropriate Trust Agreement may be drafted and executed by the involved parties.

Sincerely Yours,

Paul Varacalli

cc: J. Danzy, ATU 1555
R. Hendricks, BPOA, L1008
R. Peters, BARTSPA
M. Waalkens
L. Gerber

October 22, 1980

Mr. Paul Varacalli, Executive Secretary
United Public Employees Local 390
522 Grand Avenue
Oakland, California 94610

**Re: ROLE OF THE BART INVESTMENTS COMMITTEE**

Dear Mr. Varacalli:

This is in response to your letter of September 30, 1980 regarding the above referenced subject, and our subsequent discussions at the Committee meetings on October 2, 1980 and October 16, 1980.

With the exception of the changes noted below, your letter accurately reflects my comments to the Committee on September 29, 1980 regarding my understanding of the continuing role of the Committee in the event BART withdraws from Social Security. The noted exceptions are as follows: (Numerical references are to paragraph numbers in your September 30, 1980 letter.)

1) Change "Joint Trust" to "Joint Administrators."

3) Change "Joint Trust" to "Joint Agreement."

4) Change "Joint Trust" to "Joint Agreement", and end sentence after word "operation." (In the contemplated Deferred Compensation Plan, BART will be the legal owner of the "funds;" however, I am agreeable to allowing the Committee to direct the administration of these funds subject to more detailed provisions to be included in formal documents.)

8) Change the first "Trustee" to "Primary Representative" and change "Alternate Trustee" to "Alternate Representative." (These two Representatives would be the only recognized Representatives from each Union/Association for purposes of time off for Committee meetings. Recognized Representatives would be made whole only for time spent in Committee meetings which overlaps scheduled work time.)

(Last Paragraph) Change "Trust Agreement" to "Joint Agreement."

With the above noted understandings, and modifications to your September 30, 1980 letter, we are prepared to proceed to conclude the respective Agreements to effectuate a Deferred Compensation Plan, plus an IRS Qualified Plan if employees vote to withdraw from Social Security. Obviously, as you have noted, I must seek the review of our General Counsel and the approval of our Board.

By copy of this letter, all other affected labor organizations are notified accordingly. In addition, each Union/Association is requested to designate in writing its Primary and Alternate Representative to the Committee at the next meeting scheduled at 9:00 a.m. on Friday, November 7, 1980 at LMA Headquarters.

If you have further questions, please let me know.

Sincerely,

Larry Williams

LAW:jb

cc: P. L. Cooper
D. R. Bankston
J. Danzy, ATU Div. 1555
R. Hendricks, BPOA
R. Peters, BARTSPA
M. Waalkens, UPE 790

File: Investment Committee, BART

GEN-4-3(A) IMPLEMENTATION OF TRANSFER 1.627% FROM PERS TO MONEY PURCHASE PENSION PLAN

November 6, 1981

**SIDE LETTER OF AGREEMENT: GEN-4-3(A)**

Mr. Everett Riehl, President
Amalgamated Transit Union - Local 1555
1440 Broadway, Suite 501
Oakland, CA 94612

Mr. Milton Waalkens, Chapter Chairperson
United Public Employees Local 790
522 Grand Avenue
Oakland, CA 94610

Mr. Gene Nixon, President
BART Supervisory and Professional Association
800 Madison Street
Oakland, CA 94607

Mr. Glenn Nunes, President
BART Police Officers Association, Local 1008 SEIU
800 Madison Street
Oakland, CA 94607

Gentlemen:

Attached for your records is an executed copy of the Side Letter of Agreement implementing the transfer of the 1.627% from PERS to the Money Purchase Pension Plan.

Thank you for your cooperation during the ratification process.

Sincerely,

Larry Williams, Chairman
Investment Plans Committee

LAW:dcm

cc: D. R. Bankston/P. L. Cooper

**SIDE LETTER OF AGREEMENT: GEN-4-3(A)**

When signed below by the parties, this letter will constitute a Side Letter of Agreement between the parties on the subject of retirement benefits: Employer-paid contribution of One point six hundred twenty seven percent (1.627%). The undersigned Union agrees, as the sole and exclusive bargaining agent for employees of the Clerical and Maintenance Subunit that the District will, effective January 18, 1982, cease making the Employer-paid contribution to the PERS miscellaneous member account of One point six hundred twenty seven percent (1.627%) of payroll as required by the provisions of Section 29B of the current collective bargaining agreement and the undersigned agree that, in its place and stead, the District shall make such 1.627% contributions to the District's Money Purchase Pension Plan to be credited to the Individual Accounts in the same manner as other contributions to said Plan on behalf of participating employees. Effective January 18, 1982, Section 29B of the Agreement between the parties effective July 1, 1979 - June 30, 1982 is deleted in consideration of the District's agreement to make the above described 1.627% contributions to the District's Money Purchase Pension Plan from and after January 18, 1982 in the same amount and in the same payment periods and for the same duration as it would have been legally required to make such contributions pursuant to the provisions of Section 29B of the agreement in the absence of this Side Letter of Agreement.

This shall also serve as the required written authorization to amend any applicable agreement relating to the Money Purchase Pension Plan to implement the provisions of this Side Letter of Agreement.

This Side Letter of Agreement shall be deemed part of the collective bargaining agreement between the parties and any dispute regarding its interpretation or application shall be subject to the grievance and arbitration provisions of the agreement between the parties dated July 1, 1979 - June 30, 1982.

| CONCUR FOR THE DISTRICT: | CONCUR FOR THE UNION: |
|---|---|
| C. K. Bernard<br>General Manager<br>SAN FRANCISCO BAY AREA<br>RAPID TRANSIT DISTRICT | UNITED PUBLIC EMPLOYEES<br>UNION Local 790 |

cc: Department Heads/D. R. Bankston/P. L. Cooper/J. Troy/S. Wakeman

File: Benefits, Employee General/Investment Plan BART/Retirement Plan (PERS)/Agreements, Side Letters of

March 6, 1996

**SIDE LETTER OF AGREEMENT: GEN-4-5**

Mr. Milt Waalkens
SEIU, Local 790
100 Oak Street
Oakland, CA 94607

Mr. Chuck Baca
BPOA, Local 1008
800 Madison Street
Oakland, CA 94607

Mr. Robert Smith
ATU, Local 1555
132 Ninth Street, Suite 100
Oakland, CA 94607

Mr. Gregg Savage
BPMA
800 Madison Street
Oakland, CA 94607

Ms. E. Norma del Mercado
AFSCME, Local 3993
P. O. Box 12123
Oakland, CA 94604

Subject: **Donation of Vacation & Floating Holidays**

The Parties agree on the following procedure for allowing employees to donate vacation and/or floating holidays to affected employees.

1. Employees who donate vacation or floating holidays to an affected employee shall complete and sign a “Donation of Vacation & Floating Holiday Form.” The Forms must be delivered to the Human Resources Department. The employees who request to donate shall identify the affected employee, number of hours they request to donate, and they shall have at least that many hours in their account.

2. Employees who donate vacation and/or floating holidays agree that their balance of vacation and/or floating holiday hours will be reduced by the amount they donate.

3. To be an eligible recipient the person shall be a full-time or part-time employee with a catastrophic emergency, who has depleted all available sick leave, vacation, compensatory time, floating holidays, disability payments and is in a non-paid status.

4. A catastrophic emergency is a medical and/or family emergency requiring the employee to be off work in a non-paid status which results in a financial crisis.

5. All donor forms received by Human Resources shall be processed within each two (2) week payroll period.

Howard Lewis Date
Manager, Labor Relations

Milt Waalkens Date
President/BART Chapter
Service Employees
International Union
Local 790

Robert Smith Date
President/Business/Agent
Amalgamated Transit Union,
Local 1555

Gregg Savage Date
President
BART Police Managers'
Association

Chuck Baca Date
Acting President
BART Police Officers
Association

E. Norma del Mercado Date
President
American Federation of State.
County and Municipal
Employees, Local 3993

ATU/SL-6-3 CHOICE OF SHIFTS/SIGN-UPS - TRAIN OPERATORS

July 5, 1988

**SIDE LETTER OF AGREEMENT: ATU/SL-6-3**
Choice of Shifts/Sign-Ups – Train Operators

Mr. Hank White, President
Amalgamated Transit Union - Local 1555
132 Ninth Street
Oakland, California 94607-4799

Dear Mr. White:

When the Daly City turnback is in operation and/or trains are scheduled at close headways of three (3) minutes and ten (10) seconds or less for a sustained period of one (1) hour or more, the following report locations, including ends of the line may be implemented:

| **A-Line** | **R-Line** |
|---|---|
| Coliseum | Oakland City Center - 12th Street |
| Bayfair | 19th Street |
| MacArthur | |

The parties further agree that:

1. Before the implementation of the new report locations, the District will meet with the Union for the purposes of finalizing the locations;
2. The District will provide adequate rest and break facilities, exclusive of showers, at designated mainline report locations; and
3. Train Operators shall not be required to report for "start-up" and "shut-down" shifts on the mainline except at those stations where trains may be stored.

CONCUR FOR DISTRICT:

Larry Williams Date
Manager, Employee Relations

CONCUR FOR UNION:

Hank White Date
President, ATU-1555

ATU/SL-6-4 SENIORITY FOR PART-TIME TRAIN OPERATORS AND STATION AGENTS

July 19, 1989

**SIDE LETTER OF AGREEMENT: ATU/SL-6-4**
Seniority for Part-time Train Operators and Station Agents

Mr. Hank White, President
Amalgamated Transit Union - Local 1555
132 Ninth Street
Oakland, California 94607-4799

Dear Mr. White:

This letter shall constitute a Side Letter of Agreement between the District and Amalgamated Transit Union Local 1555, amending 44.9, Seniority, for Part-Time Train Operators and Station Agents as follows as underlined:

"The District shall maintain two (2) separate seniority rosters for part-time and full-time Train Operators and Station Agents.

Seniority for Part-Time Train Operators and Station Agents shall be governed by their date of hire. In the event two (2) or more people have the same date of employment or assignment, the ranking of such individuals for seniority purposes shall be in the order of age and the oldest individual with the same seniority date shall be assigned the higher seniority ranking. In the event two (2) individuals have the same birthday, the matter shall be resolved by lot between the individuals concerned.

Part-time seniority shall determine priority for part-time shifts, location, RDOs, and appointment to Full-Time Train Operator or Station Agent positions.

The parties agree that effective May 1, 1989, seniority, for bidding purposes only (i.e., selection of shifts, RDOs and location), of all promoted Part-Time Train Operators or Station Agents, shall follow the seniority of then existing Full-Time Station Agents or Train Operators, using the promoted Part-Time Train Operator's or Station Agent's original District date of hire.

However, if a Part-Time Station Agent or Train Operator is subsequently promoted before or at the same time as a newly hired Full-Time Station Agent or Train Operator attaining TW II status, the Part-Time Station Agent or Train Operator shall enjoy seniority ahead of the newly- hired Full-Time Station Agent or Train Operator.

For all other purposes, (e.g., benefits, salary progression, etc.), seniority accrued by a Part-Time Train Operator or Station Agent shall not be transferable to full-time seniority.

This Side Letter of Agreement shall remain in effect until June 30, 1991. However, the parties agree that the provisions of this Side Letter of Agreement may be renegotiated, if during the course of the implementation of this Agreement, the District determines that it is unable to operate effectively."

| Concur for District: | Concur for Union |
|---|---|
| Larry Williams Date | Hank White Date |
| Manager, Employee Relations | President, ATU 1555 |

File: Seniority - ATU
Side Letters (ATU-6-4)

**ATU/SL-22-01 ELECTRONIC BIDDING**

**June 14, 2022**

**SIDE LETTER OF AGREEMENT: ATU/SL-22-01**

Mr. Jesse Hunt
President
ATU Local 1555
132 Ninth Street, Suite 100
Oakland, CA 94607

Re: Electronic Bidding

Dear Mr. Hunt:

As part of negotiations during the 2022 contract extension the parties agreed that the District would implement electronic bidding. The electronic bid would be computer-based and, after it is implemented, would eliminate the need for employees to bid "in person" and the effects of that requirement on staffing and choice sign-ups.

In conjunction with the Parties movement of the bid dates to January and August, the parties agree that implementation of the electronic bidding system will begin with the August 2023 bid and the move to electronic bidding will be completed no later than the January bid of 2024. With this target in mind, the Parties have agreed to the following:

1) After ratification of this agreement the Parties will meet, at minimum, on a quarterly basis starting September 2022 to discuss the implementation process for electronic bidding. The parties agree that Transportation and ATU will assign no more than four (4) members each to the Electronic Bidding Committee.

2) Any meetings of the Electronic Bidding Committee may include topics such as system information, training, technological requirements, as well as bidding times, structure, frequency, and other rules.

3) In-person or phone bidding will not be fully eliminated in any classification until the electronic bidding system is functional for that classification's group to a level mutually satisfactory to the members of the Electronic Bidding Committee.

4) The electronic bidding system will preserve the current requirements in the Shift Choice Sign-Ups structures in S13.4, S14.2 and S19.5 of the CBA unless changes are mutually agreed to by the parties.

5) If, as the result of the implementation of electronic bidding, there are less stewards needed to conduct the bids than the number used in

the January 2022 System-wide Sign-up, the District will add 80 hours of Union Business time for each steward reduction to the allowable time under S35.0 for that fiscal year.

6) To the extent the parties find other contract clauses that conflict with the ability to bid electronically, this side letter and the mutual agreements made by the parties thereunder will supersede.

Date: _____

FOR THE DISTRICT

_____
Robert Powers
General Manager
Bay Area Rapid Transit District

_____
David Coleman
Acting Director of Labor Relations
Bay Area Rapid Transit District

FOR THE UNION

_____
Jesse Hunt
President
ATU, Local 1555

APPROVED AS TO FORM

_____
Jeana Zelan
Office of the General Counsel

ATU/SL-8-9 TRANSPORTATION AND SYSTEM SERVICE DEPARTMENT

October 17, 1994

**SIDE LETTER OF AGREEMENT: ATU/SL-8-9**
Transportation and System Service Department

Ms. Jayne Faria
President/Business Agent
Amalgamated Transit Union, Local 1555
132 Ninth Street
Oakland, CA 94607

Dear Ms. Faria:

The undersigned parties (ATU Local 1555 and the San Francisco Bay Area Rapid Transit District) agree that the attached organizational structure (Exhibit A) is deemed to be in compliance with Sections 2.1 and S11.0 of the current collective bargaining agreement between the District and the Union. The Union's acceptance of this organizational structure will not be used as precedent to support any other organizational changes, and the Union reserves the right to object to any other structural changes in the District's organization. The District's acceptance of this organization structure will not constitute a waiver of any rights it has to reorganize its organizational structure.

It is also agreed that the organizational changes made by Exhibit A are not intended to affect in any way whatsoever the jobs or work heretofore performed by the bargaining unit classifications encompassed within this organizational structure. No work of any unit employee will be eliminated, or removed from, any job classification or bargaining unit as a result of the parties' agreement to this organizational structure; nor will this organizational structure result in any such work being moved to any other job classification or bargaining unit.

The District re-affirms that as a result of this organizational structure the classifications of employees in the Transportation Department and/or sub-unit will not be assigned or asked to perform work heretofore performed by the SEIU Local 790 bargaining unit; and, that as a result of this organization structure, the System Service Workers and related support and clerical staff, who will continue to be exclusively represented by SEIU Local 790, will not be assigned or asked to perform work heretofore performed by the ATU Local 1555 bargaining unit. The respective ATU/SEIU bargaining units (as defined by the California Department of Industrial Relations on March 6, 1973 and as incorporated in Section 2.1 of the parties' collective bargaining agreement) will not be changed as a result of the organizational structure made by Exhibit A.

When signed below, this represents the agreement of the parties.

CONCUR FOR DISTRICT:

Paul Oversier Date
Chief Transportation Officer

CONCUR FOR
ATU LOCAL 1555:

Jayne Faria Date
President, ATU Local 1555

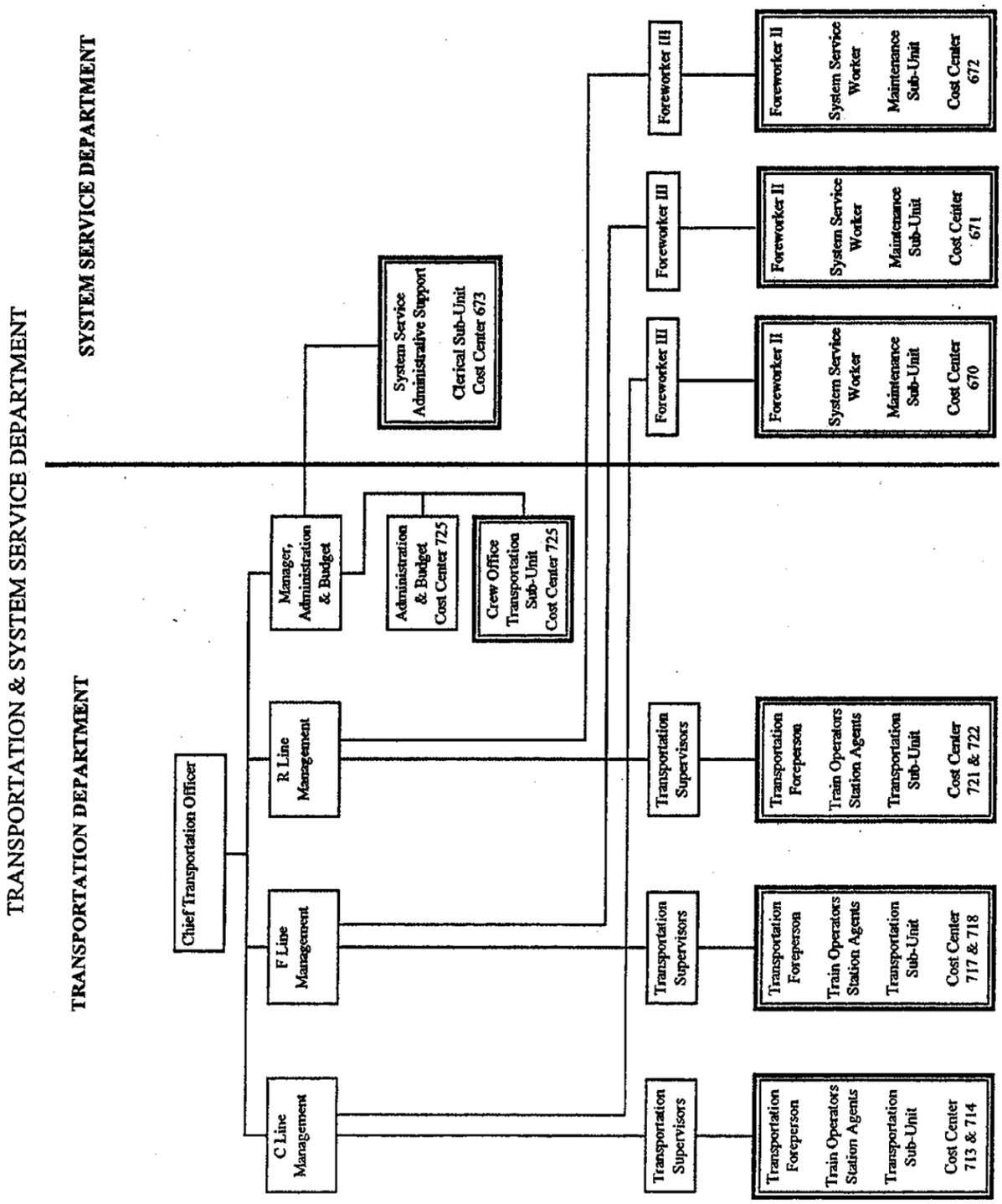
CONCUR FOR
SEIU LOCAL 790:

Howard Lewis Date
Manager of Labor Relations

Milt Waalkens Date
President, SEIU Local 790

Attachment

cc: ACTOs
Al Johnson
Shirley Wong


TRANSPORTATION & SYSTEM SERVICE DEPARTMENT
TRANSPORTATION DEPARTMENT
SYSTEM SERVICE DEPARTMENT
Chief Transportation Officer
C Line Management
F Line Management
R Line Management
Manager, Administration & Budget
Administration & Budget Cost Center 725
Crew Office Transportation Sub-Unit Cost Center 725
System Service Administrative Support Clerical Sub-Unit Cost Center 673
Transportation Supervisors
Transportation Supervisors
Transportation Supervisors
Transportation Foreperson Train Operators Station Agents Transportation Sub-Unit Cost Center 713 & 714
Transportation Foreperson Train Operators Station Agents Transportation Sub-Unit Cost Center 717 & 718
Transportation Foreperson Train Operators Station Agents Transportation Sub-Unit Cost Center 721 & 722
Foreworker III
Foreworker III
Foreworker III
Foreworker II System Service Worker Maintenance Sub-Unit Cost Center 670
Foreworker II System Service Worker Maintenance Sub-Unit Cost Center 671
Foreworker II System Service Worker Maintenance Sub-Unit Cost Center 672

November 1, 1999

**SIDE LETTER OF AGREEMENT: ATU/SL-8-10**
Special Schedules and Pay for 12/31/99

Mr. Robert Smith
President/Business Agent
Amalgamated Transit Union, Local 1555
132 Ninth Street, #100
Oakland, CA 94607

RE: Special Schedules and Pay for 12/31/99

Dear Mr. Smith:

This letter shall constitute a Side Letter of Agreement which has been reached by the San Francisco Bay Area Rapid Transit, hereafter referred to as the District and Amalgamated Transit Union Local 1555, hereafter referred to as the Union. This Side Letter is only intended to address the changing of the rate of pay for all ATU 1555 bargaining unit employees who work on December 31, 1999; overtime pay for December 31, 1999 for the part-time Train Operators and part-time Station Agents; and hours worked by part-time Station Agents and part-time Train Operators on holidays as stated below:

The Parties agree on the following specific procedures and conditions to implement this Side Letter of Agreement.

1. Employees whose shift starts on 12/31/99 will receive three (3) times their regular pay for all hours that are actually worked on 12/31/99. If the employee's shift starts on 12/31/99 and continues into 1/1/2000, the employee will receive three (3) times his/her regular pay for the hours actually worked on 1/1/2000. The employee who works a swing shift or a graveyard shift will receive the normal contractual shift differential. Employees will not receive any other premium pay such as overtime or holiday pay for hours worked on 12/31/99. Employees whose shift starts on 12/30/99 and goes into 12/31/99 will receive their normal pay as provided in the labor contract for all hours worked.

2. Any additional shifts needed, as determined by Management, will be posted as special overtime, and filled pursuant to Section S28.4 of the Collective Bargaining Agreement.

3. For December 31, 1999 part-time Train Operators and part-time Station Agents will be offered overtime as necessary on a voluntary basis to include overtime on their RDOs, after all full time employees have exercised their bidding rights to overtime.

4. Part-time Train Operators and part-time Station Agents will have the right to bid for work on all District Holidays. Part-time Train Operators and Station Agents will exercise their right to bid after all provisions of the CBA concerning full-time Train Operators and Station Agents holiday bidding procedures have been met, and prior to full-time Train Operators and full-time Station Agents being inversely assigned. In all cases, the (11) eleven hour rest provision remains unchanged. Part-time Train Operators and part-time Station Agents shall be paid time and one-half (1-1/2) for all hours worked on District reduced schedule holidays.

5. This Side-Letter as to 12/31/99 and as to holidays for part timers will prevail when it is in conflict with the part-time maximum weekly hours worked, part-time premium pay, part-time employees working holidays and hourly rate of pay in the Collective Bargaining Agreement.

The Union agrees to cooperate and assist the District in having an adequate workforce for 12/31/99.

Please indicate your concurrence by signing below.

CONCUR FOR DISTRICT:

Alaric Johnson Date
Acting Chief Transportation Officer

Michal F. Settles Date
Department Manager
Human Resources

CONCUR FOR UNION:

Robert Smith Date
President, ATU Local 1555

cc: P. Oversier/T. Murphy/M. Settles/V. Wright

ATU/SL 9-3 NEW CLASSIFICATION – SENIOR OPERATIONS SUPPORT SYSTEMS ANALYST

July 13, 2000

**SIDE LETTER OF AGREEMENT: ATU/SL 9-3**
New Classification – Senior Operations Support Systems Analyst

Mr. Robert Smith
President/Business Agent
Amalgamated Transit Union, Local 1555
132 Ninth Street, Suite 100
Oakland, CA 94607-4712

Dear Mr. Smith:

Due to typographical errors discovered in Side Letter ATU/SL 9-3, signed by the parties on July 13, 2000, August 29, 2000, and September 13, 2000, the following typographical errors are corrected. The Step 1 rate changed from $28.5714 to $28.5713 due to an incorrect rounding. The Step 2 percent of top rate was corrected and changed from 87.0% to 87.5%, with a corresponding change in the rate.

A desk audit was conducted on the Operations Support Systems Analyst position. The desk audit determined that a senior level Operations Support Systems Analyst position should be established to properly reflect the higher level of work being performed.

A comparison of internal positions performing similar level work was completed. Based on those comparisons, it has been determined that the appropriate annual salary for this position is $67,227.00 ($32.3206 hourly). The following details the Step increases based on the hourly rate of pay for 7/1/99 and 7/1/00 wage schedules.

| Effective 7/1/99 | | Effective 7/1/00 | |
|---|---|---|---|
| Step 1 – 85% | $27.4725 | Step 1 – 85% | $28.5713 |
| Step 2 – 87.5% | $28.2805 | Step 2 – 87.5% | $29.4117 |
| Step 3 – 90% | $29.0885 | Step 3 – 90% | $30.2520 |
| Step 4 – 100% | $32.3206 | Step 4 – 100% | $33.6134 |

Upon signing of this Side Letter the incumbent in the Operations Support Systems Analyst position will be upgraded to a Senior Operations Support Systems Analyst and the increase in pay will be retroactive to January 1, 1999.

CONCUR FOR THE DISTRICT:

Darrell Murray Date
Manager, Labor Relations

CONCUR FOR THE UNION:

Robert Smith Date
President, ATU Local 1555

CONCUR FOR THE DISTRICT:

Alaric Johnson Date
Chief Transportation Officer

## SIDE LETTER OF AGREEMENT: ATU/SL 9-4

### PART A: Parties

The parties to this side letter are ATU Local 1555 (hereinafter "ATU" or "Union") and the San Francisco Bay Area Rapid Transit District (hereinafter "District").

### PART B: Background

1. The parties are signatories to a 1997-2001 collective bargaining agreement (hereinafter "1997-01 Agreement") covering members of the certified ATU bargaining unit.

2. The 1997-2001 Agreement does not provide Medical Premium Conversion, Medical Spending Accounts (hereinafter "MSAs"), or Dependent Care Accounts (hereinafter "DCAs). Medical Premium Conversion, MSAs and DCAs are hereinafter jointly referred to as the "Program." They are mechanisms through which employee health insurance premium contributions, qualified medical expenses not covered by insurance, and qualified expenses incurred by employees to care for certain dependents may be exempted from certain taxes.

3. The parties wish to offer the Program to members of the ATU bargaining unit. However, to ensure efficient administration, the District is prepared to do so at this time only if all District bargaining units simultaneously agree to participate on the same terms.

4. The District and its Unions established a joint labor-management committee to identify and recommend a vendor to provide certain administrative services related to the implementation and management of the Program.

5. The District will perform certain administrative functions it deems reasonable and necessary related to implementation of the Program not performed by the vendor (e.g. Program communications, creation of general ledger records needed to independently validate enrollment, etc.). For cost estimate and fee calculation purposes, the parties have initially agreed to assume that these functions will require one and one-half full-time equivalent positions, including an SA III H1 (payroll) and a Clerk III (benefits).

6. The District will enjoy some savings as a result of the implementation of the Program. However, the District is not a participant in the non-Medicare portion of the federal Social Security program and will, therefore, not enjoy much of the savings that employers who participate fully in Social Security enjoy when implementing the same program.

7. The fact that the District will not enjoy reduced Social Security costs but will incur substantial expenses means that other revenues must be

generated if the Program is to be implemented at no net cost to the District.

8. The joint labor-management committee has discussed methods of funding the District's net program related expenses.

9. The joint labor-management committee has recommended adoption of an initial monthly fee that each District employee enrolled in its medical insurance programs will be charged to defray the District's projected net cost of administering the Program.

10. The Union concurs with the joint labor-management committee's recommendation.

11. The parties acknowledge that the monthly rate may be a mandatory subject of bargaining. However, the parties desire that employees pay the same rate on a District-wide basis insofar as possible that will cover the actual net cost to the District of administrative functions performed in administration of the Program.

The parties agree as follows:

**PART C: Exchange of Promises and Obligations**

1. PROGRAM INITIATION AND TERMINATION. The District shall establish the details of the Program effective January 1, 2001. The "Program" consists of three parts: Medical Premium Conversion, Medical Spending Accounts and Dependent Care Accounts. The District may terminate the Program or any of its parts if, in the District's judgment, the Program or part no longer meets the requirements of law or does not qualify for tax-exempt treatment.

2. OPEN ENROLLMENT. The District shall establish an open enrollment period for the program to occur either separately or at the same time as other District open enrollment processes. In any event, the open enrollment period shall occur prior to January 1, 2001 and once per year thereafter.

3. TERMINATION FROM THE PROGRAM. Employees who terminate from District employment (through retirement or otherwise) or who are placed on inactive status shall be permitted to continue to participate in the Program only in accordance with the terms of the Program and applicable federal and state law. Employees who are terminated from the Program during a given plan year and who are rehired during that same plan year shall be permitted to re-enroll in accordance with the terms of the Program and applicable federal and state law, but in no event later than the next following open enrollment period for the Program. Employees on inactive status include those who have exhausted their available sick leave, vacation leave, holiday leave and available compensatory time off and who

are on unpaid leaves of absence or eligible for short or long-term disability or Industrial Accident payments.

4. CHARGE TO EMPLOYEES FOR DISTRICT'S NET ADMINISTRATIVE COSTS. Subject to Section 5 below, each employee in the ATU bargaining unit enrolled in a District medical insurance plan shall be charged two dollars and eighty-two cents ($2.82) each month to defray the District's net District-wide cost for functions it performs that are reasonably necessary to administer and account for the Program. This amount shall be deducted once each month at the last pay date of the month. The District shall maintain a record of staff time and other expenses incurred to administer and account for the Program to provide the parties with objective data on which to base discussions conducted pursuant to Section 5 below.

5. REVISIONS TO MONTHLY CHARGE.

A. Meeting(s) To Discuss Rate. Except as provided in Section 9 below, the parties agree to meet between March 15 and April 1 of each even numbered year beginning in 2002 to discuss possible modification of the monthly charge deducted from employee paychecks pursuant to Section 4 above that will apply for the two years that ensue the following January 1. The parties may propose a modified rate to cover the ensuing two-year period, or may propose separate rates for each of the two ensuing two years. If after ten (10) days from the date of such meeting the parties are unable to reach an agreement on the amount of such charge(s) for the ensuing two-year period, the matter shall be submitted to arbitration pursuant to Section 6 below. However, if the parties agree on a modified rate structure or to continue the pre-existing rate structure prior to issuance of an arbitration award, the arbitration request shall be withdrawn or, if the hearing has begun, the hearing shall be terminated and the arbitrator shall not issue an award.

B. Access To Information. During the meeting(s) described in subsection A of this Section, each party agrees to share with the other the data and assumptions that form the basis of the party's proposed rate structure. The parties additionally agree that during the period beginning January 15 immediately preceding the first such meeting and ending with the establishment of a revised rate pursuant to this Section, each shall provide the other with such information as is reasonably necessary and reasonably within their control to carry out their respective roles in the discussions and any impasse resolution proceedings carried out pursuant to Section 6 below. If the parties are unable to reach agreement on a revised fee structure, the arbitrator appointed pursuant to Section 6 below shall resolve all disputes concerning an alleged breach of this subsection during the thirty (30) day period immediately preceding the hearing date established pursuant to Section 6 below.

The party that desires resolution of such a dispute shall petition the arbitrator by letter with a copy to the other side. The arbitrator shall consult simultaneously with the parties' respective representatives and thereafter issue an order resolving the dispute.

6. ARBITRATION OF MONTHLY CHARGE.

A. Scheduling the Hearing Date. On the regular business day nearest to January 10 of calendar years in which the parties will meet to discuss possible revisions to charges pursuant to Section 5 above, the parties shall select an arbitrator in the same manner as for grievance arbitration under the parties' collective bargaining agreement. The selected arbitrator shall be immediately notified of his or her selection and requested to hold the regular business day nearest to but not before May 1 of the same calendar year open for hearing and resolving a dispute over the appropriate monthly charge pursuant to Section 5 above. The parties shall each submit their last-best offer to the arbitrator and to the other party not later than April 20 preceding the hearing date. Neither party may change their last-best offer after it is submitted unless they receive written permission from the other party.

B. Hearing. The arbitrator appointed pursuant to Section 6(A) above shall conduct a hearing on the date scheduled pursuant to subsection A above of this Section. During the hearing, the arbitrator shall permit each party to present in support of its proposed rate(s) such relevant evidence as it desires concerning the District's past and anticipated costs and savings incurred as a result of its implementation and on-going operation of the Program. Such costs and savings may include but are not limited to:

1. Medicare contributions that the District is not required to make because of the tax laws and rules governing the Program;

2. Any positive and negative employee Medical Spending and Dependent Care Account balances at the end of the plan year;

3. Any interest the District may earn on funds in Medical Spending or Dependent Care accounts, if not already accounted for under Section 2 immediately above.

4. Charges in excess of or less than actual net District costs incurred to implement and administer the Program during the two-year period to which the rate structure in effect at the time of the hearing applies. For example, for the hearing held in May, 2002 the applicable measurement period is January 1, 2001 through December 31, 2002. Charges considered shall include a reasonable projection of the total that will accrue by the end of the applicable two-year period.

5. Vendor and consultant charges (including outside counsel) incurred by the District in connection with the implementation and operation of the Program.

6. Costs for work performed by District employees to implement, operate or account for the Program including, but not limited to, conducting open enrollment, change of status enrollments, and new employee enrollments, inputting enrollment data, processing terminations from the Program, inputting termination data, managing participation of retirees in the program pursuant to COBRA, responding to inquiries from employees or their representatives, preparing and disseminating written Program information to employees or their representatives, downloading data to and from the vendor, analyzing data to be downloaded or that has been downloaded, creating and maintaining transaction records independent of those maintained by the vendor to ensure existence of an independent audit trail.

C. Arbitrator's Decision. Within seven (7) days after the hearing, the arbitrator shall award the rate(s) contained in either the District's or Union's last-best offer submitted pursuant to subsection A above. Such award shall be based on the evidence produced at hearing and reflect the arbitrator's opinion concerning the offer that most closely reflects the District's net district-wide per employee monthly cost for implementing, operating and accounting for the Program in the two year period beginning the following January 1, taking into account any substantial overcharges or undercharges that are established by the evidence for the period in which the hearing occurs.

7. ENTIRE AGREEMENT. This written instrument reflects the entire agreement of the parties. There are no terms or promises related to the subject matter addressed, except as expressed in writing herein.

8. CHANGES TO CONFORM WITH LAW. The District may immediately implement such changes in the Program as, in the District's judgment, are necessary to ensure that the Program and its parts conform with law and remain tax exempt. The District shall meet with the Union as soon as feasible to discuss the basis for such changes and any alternatives.

9. DURATION. The parties may modify or terminate this agreement at any time by mutual agreement. Otherwise, this agreement shall remain in effect through the life of the 1997-2001 collective bargaining agreement between the parties and the first successor thereto. Upon expiration of said successor agreement but prior to the signing of the next successor agreement, the continuation, modification, or discontinuation of the Side Letter shall be governed by collective bargaining.

Done this day, July 12, 2000.

| For the District: | For the Union: |
| --- | --- |
| Darrell Murray<br>Labor Relations Manager | Robert Smith, President<br>ATU, Local 1555 |

December 12, 2012

**SIDE LETTER OF AGREEMENT: ATU/SL-01-10**

Re: BAP Implementation

Upon signing by the Parties, this letter shall constitute a Side Letter of Agreement which has been reached by the San Francisco Bay Area Rapid Transit District ("District") and Amalgamated Transit Union Local 1555 ("Union") (hereinafter jointly referred to as "Parties") regarding the Senior Secretary classification and the re-designation of the Operations Support System Analyst classification and compensation to a new ATU-Time and Labor Administration Analyst classification.

1. The Parties agree that the top wage rate for Senior Secretary classification shall be increased to $28.2561. The Base Wage Schedule in Section S47.0 of the Labor Agreement shall be amended to reflect this top rate and the associated wage progression for this classification.

2. The Parties agree that the Operations Support System Analyst classification shall be re-designated as the ATU-Time and Labor Administration Analyst, in the ATU Bargaining Unit.

3. The Time and Labor Administration Analyst top rate shall be $39.3700. The Base Wage Schedule in Section S47.0 of the Labor Agreement shall be amended to reflect this top rate and the associated wage progression for this classification.

4. As a result of this Agreement, the Labor Agreement shall be amended as follows:

   a) Section S12.B:

      Replace "6. Operations Support System Analyst" with "6. Time and Labor Administration Analyst."

   b) Section S18:

      Replace "Operations Support System Analyst" with "Time and Labor Administration Analyst" in Section S18.0, S18.1, and S18.2.

   c) Section S47.0:

      Replace "Operations Support System Analyst" with "Time and Labor Administration Analyst" and amend the Base Wage Schedule to reflect the top rate and associated progression listed in #3 above.

This Side Letter of Agreement shall be deemed part of the Labor Agreement between

Concur For The District:

Rudy Crespo Date
Chief Transportation Officer

Rudolph C. Medina Date
Department Manager, Labor Relations

Concur For The Union:

Antonette C. Bryant Date
President/Business Agent

**SIDE LETTER OF AGREEMENT: ATU/SL-10-1**

**SIDE LETTER RE: RETIREE MEDICAL ELIGIBILITY AND COST SAVINGS**

August 16, 2009

Mr. Jesse Hunt, President
Amalgamated Transit Union – Division 1555
132 9th Street, Suite 100
Oakland, CA 94607

Dear Mr. Hunt:

This letter of understanding reflects the agreement reached between the District and Amalgamated Transit Union – Division 1555 in regard to potentially increasing the years required for retiree medical eligibility under the District's medical benefits plan, and to meet to discuss allocation of projected actuarial savings accruing from implementing the retiree medical eligibility schedule, including potential allocation to wage increases in Fiscal Years 2012 and 2013.

Commencing no later than ninety (90) days after ratification of the 2009-2013 contract, the parties, together with all other interested bargaining units, shall meet to outline the terms of a proposed 15 year retiree medical eligibility schedule for future hires. The parties shall jointly seek CalPERS preliminary approval for the proposed retiree medical eligibility schedule, and if necessary, jointly sponsor legislation to amend the California Government Code to permit adoption of a 15 year retiree eligibility schedule under PEMHCA. The parties shall seek to have such legislation introduced in either the California Assembly or Senate in calendar year 2010, or as soon thereafter as practicable. The parties will actively support the passage of such legislation.

If the proposed retiree medical schedule or legislation is approved, the parties, together with all other interested bargaining units, shall meet to discuss allocation of projected actuarial savings accruing from implementing the new schedule, including allocation to wage increases in Fiscal Years 2012 and 2013. If the parties reach agreement, they shall adopt the new retiree medical eligibility schedule and wage increase allocations effective in Fiscal Year 2012 or 2013.

For the District:

M. Carol Stevens
Chief Negotiator

Teresa Murphy
Assistant General Manager/
Administration

Maria Robinson
Acting Department Manager
Labor Relations

For the Union:

Jesse Hunt, President
Business Agent, ATU Local 1555

ATU/LOU LETTER OF UNDERSTANDING: RETIREE MEDICAL ELIGIBILITY

October 23, 2013

**LETTER OF UNDERSTANDING:**

**Retiree Medical Eligibility**

This shall confirm that the proposed legislation related to Retiree Medical Eligibility, agreed upon by Tentative Agreement dated October 23, 2013, shall be in the form attached hereto and marked as Exhibit A.

The parties have agreed and herein confirm that they shall jointly seek and affirmatively support passage of this attached legislation.

**FOR THE DISTRICT**

Thomas P. Hock Date
Chief Negotiator

Paul Oversier Date
Assistant General Manager of Operations

Rudolph C. Medina Date
Department Manager, Labor Relations

**FOR SEIU**

Josie Mooney Date
Chief Negotiator

Leah Berlanga Date
Chief Negotiator

John Arantes Date
President, BART Chapter

Deslar Patten Date
President, BART Professional Chapter

**FOR ATU**

Antonette Bryant Date
President/Business Agent, ATU Local 1555

**EXHIBIT A**

THE PEOPLE OF THE STATE OF CALIFORNIA DO ENACT AS FOLLOWS:

1. Section 22896 is added to the Government Code, to read:

Section 22896. (a) For the purposes of this Section, the term “District: shall mean the San Francisco Bay Area Rapid Transit District.

(b) This Section, if enacted into law after January 1, 2014, is intended to have retroactive effect and application to January 1, 2014.

(c) Notwithstanding any other provision of this part, the District May make contributions for postretirement health benefits for its unrepresented employees (including members of the district Board of Directors to the extent that they are eligible for contributions under existing law) and members of any unit of employees whose terms and conditions of employment are determined through collective bargaining. Those contributions shall be subject to the following:

(1) Credited years of service that the employee worked with the District.

(2) An agreement with all represented employees regarding postretirement health coverage mutually agreed upon through collective bargaining.

(3) Contributions for postretirement health benefits for the District’s unrepresented employees (including members of the district Board of Directors, to the extent that they are eligible for contributions under existing law) may only be made in accordance with the eligibility criteria and schedule below.

(d) An agreement reaches pursuant to subdivision (b) shall provide that employer contributions for postretirement health benefits for employees shall be made in the following percentages for the applicable credited years of service:

| Credited years of service | Percentage of Employer Contribution |
|---|---|
| 10 | 50 |
| 11 | 60 |
| 12 | 70 |
| 13 | 80 |
| 14 | 90 |
| 15 | 100 |

(e) An agreement reached pursuant to subdivision (b) shall authorize full employer contributions for postretirement health benefits for those employees who retire for disability with 5 years of credited service with the district.

(f) (1) This Section shall only apply to district employees hired on or after January 1, 2014, and to directors who first serve as a director on or after January 1, 2014.

(2) This Section shall apply to employees whose terms and conditions of employment are determined through collective bargaining only if the agreement is expressly incorporated by reference into, or made a part of, memorandum of understanding.

(g) This Section is not applicable to any employee who retires before the effective date of the memorandum of understanding referenced in subsection (f) (2). In the event that the memorandum of understanding established a retroactive effective date, this Section shall apply only to prospective retirements.

(h) The District shall provide, in the manner prescribed by the board, a notification of each agreement established pursuant to this Section or personnel action incorporating or applying this Section, and any additional information necessary to implement this Section.

ATU/LOU-2 LETTER OF UNDERSTANDING: RE: EMPLOYEE BREAKROOMS

December 20, 2013

**LETTER OF UNDERSTANDING:**

**Re: Employee Breakrooms**

The District and ATU agree as follows:

The District will immediately begin the process of constructing break rooms in Daly City and Millbrae specifically for station agents and will construct a break room at West Oakland. It is mutually understood that this construction shall take priority over but not replace those projects already scheduled. The parties each expressly reserve their rights and positions regarding pending break room grievances.

FOR THE DISTRICT

Bruce Conhain Date
Chief Negotiator

Paul Oversier Date
Assistant General Manager of Operations

Carter Mau Date
Assistant General Manager, Administration & Budgets

FOR ATU

Antonette Bryant Date
President/Business Agent,
ATU Local 1555

GEN/MOU-95-01 RANDOM SUBSTANCE ABUSE TESTING REPRESENTATION

June 15, 1995

Jayne Faria, President
ATU Local 1555
132 Ninth Street, Suite 100
Oakland, CA 94607

Milt Waalkens, President
UPE Local 790
100 Oak Street
Oakland, Ca 94607

**RE: Memorandum of Understanding (MOU #95-01) Random Substance Abuse Testing Representation**

Dear Ms. Faria and Mr. Waalkens:

It is mutually agreed between the District and United Public Employees Local 790 and Amalgamated Transit Union Local 1555 that:

1. Employees notified and scheduled for random testing shall be entitled to Union Representation upon verbal or written request only.

2. If Union representation is requested, it shall be provided within one hour at the test site. If the representation is not provided at the test site within that one hour, the District may proceed with the random drug testing without the representative.

3. If the requested representative appears within the one-hour time period, the representative will provide consultation and representation to the employee requesting representation. The representative will not impede the substance abuse testing and will leave the test site and/or return to work, when the employee requesting representation consents to take the test.

4. Any party may notify the other parties of its intent to terminate the MOU with five (5) working days notice. Within the five (5) working day notice period, the parties shall meet to attempt to resolve the disputes or differences that give rise to the intent to terminate. If the parties cannot resolve the disputes or differences, the MOU terminates after the expiration of the five (5) days and the parties revert to their previously held positions. If the MOU is terminated, the parties preserve their rights to arbitrate the original grievances #95-6-018 and #95-007.

5. This MOU is non-precedent setting and the parties shall not assert, claim or argue its contents as a beneficial practice in any subsequent arbitration or other proceeding.

Concur for District:

Larry A. Williams Date
AGM - Administration

Concur for Unions:

Jayne Faria Date
President, ATU Local 1555

Milt E. Waalkens Date
President, UPE Local 790

cc: J.T. Gallagher
P. Oversier
F. Stephens
M. Settles
H. Lewis
B. George
B. Jackson

ATU/MOU-002-4 3-3-1 COMMITTEE RE: PROCEDURES FOR MINOR DISCIPLINE AND PAY CLAIM GRIEVANCES

July 3, 1984

**MEMORANDUM OF UNDERSTANDING: ATU/MOU-002-4**
3-3-1 Committee Procedures

Mr. Hank White, President
Amalgamated Transit Union - Local 1555
132 Ninth Street
Oakland, California 94607

Dear Mr. White:

This letter shall confirm an understanding between the District and Amalgamated Transit Union - Local 1555 and constitutes adoption by the 3-3-1 Committee of the following procedures for minor discipline and pay claim grievances subject to Management/ Union Arbitration Committee meetings as follows:

1. A tentative agenda of cases to be heard before the committee shall be set not later than 1100 hours, seven (7) working days prior to the hearing; finalization of this agenda shall be made no later than 1300 hours, two (2) working days prior to the hearing.

2. If the grievant's case cannot be scheduled during his/her regular work hours due to the operational needs of the District, the grievant shall be eligible for compensation as set forth below:

   A. Time spent for the scheduled hearing shall be compensated to the grievant at his/her regular straight time rate only in the event the case is sustained or allowed in his/her favor.

   B. No travel expenses or compensation for time spent going to or from the committee hearing shall be paid.

   C. The neutral arbitrator shall announce the starting and finishing time of each case that is heard. No statement regarding whether or not the grievant is on or off shift shall be made at the time of the hearing.

3. Grievants and witnesses shall be notified of the agenda of the forthcoming committee meeting within twenty-four (24) hours after the agenda is finalized.

4. The Union shall notify the grievant, witnesses and their committee members.

5. Management shall notify supervisory employees, witnesses, and their committee members.

6. An agenda, once finalized, shall not be changed. Any case not heard shall result in the defaulting party forfeiting the case, except in cases of emergency, as determined by the committee (subject to Paragraph 11).

7. Union Committee Members' and Advocate's work assignments for the day of the 3-3-1 hearing shall be from 0900 to 1700 hours. They shall report to 800 Madison Street at the designated Conference Room. Should the Committee work finish prior to 1700 hours, the Union Committee members shall be assigned as determined by Management. During this time, the Union Advocate shall perform duties regarding the hearing and related matters. Union Committee Members and Advocates shall be released from duty at the designated Conference Room or a mutually agreed to alternate location by their respective Department Manager or designee.

8. If the Committee requests additional evidence after the Union and District representatives have left the Committee Room, the hearing shall be reconvened, i.e., the Union and District representatives, together with the grievant, shall reenter the Committee Room for purposes of continued discussion regarding the issue.

9. All witnesses shall wait in a designated area until called to testify. After testimony is completed, the employee shall promptly return to work.

10. The original copy of a Minor Pay Claim Grievance scheduled for arbitration shall be brought to the hearing. When a grievance is settled at this stage, the Arbitrator shall note the decision on the face of the document.

11. A grievant shall have the right to be present at his or her hearing before the Committee. In the event the grievant is not present at the hearing the case shall not be heard unless the grievant has given written authorization to the Union representative to represent him/her at that hearing. If a grievant's case has been held over once due the grievant's absence, the case may be heard at the rescheduled hearing time if the Committee decides that the grievant is absenting himself/her-self for the purpose of preventing the case from being heard by the Committee. This shall be determined by a secret ballot vote by the Committee Members. In the event of a tie, the neutral shall decide whether or not the case shall be heard.

12. In the event an agenda cannot be mutually agreed upon, the cases shall be selected by lot.

13. The agenda shall consist of a maximum of six (6) cases.

14. This procedure shall remain in effect for the life of the current contract only, expiring on June 30, 1988.

| CONCUR FOR DISTRICT: | CONCUR FOR UNION: |
|---|---|
| Larry Williams Date<br>Department Manager,<br>Employee Relations Department | Hank E. White Date<br>President, Amalgamated Transit<br>Union - 1555 |

cc: D. R. Bankston/W. B. Fleisher/J. Caire/W. A. Kindricks/L. T. Knight/A. H. Johnson/M. C. Taylor/R. L. Doty/W. M. McDowell/K. H. Broomhead/S. G. Wakeman/ Transportation Supervisors

File: Understandings, Memoranda of/3-3-1 Committee Meetings/Arbitration, General - ATU

ATU/MOU-003-4 2-2-1 COMMITTEE RULES AND PROCEDURES

July 1, 1985

**MEMORANDUM OF UNDERSTANDING: ATU/MOU-003-4**
2-2-1 Committee Procedures

Mr. Larry Williams
Director of Employee Relations
Bay Area Rapid Transit District
800 Madison Street
Oakland, California 94607

Mr. James Danzy, President
Amalgamated Transit Union - Division 1555
360 - 17th Street
Oakland, California 94612

Gentlemen:

This letter shall constitute a Memorandum of Understanding which has been reached by the District and Amalgamated Transit Union - Local 1555 regarding the rules and procedures that have been established by the parties for use by the Arbitration Committee for 2-2-1.

1. The schedule of cases to be heard before the Committee shall be set by the parties as soon as possible. Cases to be heard by the 2-2-1 Committee shall be scheduled in the order they are appealed. The finalized schedule once determined, shall be reduced to writing and signed by the parties. A copy of the finalized schedule of cases to be heard shall be provided to the neutral arbitrator prior to the commencement of the Committee's proceedings.

2. Copies of the Hearing Officer's decision on a case set for hearing by the 2-2-1 Committee shall be brought to the hearing.

3. All cases scheduled for hearing by the 2-2-1 Arbitration Committee shall result from a Hearing Officer's letter of determination and the grievant's written appeal.

4. It shall be the responsibility of each of the parties to notify their respective participants. The Union shall notify the grievant, committee participants and witnesses (if any) of the date, time and location of their required appearance. It is the responsibility of the committee participants, grievant/appellant and witnesses to obtain release from their supervisor in accordance with established procedure.

5. In those cases scheduled for hearing before the Committee where the use of attorneys is permitted, either party intending to use the services of attorneys shall provide the other with advance notice of this intent,

either orally or in writing. Failure to do so shall disallow both parties to utilize the services of an attorney.

6. Should someone other than the designated neutral arbitrator serve as the arbitrator of this Committee, he/she shall maintain a docket of those cases decided and forward such information to the primary neutral who shall be responsible for the safekeeping of all ballots taken by this Committee and the preparation of all of the reports of summaries.

7. There shall not be any media coverage or unauthorized recordings or transcripts made of any session convened by this Committee. Non-interested parties also are not to be granted admission to any Committee sessions.

8. No participant on the Committee shall have been directly involved in the presentation or advocacy of or subject to an award from a case heard by the Committee.

9. No employee shall lose pay as a result of participation on a 2-2-1 Committee as a member, advocate or witness unless they fail to comply with these procedures or as a result of the Committee's ruling.

10. In the event the grievant/appellant is not present at the time scheduled for his/her hearing, the hearing shall take place without his/her presence.

11. Union Committee Members' and Advocate's work assignments for the day of the 2-2-1 hearing shall be from 0900 to 1700 hours. They shall report to 800 Madison Street or the Metro Center at the designated Conference Room. Should the Committee work finish prior to 1700 hours, the Union Committee Members shall be assigned as determined by Management. During this time, the Union Advocate shall perform duties regarding the hearing and related matters. Union Committee members and Advocates shall be released from duty at the designated Conference Room or a mutually agreed to alternate location by their respective Department Manager or designee.

12. In order to be released from duty, the Union participants on this Committee shall be responsible for providing advance notification to their immediate supervisor as soon as possible but no later than twenty-four (24) hours before his/her required attendance at the sessions.

13. Cases to be heard by the Committee which cannot be scheduled during the grievant's regular work hours shall be scheduled outside the grievant's normal hours of work. Under such circumstances, compensation shall be provided as follows:

    A. If the grievant prevails, he/she shall be compensated at his/her applicable straight time rate for time actually spent in the grievance hearing. This time shall be determined by the Arbitrator.

    B. No travel expenses or compensation for time spent going to or from the Committee hearing shall be paid.

C. The neutral arbitrator shall announce the starting and completion time(s) of each case that is heard.

14. Hearings conducted by the Committee shall be informal and, to the extent possible, expedited proceedings. Each 2-2-1 Arbitration Committee hearing shall be conducted in the same manner as an arbitration hearing. Each party shall have an opportunity to present its case. Each party shall have a reasonable opportunity for the cross-examination of witnesses. Witnesses shall testify under oath. No record of the hearing shall be kept except: 1) the notation of the decision of by the Committee which shall be made at the conclusion of the hearing, and 2) the recorded decision of the neutral arbitrator on the hearing officer's written decision. There shall be no written briefs.

15. Witnesses appearing at the hearing site for the purpose of providing testimony in connection with a scheduled case shall wait in a specified area affording whatever privacy available until called to testify. After testimony is given, the witness shall promptly return to his/her work location if on duty. Any witnesses required by the Union who appears at a hearing during his/her normal work hours and provides testimony shall be made whole for time lost from his/her regular work assignment.

16. If the Committee determines during its deliberations that additional evidence is necessary, the hearing shall be reconvened. The District and Union representatives shall reenter the Committee Room for purposes of continued discussion regarding the case.

17. After considering a case, the Committee shall vote by secret ballot so as to prevent the ballot from being viewed by the other participants. The neutral arbitrator may devise any ballot method as he/she considers appropriate or desirable in order to reach a decision. The neutral arbitrator shall alone count the ballots for each case voted upon and announce the decision of the Committee. He/she shall not announce or reveal the number of ballots cast for or against the decision.

18. When a case is settled by the 2-2-1 Committee, the neutral arbitrator shall note the Committee's decision on the actual discipline document.

A. If a suspension is sustained by the Committee, a separate District letter implementing the discipline will be prepared and distributed as appropriate.

B. If discipline is not sustained, the Committee's decision shall be provided to the Union and the grievant; and all copies of the discipline letter(s) shall be removed from the employee's file.

19. In those cases where the twenty-four (24) hour requirement cannot be met as per Paragraph 12 above, the Union shall notify the Committee member's or advocate's immediate supervisor immediately.

20. This procedure shall be valid for the life of the current contract only, expiring on June 30, 1988.

| CONCUR FOR DISTRICT: | CONCUR FOR UNION: |
|---|---|
| Larry Williams Date<br>Director of Employee Relations Department | James S. Danzy Date<br>President, Amalgamated Transit Union - 1555 |

cc: D. R. Bankston/W. B. Fleisher/J. Caire/W. A. Kindricks/L. T. Knight/L. J. Campbell/R. A. Peters/M. C. Taylor/ A. H. Johnson/Transportation Supervisors

File: Understanding, Memorandum of/2-2-1 Committee Meetings/Arbitration, General - ATU

ATU/MOU-01-82 TIME OFF FOR UNION BUSINESS

June 21, 1982

**MEMORANDUM OF UNDERSTANDING: ATU/MOU-01-82**
Time Off for Union Business (Section S40.5)

Mr. Everett Riehl, President
Amalgamated Transit Union - Division 1555
1440 Broadway, Suite 501
Oakland, CA 94612

Dear Mr. Riehl:

This letter shall constitute a Memorandum of Understanding which has been reached by the District and Amalgamated Transit Union, Local 1555 regarding "time off" for Union representatives to conduct union business for Grievance Committee meetings, (ref. Section S40.5 from the Collective Bargaining Agreement).

Prior to the scheduling of any Grievance Committee meeting, the Union representative and a District representative shall agree upon the agenda that will be discussed at said meeting. The Grievance Committee meeting shall be scheduled for a full day's work.

The starting time of the Grievance Committee meeting shall be the starting time of the Grievance Committee members' shift for that day. There shall be no travel expenses or compensation for the time spent going to and from Grievance Committee meetings.

Union Grievance Committee members shall be responsible for providing advance notification to their immediate supervisor no later than twenty-four (24) hours in advance of the scheduled Grievance Committee meeting. In the event the committee representatives are unable to agree on the time limit of the meeting, said meeting time shall be decided by the Union President and Labor Relations Manager.

The parties agree this Memorandum of Understanding shall be valid for the life of the current Collective Bargaining Agreement.

| CONCUR FOR DISTRICT: | | CONCUR FOR UNION: | |
|---|---|---|---|
| Larry Williams<br>Manager<br>Employee Relations | Date | Everett Riehl<br>President, ATU - 1555 | Date |

ATU/MOU-02-82* (REVISED) ARBITRATORS

July 1, 1997

**MEMORANDUM OF UNDERSTANDING: ATU/MOU-02-82* (Revised)**
Arbitrators (Sections S39.0, S40.0 and S41.0)

Mr. Robert F. Smith, President
Amalgamated Transit Union - Local 1555
132 Ninth Street
Oakland, CA 94607

Dear Mr. Smith:

This Memorandum of Understanding constitutes the agreement between the parties concerning designation of arbitrators for Formal Arbitration, 2-2-1 Arbitration Committee and 3-3-1 Arbitration Committee.

Formal Arbitration
1. Paul Roose
2. Morris Davis
3. Franklin Silver
4. Barry Winograd
5. Jerilou Cossack
6. William Riker
7. Christopher Burdick
8. Alexander Cohn
9. Luella Nelson
10. Fred Butler
11. Ron Hoh

Within thirty (30) days after the parties sign this agreement they shall select two (2) additional arbitrators for the Formal Arbitration list by mutual agreement.

**2-2-1 Arbitration Committee**
Primary: Carol Vendrillo
Alternates: 1) Franklin Silver
2) Thomas Angelo

**3-3-1 Arbitration Committee**
Primary: Barry Winograd
Alternates: 1) Luella Nelson
2) Morris Davis

*** Minute Clarification**

The parties agree to meet within one hundred and twenty (120) calendar days of the signing of this Agreement to negotiate to mutual agreement the designated arbitrators for the formal and panel arbitrations.

| CONCUR FOR DISTRICT: | CONCUR FOR UNION: |
| --- | --- |
| Rudolph C. Medina Date<br>Manager, Labor Relations | Antonette C. Bryant Date<br>President, ATU - 1555 |

ATU/MOU-03-82 CALL-IN PROCEDURES

June 21, 1982

**MEMORANDUM OF UNDERSTANDING: ATU/MOU-03-82**
Call-In Procedures - Effective 7/1/82

Mr. Everett Riehl, President
Amalgamated Transit Union - Division 1555
1440 Broadway, Suite 501
Oakland, California 94612

Dear Mr. Riehl:

Below reflects the understandings reached between the District and Amalgamated Transit Union - Local 1555 regarding the administration of the 45-minute call-in procedure, the sick-leave procedure, and the tardy procedure. These understandings will be in full force and effect during the life of the present Agreement.

**45-Minute Call-In Procedure**

The parties agree that employees within the Field Services Department will make every effort to report an absence as soon as possible; and in all cases employees shall report an absence a minimum of forty-five (45) minutes prior to their designated reporting time.

Violations of the 45-minute call-in procedure, i.e., failure to call in within the stated time frame (45 minutes prior to start of shift), may be cause for disciplinary action as indicated below:

| | |
|---|---|
| First Offense | Documented Foreworker Counseling |
| Second Offense | Written Warning |
| Third Offense | Formal Reprimand |
| Fourth Offense | Two (2) Day Suspension |
| Fifth Offense | Five (5) Day Suspension |
| Sixth Offense | Discharge |

Employees incurring the fourth (4th) or fifth (5th) step may appeal the merits of proposed discipline but not the level of said discipline, i.e., number of days.

**Sick Leave Procedure**

The parties agree that sick leave will be administered in accordance with Section 9.0 of our present agreement.

**Tardy Procedure**

The parties agree that tardiness will be handled in accordance with Section S39.5 in our present Agreement. Further, it is the understanding of the parties that employees reporting to work with fifty percent (50%) or more

of their shift remaining will be governed by the tardy steps (Section S39.5) and employees reporting to work with less than fifty percent (50%) of their shift remaining will be charged with an unauthorized absence which shall result in a loss of pay and may be cause for disciplinary action as indicated below:

| | |
|---|---|
| First Offense | Written Warning |
| Second Offense | Formal Reprimand |
| Third Offense | Five (5) Day Suspension |
| Fourth Offense | Ten (10) Day Suspension |
| Fifth Offense | Discharge |

The above provisions shall be interpreted with the following understandings:

1. The 45-minute call-in progressive discipline steps will not be included or mixed with any other discipline steps.

2. Employees may appeal at any step of the 45-minute call-in progressive discipline, but appeals at Step Four (#4) or Step Five (#5) involve only the step and not the suspension days.

3. The discipline steps, when accepted or sustained under the 45-minute call-in procedure, will remain in the employee's file as per Article S38.0 from the Collective Bargaining Agreement (eighteen months).

4. The progressive discipline steps for reporting to work with less than fifty percent (50%) of the shift assignment left will remain in the employee's file, when accepted or sustained, as per Article S38.0 from the Collective Bargaining Agreement (eighteen months), and the employee may appeal the discipline at any step.

CONCUR FOR DISTRICT:

Larry Williams Date
Manager, Labor Relations

CONCUR FOR UNION:

Everett Riehl Date
President, Amalgamated Transit Union – Local 1555

ATU/MOU-04-82 HEARING, NOTIFICATION OF HEARING AND WITNESSES

June 21, 1982

**MEMORANDUM OF UNDERSTANDING: ATU/MOU-04-82**
Hearing, Notification of Hearing and Witness

Mr. Everett Riehl, President
Amalgamated Transit Union - Division 1555
1440 Broadway, Suite 501
Oakland, CA. 94612

Dear Mr. Riehl:

This letter shall constitute a Memorandum of Understanding which has been reached by the District and Amalgamated Transit Union, Local 1555 regarding "hearings, notification of hearings and witnesses". (Per Article S39.0 of the Collective Bargaining Agreement).

Line and Yard Shop Stewards will represent employees in their yard or on their line only. Chief Shop Stewards will represent employees from their classification only.

Except in those cases where safety so requires, (i.e., train collision, train derailment, train fatalities) no hearing, counseling, interview or investigation session shall be scheduled later than one (1) hour prior to the end of the employee's shift. This does not apply to a 2-2-1 hearing, a 3-3-1 hearing, or a formal arbitration hearing.

The District will provide a copy of the notice of hearing, as per Article S39.3, to the affected employee, the Union and to the steward on that Line or Yard; if no Line or Yard steward is present, to a Chief Shop Steward on duty and the Union. The notice shall be delivered to the Union at least five (5) working days (excluding Saturdays, Sundays and holidays) prior to the date of the hearing.

As designated by the Union, at any hearing, the employee may be represented by the Line or Yard steward on duty from that location; if no Line or Yard steward is on duty, a Chief Shop Steward or Union officer will be assigned by the Union to represent the employee.

A hearing pursuant to Article S39.0 shall only be scheduled during an employee's regular shift. If the employee or the Union fails to show at the hearing, the District may proceed with the hearing with or without the Union or the employee; provided, however, that the hearing shall be rescheduled if the employee is ill on the date of the hearing and provides a doctor's note. The hearing shall be rescheduled to another time during the employee's regular shift.

The Union will notify the District, in writing of all witnesses and representatives to be used at a hearing, where such hearing is scheduled far enough in advance to allow a written notice.

The District upon notification by the Union shall notify the employee's supervisor. Should a witness fail to appear at a hearing, the Hearing Officer, empowered under Article S39.0 of the Agreement, may deem it appropriate to require the employee to participate.

The Union will notify the District of required witnesses prior to the posting of the relevant Extra Board on the day prior to the hearing, or, where that is not possible, as soon as the Union knows of a necessary witness.

The parties agree this Memorandum of Understanding shall be valid for the life of the current Collective Bargaining Agreement.

| CONCUR FOR DISTRICT: | CONCUR FOR UNION: |
|---|---|
| Larry Williams Date | Everett Riehl Date |
| Manager, Employee Relations | President, ATU – Local 1555 |

ATU/MOU-15-4 USE OF VOLUNTEERS AT THE CONCLUSION OF THE TENTATIVE HOLIDAY BID

December 7, 1983

**MEMORANDUM OF UNDERSTANDING: ATU/MOU-15-4**
Use of Volunteers at the Conclusion of the Tentative Holiday Bid

Mr. Everett Riehl, President
Amalgamated Transit Union - Division 1555
1440 Broadway, Suite 501
Oakland, California 94612

Dear Mr. Riehl:

This letter shall constitute a Memorandum Of Understanding which has been reached by the District and the Amalgamated Transit Union - Division 1555 regarding the use of volunteers to cover Holiday work assignments at the conclusion of the tentative bid.

A. At the end of each Holiday Bid, employees who have missed their bid time and/or have a desire to work may bid on unfilled positions.

B. **Station Agents**

1. After the tentative bid has been posted, Station Agents who wish to volunteer for work must notify their immediate Supervisor (Foreworker) in writing before 9:00 a.m. on the Tuesday following the Holiday Bid.

2. Station Agents who have been inversely assigned and do not desire to work the Holiday must notify their immediate Supervisor (Foreworker) in writing before 9:00 a.m. on the Tuesday following the posting of the tentative Holiday Bid.

3. The Station Agent(s) immediate Supervisor (Foreworker) will deliver all written requests to Station Operations, Lake Merritt (second floor) by 10:00 a.m. Tuesday (telecopiers may be used to transmit this information).

C. **Train Operators**

1. After the tentative bid has been posted, Train Operators who wish to volunteer for work must notify their immediate Supervisor (Foreworker) in writing before 9:00 a.m. on the Tuesday following the Holiday Bid.

2. Train Operators who have been inversely assigned and do not desire to work the holiday must notify their yard immediate Supervisor (Foreworker) in writing before 9:00 a.m. on the Tuesday following the posting of the tentative Holiday Bid.

a. Train Operators assigned to Daly City yard shall submit in writing their desire to volunteer or not to work in their inverse assignment into the Daly City TM Zone's locked bid box before 9:00 a.m. on the Tuesday following the posting of the tentative Holiday Bid.

b. No later than 10:00 a.m. on the Tuesday following the Holiday Bid, the Daly City TM Zone Foreworker shall forward via telecopier, to the Concord Tower Foreworker, all written requests that have been submitted by the Daly City Train Operators.

3. The Train Operator(s) immediate Supervisor (Foreworker) will deliver all written requests to the appropriate yard Transportation Supervisor by 10:00 a.m. on the Tuesday following the Tentative Holiday Bid.

D. At 10:00 a.m. on the Tuesday following the Tentative Holiday Bid, Management and Union representatives shall use the list of employees, volunteering to work the Holiday for the removal of those employees who were inversely assigned and who have given written request for removal from the Holiday Bid assignments (minimum rest requirements shall apply).

E. It is the responsibility of volunteers and those desiring to be removed inverse assignments to make certain their written requests each the appropriate Foreworker.

F. The following procedure shall be used for finalizing the Holiday bid:

1. Volunteers will remove the most senior inversely assigned employees from their home Line/Yard. This procedure shall apply to the following classifications:

   Line - Station Agents
   Yard - Train Operators
   Classification - Foreworkers (Line/Tower)
   Crew Office - Transportation Administration Specialists
   Yard - Transportation Administration Specialists
   Classification - Others

2. In the event there are no positions available on their home Line/Yard, the most senior inversely assigned employee systemwide will be removed.

3. After the final posting, no further changes will be made on the Holiday Bid.

| CONCUR FOR DISTRICT: | | CONCUR FOR UNION: | |
|---|---|---|---|
| Donald R. Bankston<br>Manager, Labor Relations | Date | Everett Riehl<br>President, ATU – 1555 | Date |

cc: L.A. Williams / J. Caire /A.H. Johnson/M.C. Taylor /R.A. Peters/ L. J. Campbell
File: Bid Procedure – ATU/ Understanding, Memorandum of

ATU/MOU-16-4 TVM/ET TRAINING PROGRAM

June 12, 1984

**MEMORANDUM OF UNDERSTANDING: ATU/MOU-16-4**
TVM/ET Training Program

Mr. Hank White, President
Amalgamated Transit Union - Local 1555
1440 Broadway, Suite 501
Oakland, California 94612

Dear Mr. White:

It is hereby mutually agreed between the District and Amalgamated Transit Union - Local 1555 (ATU) that trainees in the ET/TVM Training Program (Side Letter 4-4) who were ATU members prior to placement in said program shall be governed by the following conditions should they be unsuccessful in completing the training program and/or the probationary period:

A. Trainees selected from the ATU Local 1555 subunit shall be placed on a special leave of absence from their bargaining unit positions until they have completed the basic training part of the program.

B. Trainees shall continue to accumulate seniority in their ATU Local 1555 bargaining unit position during the special leave period and shall continue their membership in ATU Local 1555 during this special leave period.

C. Upon completion of the training program, the trainees shall be placed in a TVM/ET position in the maintenance subunit and the special leave of absence shall end. A probationary period of ninety (90 days) shall begin on the date of placement into a TVM/ET position in the maintenance subunit and said trainees will end their membership and seniority in ATU Local 1555 pursuant to Section S12.0(I) of the Collective Bargaining Agreement.

D. If any ATU member should fail to pass the probationary period of ninety (90) days after being placed in the maintenance subunit, they shall have reversion right to their former classification in the Amalgamated Transit Union Local 1555.

This Memorandum of Understanding shall become effective April, 1984 and remain in effect through the life of the current Collective Bargaining Agreement.

| CONCUR FOR DISTRICT: | CONCUR FOR UNION: |
| --- | --- |
| D. R. Bankston, Manager<br>Labor Relations | Hank White, President<br>ATU – Division 1555 |

cc: L. A. Williams
R. P. Demko
W. B. Fleisher
J. Caire
A. Braun

File: Understandings, Memos of Side Letter UPE 4-4 Training, General

ATU/MOU-17-4 FOREWORKER/GRIEVANCE PROCEDURE

July 1, 1988

**MEMORANDUM OF UNDERSTANDING: ATU/MOU-17-4**
Grievance Procedure

Mr. Hank White, President
Amalgamated Transit Union - Local 1555
132 Ninth Street
Oakland, California 94607

Dear Mr. White:

Effective July 1, 1988, all previously issued procedures utilized by Foreworker/Operations Supervisors and Union Stewards covering grievance processing under the District's agreement with Local 1555 of the Amalgamated Transit Union shall be superseded by the following:

1. Foreworkers may process and resolve grievances through all the steps of the Grievance Procedure.

2. The steward shall deliver the grievance to the appropriate Foreworker/Operations Supervisor within forty (40) working days of the occurrence of the disputed action or determination. If the Steward is filing the grievance on behalf of the grievant, the Steward shall so indicate on the face of the grievance. The Foreworker/Operations Supervisor shall take no action until the grievance is signed. The grievance should contain a Union control number when filed with the Foreworker/Operations Supervisor. However, in its absence, the Foreworker/Operations Supervisor shall still process the grievance. The Foreworker/Operations Supervisor will acknowledge receipt of the grievance and immediately give the last two (2) copies to the Union Steward. The Foreworker/Operations Supervisor shall retain the original as well as the first copy, until he/she has responded to the grievance.

3. When the Foreworker/Operations Supervisor has responded to and signed the grievance, he/she shall deliver the first copy to the Union Steward who initially delivered the grievance. If that Union Steward is not available, the Foreworker/Supervisor shall deliver the first copy of the grievance to another Union Steward. Foreworkers/Operations Supervisors shall send the original grievance to their respective Division Manager and a courtesy copy to Field Services Labor Relations Representative. The Foreworker/Operations Supervisor shall retain a photocopy for his/her records.

4. The Division Manager shall forward the original grievance to the Labor Relations Section where it will be assigned a District control number.

**Grievance Resolved at First Step**

In the event a grievance is resolved at the first step the following shall apply:

The original completed Pay Authorization Form (if applicable), and the original grievance with the Foreworker's/Operations Supervisor's response shall be forwarded by the respective Foreworker/Operations Supervisor to the Foreworker/Supervisor's Division Manager. He/She shall forward them to the Labor Relations. The first copy of the grievance and the Pay Authorization Form (if applicable) shall be delivered by the Foreworker/ Operations Supervisor to the Union Steward - or in his/her absence to another Union Steward. The Foreworker/Operations Supervisor shall send a courtesy copy to the Field Services Labor Relations Representative.

The Labor Relations shall forward the original completed Pay Authorization Form to the Accounting Department and send the Union office a photocopy.

**Letter Grievances**

If a "letter" grievance is presented to any District Manager or Foreworker/Supervisor, a copy of the grievance and the affected Manager/Supervisor's/Foreworker's response shall be forwarded to the appropriate Labor Relations and Field Services Representatives.

The parties agree this Memorandum of Understanding shall be valid for the life of the current Collective Bargaining Agreement.

| CONCUR FOR DISTRICT: | CONCUR FOR UNION: |
|---|---|
| D. R. Bankston Date | Hank White Date |
| Manager of Labor Relations | President, ATU #1555 |

cc: L. A. Williams/ W. B. Fleisher/ J. Caire/W. A. Kindricks/ L. T. Knight/ L. J. Campbell/ R. A. Peters/ M. C. Taylor/ B. T. Jackson/ S. G. Wakeman/ Transportation Supervisors

File: Understanding, Memoranda of / Grievance Procedure

ATU/MOU-01-88 MOU ENABLING EPA USE

May 13, 1988

**MEMORANDUM OF UNDERSTANDING: ATU/MOU-01-88**
MOU Enabling EPA Use

Mr. Hank White, President
Amalgamated Transit Union Local 1555
132 Ninth Street
Oakland, CA. 94607
Dear Mr. White:

By order dated April 4, 1979, the California Public Utilities Commission (PUC) required that the District place a second uniformed attendant trained in Emergency Response Procedures (EPAs) on trains operating through the transbay tube. By PUC order dated August 6, 1986, the District was relieved of its responsibility to use EPAs. This letter shall constitute a Memorandum of Understanding (MOU) which has been reached between the District and Amalgamated Transit Union Local 1555 regarding the terms and conditions which shall apply if the District is ordered by the PUC within the term of the July 1, 1988 - June 30, 1991, Agreement to again use EPAs:

1. During Negotiations for the 1988-1991 Labor Agreement the parties agree to delete or amend the following provisions as they refer to EPAs based on the PUC determination dated August 6, 1986 which relieved the District of its responsibility to use EPAs:

**Delete**

S21.0 Special Provisions - Emergency Procedures Assistants
S21.1 Agreements Furnished
S21.2 Free Transportation
S21.3 Transportation/Work Related
S21.4 Job Descriptions
S21.5 Health and Rest Facilities
S21.6 Overtime
S21.7 Training
S21.8 Uniforms
S21.9 Non-Discrimination, Affirmative Action
S21.0 Shift Assignment
S21.11 Grievance Procedure
S21.12 No Strike and No Lockouts
S21.13 Governing Conditions - EPA

S21.14 Social Security
S21.15 Overtime, Shift Differential Reopener
S21.16 Shift Differential
S21.17 Hearing Procedures - Discharge
S45.0 Special Provisions - Part-Time Employment-EPA

**Amend**

S46.2 Part-Time Applicants*

2. Should the PUC reinstate its order to use EPAs during the course of the current labor Agreement the above mentioned Sections shall be reactivated to the extent they do not conflict with the current labor Agreement.

3. To the extent the above mentioned provisions do conflict, the current Agreement shall supersede the above 1985-1988 provisions or be renegotiated, as appropriate.

The parties agree this MOU shall be valid for the life of the current labor Agreement.

| CONCUR FOR DISTRICT: | CONCUR FOR UNION: |
|---|---|
| L. A. Williams, Date<br>Department Manager<br>Employee Relations | H. E. White, Date<br>President, Amalgamated Transit<br>Union, Local 1555 |

File: Memorandum of Understanding – ATU EPAs

ATU/MOU-01-91 FULL-TIME TRAIN OPERATORS AND STATION AGENT HIRES

June 19, 1991

**MEMORANDUM OF UNDERSTANDING: ATU/MOU-01-91**

Kevin O'Keefe
President
Amalgamated Transit Union, Local 1555
132 Ninth Street
Oakland, CA 94607

Subject: Full-Time Train Operators and Station Agent Hires

Dear Kevin:

During the course of negotiations, the Union affirmed that under Section S44.3, Appointment to Full-Time Station Agent and Train Operator Positions, the District has the contractual right to appoint full-time Train Operators and Station Agents from three different sources. These sources are:

1) current part-time T/O and S/A's;
2) other current District employees, for whom the position would be a promotion; or
3) new hires from outside the District.

It was acknowledged that under the above-cited contract language, the District has the right to fill full-time jobs from any of these sources. The parties also confirm that the Union continues to reserve the right to grieve any particular full-time appointments. The parties indicate their concurrence by signing below.

| Sincerely, | Concur for Union: |
|---|---|
| D. Craig McFate Date<br>Manager of Labor Relations | Kevin O'Keefe Date<br>President, ATU Local 1555 |

ATU/MOU-01-94 APPOINTMENT OF FULL-TIME TRAIN OPERATORS AND STATION AGENTS

September 23, 1994

**MEMORANDUM OF UNDERSTANDING: ATU/MOU-01-94**
Appointment of Full-Time Train Operators and Station Agents

Ms. Jayne Faria
President
Amalgamated Transit Union, Local 1555
132 Ninth Street
Oakland, CA 94607

Dear Jayne:

This Memorandum of Understanding confirms that during the life of the Collective Bargaining Agreement, all part-time Train Operators and Station Agents employed prior to January 1, 1995, shall be given the opportunity to fill full-time Train Operator and Station Agent positions before any full-time positions are filled by new hires from outside the District.

The parties indicate their concurrence by signing below.

CONCUR FOR DISTRICT:

Larry Williams Date
AGM – Administration, BART

James T. Gallagher Date
AGM – Operations, BART

CONCUR FOR UNION:

Jayne Faria Date
President, ATU Local 1555

ATU/MOU-02-94 RESOLUTION OF SYSTEM SERVICE ARBITRATION

October 17, 1994

**MEMORANDUM OF UNDERSTANDING: ATU/MOU #02-94**
Resolution of System Service Arbitration

Ms. Jayne Faria
President/Business Agent
Amalgamated Transit Union - Local 1555
132 Ninth Street
Oakland, CA 94607

Re: **Resolution of Arbitration No. 709-94**
**(Grievance Nos. 91-171/91-1-193 and 93-097/93-1-136)**

Dear Ms. Faria:

It is mutually agreed by the District and ATU Local 1555 that:

1. The Side Letter and organizational chart (attached) is deemed to be in compliance with Section 2.1 and Section S11.0 of the parties' collective bargaining agreement.

2. The District has been advised that certain work relating to the Transportation Department and traditionally performed by ATU members is possibly being performed by SEIU Local 790 members, and, conversely, that certain work relating to System Service Department workers and traditionally performed by SEIU Local 790 members is possibly being performed by ATU members. Although the District is and has been unaware of these allegations, the parties reaffirm that it is their intent that all bargaining unit work in the Transportation Department is to be performed by ATU-represented employees, and that all bargaining unit work in the System Service Department is to be performed by SEIU Local 790 members. To effectuate the parties' intent, the District agrees to promptly investigate any Transportation Department work allegedly being performed by SEIU Local 790 members, and any System Service-related work allegedly being performed by ATU members. If the District discovers that work is being performed out of the correct bargaining unit, the District will take all steps to ensure that this practice is immediately discontinued. In the event that the District learns in the future of allegations that ATU or SEIU Local 790 bargaining unit work is being performed by the incorrect bargaining unit, the District agrees that it will promptly investigate and cease any practice found to be contrary to this Agreement.

3. The District agrees to request that its Human Resources Department conduct a desk audit of Transportation Administration Specialist Donny Woo's position, to be completed no later than December 31, 1994.

4. The instant Agreement, including the attached Side Letter and Exhibit, constitute the full settlement of Arbitration Case No. 709-94, consisting of grievance nos. 91-171/ 91-1-193 and 93-097/93-1-136.

Please indicate your concurrence by signing below.

FOR THE DISTRICT:

Paul Oversier Date
Chief Transportation Officer

Howard Lewis Date
Manager of Labor Relations

FOR THE UNION:

Jayne Faria Date
President, ATU Local 1555

Attachment - See SL-8-9

cc: ACTOs
Al Johnson
Shirley Wong

ATU/MOU-03-94 PART-TIME STATION AGENT BIDS AND BIDDING PROCEDURES

October 24, 1994

**MEMORANDUM OF UNDERSTANDING: ATU/MOU #03-94**
Part-Time Station Agent Bids and Bidding Procedures

Jayne Faria
President/Business Agent
Amalgamated Transit Union, Local 1555
132 Ninth Street, Suite 100
Oakland, CA 94607-4799

Subject: Resolution of Arbitration #711-94 (Part-Time Station Agent Bids and Bidding Procedures)

Dear Ms. Faria:

This represents the full and final resolution of those issues contained in Grievance nos. 91-128/91-1-147, 93-119/93-1-158, 93-184/93-1-203, 93-277/94-1-014, and 94-177/94-1-144 relative to the bids for Part-Time Station Agents.

The parties have reached agreement on the points below:

1) The District will formally notify the Union of all upcoming bids by hand-delivering a copy of the proposed bids to the Union hall pursuant to Section S13.4(D)(1), i.e., at least fourteen (14) calendar days prior to the distribution of the bid to the part-time Station Agents. A copy of the proposed bid will be distributed to the part-time Station Agents seven (7) calendar days in advance of all bids. All bids will be sent out under separate cover so as to distinguish them from the full-time bids including bids held pursuant to Section S44.19.

2) In addition to part-time sign-ups held in conjunction with regularly scheduled system or line sign-ups, the parties mutually agree that sign-ups for part-time Station Agents shall be held when there is a new class of qualified part-time Station Agents, and/or when there is a promotion of three (3) or more part-time Agents to full-time employment.

3) In the event a part-time Station Agent vacancy occurs, an additional bid may be held only if no bid has been held in the previous twenty-one (21) calendar days. Until the additional bid goes into effect, the vacancy will be filled in accordance with Section S44.11 by the full-time Extra Board and/or by overtime.

   When a part-time Station Agent returns from a leave, the District will assign the employee a shift consistent with the shift hours held prior to the leave (AM or PM) but with Sunday/Monday as RDOs pending a bid. Such a bid will only be held if no bid has been held in the previous twenty-one (21) calendar days. The employee will be assigned to a

multi-centroid station and/or to an end-of-line station. The employee will also be afforded work week wages equivalent to his/her last bidded shift, including any applicable shift differentials.

Under no circumstances will more than two (2) such bids be held between regularly scheduled system or line bids as covered under Section S44.19.

4) No part-time Station Agent will be allowed to return to work with less than eleven (11) hours rest between work assignments.

5) No part-time Station Agent work week assignment shall consist of reporting locations on more than one line.

6) As AM/PM shifts are integral to the development of a part-time bid, the District will continue to configure schedules accordingly. The District will minimize the number of AM/PM shifts to the extent practicable.

7) Part-time Station Agents may be assigned weekend shifts comprised of up to ten hours to maximize weekend RDOs for full-time Station Agents.

8) The parties reaffirm the contractual intent not to schedule part-time shifts for the purpose of circumventing a full-time shift pursuant to Section S44.12 (C).

9) The District will pay the wages of one (District-recognized) Union-designated representative to be present throughout any part-time Station Agent sign-up, including bids held pursuant to Section S44.19.

10) Part-time Station Agent proxies can be FAXED or hand-delivered to the office of the Scheduling Analyst at LMA2 to be maintained and stored in the designated locked proxy bid box. Keys will be in the possession of the Scheduling Analyst and the Union hall. FAXED proxies will be confirmed by phone by the Scheduling Analyst. It is the responsibility of the part-time Station Agent to insure receipt of the FAXED proxy.

Please indicate your concurrence by signing below.

FOR THE DISTRICT:

Paul Oversier Date
Chief Transportation Officer

Rudy Crespo Date
Manager of Operations Support

Howard Lewis Date
Manager of Labor Relations

FOR THE UNION:

Jayne Faria Date
President, ATU Local 1555

Gene Pepi Date
Vice-President, ATU Local 1555

cc: ACTOs /Al Johnson /Shirley Wong

ATU/MOU-04-94 RESOLUTION OF SICK LEAVE ARBITRATION

November 10, 1994

**MEMORANDUM OF UNDERSTANDING: ATU/MOU-04-94**
Resolution of Sick Leave Arbitration

Jayne Faria
President/Business Agent
Amalgamated Transit Union, Local 1555
132 Ninth Street, Suite 100
Oakland, CA 94607-4799

Subject: Resolution of Arbitration #710-93 - Sick Leave Program (Grievance Nos. 91-167-/91-1-213 & 90-142)

Dear Ms. Faria:

This letter represents the full and final resolution of those issues contained in Grievance Nos. 91-167/91-1-213 and 90-142 relative to the Sick Leave Program.

The parties have reached agreement on the following:

1. The policy of the District regarding sick leave usage is as stated in Section 9.1(E) of the Collective Bargaining Agreement:

   "Pattern use, misuse or abuse of sick leave will be governed by the District's disciplinary procedures and handled on a case-by-case basis."

   The District will periodically monitor and evaluate an employee's sick leave usage on a case-by-case basis in accordance with Section 9.1(E). Employees will not be Formally Counseled and/or disciplined based solely upon the number of days or incidents. Informal counseling will be utilized to notify employees as early as possible of sick leave concerns. Formal Counseling and/or discipline will be based upon articulable reasons to support the District's determination of pattern use, misuse or abuse of sick leave.

   The District and ATU Local 1555 will jointly develop and implement a communication plan for reaffirming this policy to both management and unit employees.

2. The District and the Union will jointly develop and implement a plan for supervisors and Union representatives to work together to address the District's and Union's concerns regarding sick leave usage. As part of this plan, supervisors who monitor attendance will inform Union representatives as early as possible of employees who may be

developing pattern use, misuse or abuse of sick leave. To ensure fair and equitable treatment in the application of the District's Sick Leave policy as described above, the District will provide information, when requested, to Union representatives concerning the application of the case-by-case approach.

3. Supervisors will provide reasonable notification to employees before discussion of sick leave matters. At the time employees are notified of discussions, they will be informed that the subject matter concerns attendance. All discussions concerning attendance will occur in a confidential environment and will not interfere with an employee's performance of his/her work duties.

4. In cases where the Union believes that Formal Counseling and/or Sick Leave Verification letters were issued inappropriately, the District agrees to review those cases and to provide the Union with reasons supporting pattern use, misuse or abuse of sick leave. If the District cannot articulate reasons supporting pattern use, misuse or abuse of sick leave, the Formal Counseling and/or Sick Leave Verification letter will be rescinded. The Union will identify active cases for review no later than April 30, 1995. The parties reserve their rights under the Collective Bargaining Agreement concerning unresolved or outstanding cases.

5. Sick Leave Verification letters will provide details documenting concerns and/or specific pattern use, misuse or abuse of sick leave.

Please indicate your concurrence by signing below.

CONCUR FOR THE DISTRICT:

Paul Oversier Date
Chief Transportation Officer

Howard Lewis Date
Manager of Labor Relations

CONCUR FOR THE UNION:

Jayne Faria Date
President, ATU/Local 1555

cc: ACTOs/ A.H. Johnson/ Shirley Wong / B. Jackson/ V. Chin

ATU/MOU-01-97 TRAINING IN CAIRO, EGYPT

September 28, 1995

**MEMORANDUM OF UNDERSTANDING: ATU/MOU-01-97**
Training in Cairo, Egypt

James T. Gallagher
Assistant General Manager - Operations
Bay Area Rapid Transit District
P. O. Box 12688
Oakland, CA 94604-2688

Dear Jim:

This letter will constitute a Memorandum of Understanding (MOU) which has been reached by Amalgamated Transit Union, Local 1555 (ATU 1555), and the Bay Area Rapid Transit District (the District) regarding the District's use of employees in support of operational training in Cairo, Egypt.

This project will use volunteers from the Foreworker, Station Agent and Train Operator Employee Development Specialists (EDSs) and other qualified employees from these classifications. Employees will be selected in the following order:

1. Current EDSs
2. Current Temporary EDSs
3. Current On-the-Job Training Instructors
4. Other employees from the above classifications

A. Any member interested in a Cairo assignment would need to provide a resume on a disk, in Word Perfect. All resumes are reviewed by both Parsons Brinckerhoff and the branch of the Egyptian government responsible for this project.

B. The first class in Cairo is tentatively scheduled to begin on September 30, 1995.

C. This project will require a minimum ten-week commitment by selected employees.

D. Employees selected must be United States citizens.

E. Employees selected must be aware of and sensitive to the cultural differences which exist in Egypt.

F. Selected applicants will be paid at the EDS rate of pay. After one month in Egypt a $1,000 bonus will be paid. After the first month this $1,000 per month bonus will be paid prorated based on the time spent in Egypt.

G. The work week in Cairo will be 44 hours. Regular days off (RDOs) will be Thursday afternoon and all day Friday. The additional hours worked

on Thursday, and any other additional overtime worked (RDO or other overtime), will be paid at the appropriate overtime rate. By accepting this assignment employees are volunteering to work four hours per week overtime as the Egyptian work week is 44 hours.

H. This assignment will include a $35 per diem, per day. The total per diem will be paid in advance for every day of the assignment.

I. Business class transportation to and from Egypt will be paid for by the District.

J. Employees in Egypt will be housed in the Meridian Hotel, a quality hotel, paid for by the District.

K. Should an employee become seriously ill, the District will furnish immediate transportation back to the Bay Area.

L. If an employee assigned to the Cairo Project requires immediate medical attention the District will pay for the hospital stay or treatment and the employee, with BART's assistance, if necessary, will submit the appropriate claim to their medical insurance carrier, to reimburse the District.

M. All provisions of the current Collective Bargaining Agreement between ATU 1555 and the District will apply to employees assigned to Egypt.

N. This MOU can be re-opened at anytime by either party.

O. This MOU shall remain in effect until June 30, 1997. However, the parties agree that provisions of this MOU may be renegotiated if during the life of this agreement either party determines it necessary.

| | |
|---|---|
| Jayne Faria<br>President/Business Agent | James T. Gallagher<br>AGM, Operations |

ATU/MOU-01-99 PROMOTION AND POSTING PROCEDURES

July 5, 1999

**MEMORANDUM OF UNDERSTANDING: ATU/MOU-01-99**
In-House Promotion and Posting Procedures

Robert Smith
President/Business Agent
Amalgamated Transit Union, Local 1555
132 Ninth Street, Suite 100
Oakland, CA 94607-4799

Subject: **Resolution of Arbitration #806-98 – In-House Promotions and Posting (Grievance Nos. 90-251, 90-252, 95-093)**

Dear Mr. Smith:

This letter represents the full and final resolution of those issues contained in Grievance Nos. 90-251, 90-252, 95-093 relative to In-House Promotion and Posting Procedures.

The parties have reached agreement on the following:

1. The policy of the District regarding in-house promotions and postings is as stated in the Collective Bargaining Agreement, including but not limited to Sections 44.2, 44.3, 44.9 and 44.21. The arbitration decisions of Alexander Cohn, dated July 10, 1987, and Sam Kagel, dated June 25, 1986, August 25, 1986, and March 11, 1987 address these provisions and are incorporated herein by reference.

2. Postings for Full-Time Station Agent or Train Operator Positions

   Section 44.3 provides that for new classes of Station Agents or Train Operators: "…a certain number of full-time positions shall be designated for current District employees so as to promote the District's promotion from within policy."

   Prior to establishing each eligibility pool for training classes for Station Agent or Train Operator positions, the District shall post Position Opening Job Announcements for closed promotional Full-Time Station Agent or Train Operator positions, respectively. Each time there is a job posting for Part-Time Station Agent or Train Operator positions, there shall also be job postings for closed promotional Full-Time and Part-Time Station Agent or Train Operator positions, respectively.

3. Selection Process and Procedure

   Section 44.2 provides that:
   "…priority consideration shall be given for the hiring of Part-time and Full-Time Station Agents and Train Operators in the following order:

1. Full-time Amalgamated Transit Union members employed by the District;
2. Other full-time District employees;
3. Applicants from outside the District."

ATU Local 1555 members who apply for Part-Time and/or Full-Time Station Agent and/or Train Operator positions shall be given priority consideration for hiring into such positions pursuant to Section 44.2, the Cohn and Kagel arbitration awards, and as described herein.

Minimum Qualifications – Time worked in ATU bargaining unit classifications, such as Transportation Administration Specialist positions, shall satisfy the Minimum Qualifications for experience described on the District's job posting for Station Agent and Train Operator positions on a one-for-one basis. (For example, if the Minimum Qualifications require four years of experience in operations, two years of experience as a Transportation Administration Specialist shall satisfy two years of this requirement, and four years of experience as a Transportation Administration Specialist shall fully satisfy this requirement).

Priority Consideration – ATU Local 1555 members who apply for Part-Time and/or Full-Time Station Agent and/or Train Operator positions, and who qualify for such positions, shall be offered such positions and upon acceptance shall be placed in the next training class for such positions. Pursuant to Arbitrator Cohn's award, Section 44.2 provides for: "…mandatory preferential consideration of in-house applicants in sequential order 'for hiring'. This mandatory sequential hiring procedure requires that the District consider all in-house applicants falling within the first preferential category ["Full-time ATU members employed by the District"] for hire before considering those falling in later categories ["Other full-time District employees" and "Applicants from outside the District"]….the bargain struck by the parties in bargaining requires the District to go through each group completely before turning to the next group…Having found that the Agreement requires the District to give priority consideration 'for hire' in sequential order, without reservation, the District may not now limit that priority consideration to comparably-qualified applicants … the language requires that the District consider applicants in Group 1 (ATU) and hire applicants who meet the qualifications the District establishes….Assuming there are either no applicants or no applicants or no qualified applicants from Group 1, the District then moves to Groups 2, 3…."

Arbitrator Kagel's award, provides that ATU applicants shall be given preference over other applicants "if they qualify 'acceptable.'"

The District shall provide notice in the closed promotional job postings of the minimum passing scores on any written test, oral interview, or other requirement which is used to determine whether an applicant is

considered qualified or acceptable for a Station Agent or Train Operator position.

ATU applicants shall be considered for hire into Station Agent and/or Train Operator positions before consideration of any other applicants. If an ATU applicant is qualified for a Station Agent and/or Train Operator position, he/she shall be offered such positions and shall be placed at the top of the eligibility pool for placement in the next training class, prior to consideration of any other applicants. If there are no ATU applicants or no qualified ATU applicants, the District may then consider other in-house applicants or outside applicants consistent with Section 44.2. The District shall not "band" or group ATU applicants with comparably qualified non-ATU applicants, or otherwise consider or compare ATU applicants with non-ATU applicants, before making any hiring decision.

4. The implementation and application of this agreement to past ATU applicants is reflected in the District's letter to the Union, dated July 5, 1999.

Please indicate your concurrence by signing below,

| CONCUR FOR THE DISTRICT: | CONCUR FOR THE UNION: |
|---|---|
| Paul Oversier Date<br>Chief Transportation Officer | Robert Smith Date<br>President, ATU Local 1555 |
| Howard Lewis Date<br>Manager of Labor Relations | |

cc: D. Porter/ H. Miranda/ L. Vasquez/ A.H. Johnson/ M. Gomez/ V. Chin

ATU/MOU 02-99 PERS BENEFIT FOR ATU LOCAL 1555 PRESIDENT/BUSINESS AGENT

March 22, 1999

**MEMORANDUM OF UNDERSTANDING: ATU/MOU 02-99**

**PERS BENEFIT FOR ATU LOCAL 1555 PRESIDENT/ BUSINESS AGENT**

Robert F. Smith
President/Business Agent
ATU Local 1555
132 Ninth Street
Oakland, CA 94607

Dear Mr. Smith:

The current Collective Bargaining Agreement between BART and ATU Local 1555, provides the following under Section 35.0 UNION REPRESENTATIVES, fourth paragraph, second sentence:

“An employee on leave of absence under this Article shall have the option to pay into and continue in Health and Welfare Programs. PERS contributions shall continue to the extent provided by law."

This Memorandum of Understanding provides procedures for the implementation of the above contract provision relative to PERS contributions.

The District and ATU Local 1555 mutually agree that an employee who has been granted a leave of absence to serve as the President/Business Agent of ATU Local 1555 shall be permitted to participate in PERS, MPPP and Deferred Compensation consistent with the rules of those plans. The District and ATU Local 1555 further agree that the President/Business Agent shall be permitted to remain on the payroll of the District and shall receive biweekly pay, for a forty (40) hour week for the duration of the time that the person is President/Business Agent of ATU Local 1555 and on a Leave of Absence. The hourly rate of pay that the PERS and MPPP contributions are based on, shall be at the highest paid ATU Local 1555 contract classification (which is currently Employee Development Specialist Top Rate of pay). All applicable taxes will be deducted.

The parties agree there will be no overtime paid. This individual shall not be eligible for Short Term or Long Term Disability benefits because they are not actively at work due to being on a Leave of Absence.

Both Parties agree the President/Business Agent will be covered for Workers Compensation Insurance by ATU Local 1555 as the President/Business Agent shall be working solely at its direction and on its behalf while on the Leave of Absence.

Both parties recognize that the President/Business Agent continues to be on a Leave of Absence pursuant to Section 35 of the Collective Bargaining Agreement, although District records may show the President/Business Agent as an active employee solely to facilitate implementation of this Memorandum of Understanding.

The District will provide a statement to ATU Local 1555 on a monthly basis for the full cost of Gross Wages, PERS Contributions and MPPP Contributions. This Memorandum of Understanding addresses participation in PERS, MPPP and Deferred Compensation only and no other subject. ATU Local 1555 will reimburse the District for these costs by the 15th of the month following receipt of the statement. Failure to reimburse the District in accordance with this Memorandum of Understanding shall permit the District to cease the subject contributions.

This Memorandum of Understanding does not impact Health and Welfare Programs as provided for in Section 35, as stated above, or in Section 4.5 Leaves of Absence. If the employee chooses to continue participating in Health and Welfare Programs pursuant to the Collective Bargaining Agreement for an employee on Leave of Absence, that participation will continue in accordance with the District's normal procedures. Normal procedures require the employee to pay for Health and Welfare Programs.

The parties agree this Memorandum of Understanding will immediately terminate upon notification by PERS, or any other administrative agency with jurisdiction over such matters, of inconsistency with the law.

This Memorandum of Understanding will be effective upon execution by both parties.

In order to participate in PERS, MPPP and Deferred Compensation, the President/Business Agent must send a letter to the Labor Relations Division and complete the necessary forms. The District will make reasonable efforts to commence the participation within thirty (30) days from receipt of the letter and completed forms.

| CONCUR FOR THE DISTRICT: | CONCUR FOR THE UNION: |
|---|---|
| Howard Lewis Date<br>Manager of Labor Relations | Robert F. Smith Date<br>President/Business Agent<br>ATU Local 1555 |
| Teresa E. Murphy Date<br>AGM, Administration | |

cc: Ed Pangilinan, Michal Settles, Paul Oversier, Matt Burrows

ATU/MOU 02-99 ADDENDUM PERS BENEFIT FOR ATU LOCAL 1555 PRESIDENT/BUSINESS AGENT

June 28, 2000

**MEMORANDUM OF UNDERSTANDING: ATU/MOU 02-99, ADDENDUM – PERS BENEFIT FOR ATU LOCAL 1555 PRESIDENT/BUSINESS AGENT**

Robert F. Smith
President/Business Agent
ATU Local 1555
132 Ninth Street
Oakland, CA 94607

Subject: Addendum to Memorandum of Understanding ATU/MOU 02-99 PERS Benefit for ATU Local 1555 President/Business Agent

Dear Mr. Smith:

Memorandum of Understanding ATU/MOU 02-99, dated March 22, 1999, specifies the agreement between the Bay Area Rapid Transit District and ATU Local 1555 regarding implementation of the PERS Benefit for the ATU Local 1555 President/Business Agent, contained in Section 35.0, UNION REPRESENTATIVES, of the Collective Bargaining Agreement.

Memorandum of Understanding ATU/MOU 02-99 states in part:

“The hourly rate of pay that the PERS and MPPP contributions are based on shall be the highest paid ATU Local 1555 contract classification (which is currently Employee Development Specialist Top Rate of pay).”

The purpose of this addendum is to revise the hourly rate of pay that the PERS and MPPP contributions are based on as follows.

“The hourly rate of pay that the PERS and MPPP contributions are based on, shall be at the highest paid ATU Local 1555 contract classification, plus ten percent (10%).” This change will be retroactive to June 15, 2000.

This Addendum will be effective upon execution by both parties.

| CONCUR FOR THE DISTRICT: | CONCUR FOR THE UNION: |
|---|---|
| Darrell Murray Date<br>Manager of Labor Relations | Robert F. Smith Date<br>President/Business Agent<br>ATU Local 1555 |

cc: Ed Pangilinan, Michal F. Settles, Alaric H. Johnson, Matt Burrows

## AGREEMENT ADDED TO MOU 02-99 AND THE ADDENDUM

This Agreement is entered into this 4th day of August, 2017 between the San Francisco Bay Area Rapid Transit District (BART) and Amalgamated Transit Union Local 1555 ("ATU") in order to clarify the manner and method for compensating the District employee selected to serve as the ATU President/Business Agent.

WHEREAS, the Collective Bargaining Agreement between BART and ATU provides, at section 35, *inter alia,* that an employee on leave of absence shall have the option to pay into and continue in Health and Welfare Programs; that PERS contributions shall continue to the extent provided by law; and that full time officials shall have recall rights to their former position at BART with seniority accruing during such leave;

WHEREAS, MOU 02-99 and Addendum to 02-99 currently sets forth the manner and method of compensating the BART employee elected to serve as the ATU President/Business Agent.

WHEREAS, the Parties have agreed to modify the manner and method of compensating the BART employee selected to serve as the ATU President/Business Agent effective July 26, 2017.

WHEREAS, this Agreement supersedes MOU 02-99 and the Addendum thereto.

NOW THEREFORE, the Parties agree as follows:

1. An employee selected as ATU President/Business Agent shall be granted a paid leave of absence from his or her positon at BART to serve, full time, in that capacity.

2. The ATU President shall remain on the payroll of the District and shall receive biweekly pay, for a forty (40) hour week, at his or her classification's straight-time rate of pay, for the duration of the time that the person is President/Business Agent of ATU Local 1555 and on a Leave of Absence.

3. The District shall continue to enroll the ATU President/Business Agent in all Health and Welfare benefits, PERS, MPPP and Deferred Compensation consistent with the rules of those plans and section 35 of the Collective Bargaining Agreement; the ATU President/Business Agent shall receive the same benefits and make the same employee contributions as provided in the parties' Collective Bargaining Agreement.

4. The President/Business Agent will be covered for Workers Compensation Insurance by ATU Local 1555. The President/Business Agent shall be working solely at ATU's direction and on its behalf while on the Leave of Absence. Said leave shall be implemented so that the employee does not lose pay or benefits solely as a result of acting as President.

5. To the extent that this Agreement alters the mechanism by which the President/Business Agent is paid, those changes shall go into effect retroactively, on July 26, 2017, upon execution and ratification by both parties.

| | |
|---|---|
| CONCUR FOR THE DISTRICT | CONCUR FOR THE UNION |
| _____ | _____ |
| Martin Gran, Chief Labor Relations Officer San Francisco Bay Area Rapid Transit District | Gena Alexander, President ATU, Local 1555 |
| _____ | _____ |
| Date | Date |

STIPULATED DECISION/MOU 12/11/95 GRIEVANCE RESOLUTION PROJECT

SAN FRANCISCO BAY AREA RAPID TRANSIT DISTRICT

INTER-OFFICE COMMUNICATION

To: Transportation Department Managers and Supervisors ATU Local 1555 members

From: Paul Oversier
Chief Transportation Officer

Jayne Faria
ATU Local 1555 President

Subject: Grievance Resolution Project - Principles & Procedures

Attached you will find the final version of the principles and procedures developed by the Grievance Resolution Project Committee. This Committee, comprised of Union and Management representatives, was established in the spring of this year to clarify contractual intent and standardize operational procedures in the areas of overtime, Extra Board and holiday bids as they relate to grievances resolved in these respective categories. It is expected that these principles and procedures will serve as a tool to management, Foreworkers and Union stewards to resolve grievances at the lowest levels, if not prevent the filing of grievances in these areas altogether.

This twenty-page document includes an introduction which provides the background to the creation of the Grievance Resolution Project; the principles and procedures developed in the categories of the Extra Board, overtime, holiday bids, and grievance handling; an addendum based upon questions and answers drawn from the training sessions provided on the Project results; and the names of the Committee members.

We see the project and the principles/procedures developed as a significant step for the parties towards reducing the filing of grievances and more importantly, improving our relations and moving toward a collaborative approach to resolving issues of concern to both parties.

Questions regarding the Grievance Resolution Project and/or the principles and procedures should be directed to the Committee members whose names appear on the last page of this document.

| | | | |
|---|---|---|---|
| | 12/11/95 | | 12/12/95 |
| Paul Oversier | Date | Jayne Faria | Date |
| Chief Transportation Officer | | President, ATU/Local 1555 | |

# GRIEVANCE RESOLUTION PROJECT
## December 11, 1995

INTRODUCTION

At the ATU Union-Management Communications Workshop in San Diego in August 1994, representatives from the District and BART Local 1555 engaged in a dialogue regarding the parties' tense relationship and the extensive grievance backlog. As a result, they entered into a tentative conceptual agreement to resolve up to 200 grievances in the three largest categories (Overtime, Extra Board, Holiday Bids) based on the parties' understanding of the intent of the contract. This understanding would give rise to principles or procedures which would be disseminated to all of management, Foreworkers and Union stewards so that they in turn would have the resources to address and resolve grievances at the lowest levels.

On March 22, 1995, the parties agreed to the framework within which the Grievance Resolution Project would operate: District and Union appointees would be tasked with resolving **all** of the identified active grievances in the categories of Overtime, Extra Board, and Holiday Bid (up to 200) in a timeframe not to exceed three months. The appointees would have full authority to resolve the identified grievances; the principles or procedures developed would serve to clarify contractual intent and would be communicated to Union and District representatives.

After what constituted six weeks of intensive discussions, the Grievance Resolution Project Committee accomplished their mission short of setting up the training sessions regarding the results of the Project. A total of one hundred and fifty-one grievances were resolved. The contractual issues in dispute as identified in the pre-designated grievances were primarily discussed in advance for the purpose of clarifying contract intent and standardizing operational procedures prior to reviewing the merits of individual grievances; on occasion, principles and procedures came out of the grievance resolutions. Six four-hour training sessions were scheduled in early August and mid-November for the benefit of the supervisors, stewards, Foreworkers, and Transportation Administration Specialists (TAS). All Transportation managers and supervisors and ATU bargaining unit members would be issued the final copy of the Project's principles and procedures.

Beyond addressing the three identified categories, the Committee also developed recommendations relative to grievance processing. With the intent of facilitating the resolution of grievances at the lowest administrative levels, the Grievance Resolution Project Committee recommends that:

1. Grievances be filed/submitted directly to the supervisor/manager(s) most familiar with the issue, time limits permitting.

2. Supporting documentation accompany grievances filed by the Union steward.

3. The steward and the supervisor discuss the grievance prior to the drafting of the First Step response, especially when the supervisor finds no basis for the grievance following his/her initial research.

4. In the event the grievance is denied at the First Step, any additional documentation supporting the response should be attached to the original and Union copy of the grievance.

5. The First Step response be filed with the originating steward, time limits permitting.

Should any questions arise regarding the Project principles and procedures, please contact any of the Committee members. Their names appear on the last page of this document.

GRIEVANCE RESOLUTION PROJECT COMMITTEE

PRINCIPLES AND PROCEDURES

## EXTRA BOARD

Posting

Once the extra board is posted in the Crew Office at 1300 hours and 2000 hours respectively, the board can't be changed. The extra board mark-up sheet must be posted in the Tower by 1500 hours and 2200 hours, respectively.

Hold-down assignments will be posted by 1300 hours on Friday, effective the following Monday. In the event a hold-down is not posted, the extra board assignment will be made on a day-to-day basis.

If a known hold-down is not posted and the assignment is made on a day-to-day basis, a two-hour penalty pay per day will be paid to the applicable AM or PM board. When an indefinite hold-down is not posted, such penalty will be for a maximum of thirty calendar days.

Rotation (Movement of the Asterisk)

The asterisk (*) denotes earliest report time. The asterisk moves down the extra board one person per week, skipping any person assigned on a hold down. If no one on the board is free, the asterisk remains at its last position until one or more persons become free. The asterisk then continues down to the next free board.

**Example:**

| Week 1 | | Week 2 | |
|---|---|---|---|
| *1. Jane | - Free | *1. Jane | - 1 week H/D |
| 2. Joe | - Free | 2. Joe | - 2 week H/D |
| 3. Jody | - Indef. H/D | 3. Jody | - Indef. H/D |
| 4. Judy | - 4 week H/D | 4. Judy | - 4 week H/D (cont) |
| 5. George | - Free | 5. George | - 1 week H/D |

| Week 3 | | Week 4 | |
|---|---|---|---|
| 1. Jane | - Free | 1. Jane | - 1 week H/D |
| 2. Joe | - 2 week H/D (cont) | 2. Joe | - Free |
| *3. Jody | - Free | 3. Jody | - Free |
| 4. Judy | - 4 week H/D (cont) | 4. Judy | - 4 week H/D (cont) |
| 5. George | - Free | *5. George | - Free |

Anytime there is a change in the makeup of an extra board, the rotation process (i.e. establishing the asterisk designation) shall begin again with the top name on the board who is without an assignment.

If an employee is taken out of rotation, the employee will be returned to the rotation and made whole.

**Example:**

Richmond Day Extra Board

| | Monday | Tuesday |
|---|---|---|
| 1. Bob | 1000 – Tim | 1000 – Tim |
| *2. Joe | 0400 – Judy | 0330 – Tom |
| 3. Gene | 1100 – OHY/Smith | 0400 – Judy (make whole 2 hours) |
| 4. Craig | 0515 – Jones | 0515 – Jones |
| 5. Jim | 0730 – Harris | 0730 - Harris |

Based on a Sunday polling, Gene volunteered to go to Hayward on Monday (1100-1900). On Tuesday, he returned to proper position in rotation and will be made whole either Monday night or Tuesday morning.

Protection Time

T/O: An employee can only fill a vacant shift whose start time falls within the protection time. This vacant shift which is outside the protection window should be either filled with overtime or blanked.

The PM board cannot be assigned to an AM shift and vice versa, unless in accordance with the contract.

T/O: When an employee operates a train from Hayward yard to Fremont Station or Concord yard to North Concord Station, his/her protection time ends once the employee is given mainline time. This employee is given a mainline .time when he/she leaves the yard limits during his/her protection window. Free extra board Operators will not be utilized for purposes of "yo-yoing" trains between stations and yard. (This concept will continue to apply as the Extensions come on line.)

TAS: The administration of the clerk extra board is unchanged.

With multiple AM and PM boards, assignments will be made on a first in/first out basis. Example: If two TAS report in, one at 0600 free and one at 0800 free and an 0800 vacancy occurs, the 0600 free board will assume the shift.

"Shift" Assignment

T/O: When assigned to cover a vacant part-time shift, the employee will be guaranteed a minimum eight-hour shift (plus any applicable protection time). This eight-hour shift guarantee begins when the shift is assumed.

S/A: An eight-hour shift is also guaranteed when assigned.

Assignment of Free Extra Board

For assignments off-line, the free extra board will be polled in seniority order.

When there is more than one free extra board with the same start time, and there are multiple known vacancies to fill, the selection of assignment will be made on a first in/first out basis, regardless of seniority.

**Example:**

| | | | Seniority # |
|---|---|---|---|
| | 1. Jane | 0600 – Smith H/D | (1) |
| | 2. Joe | 0800 – Free | (10) |
| * | 3. Jody | 0800 – Free | (20) |
| | 4. Judy | 0800 – Free | (30) |
| | 5. George | 1000 – Hood H/D | (40) |

If a vacancy occurs at 0900, Jody would assume the shift because she has the asterisk. Joe and Judy would remain free. If two vacancies occur at 0900, Jody and Judy would each assume a shift and Joe would remain free.

The earliest known vacancy to be assigned to a free extra board will be made on a first in/first out basis by the Foreworker. This does not preclude the Foreworker from offering choice of assignment when there are multiple vacancies to fill when there is one free extra board available.

S/A: As a free extra board, partial assignments can be made to cover late arrivals, etc. permitting additional assignment(s). Partial assignments will be identified at the outset.

T/O: No off-yard assignment can be initiated with less than fifty minutes before the start time of the vacant shift. Shift start time must be within the two-hour protection window.

Posting Hold-downs

Once a hold-down is posted by 1300 on Wednesday, it shall not be removed.

If a hold-down is not posted by 1300 hours on Wednesday, it cannot be posted later. Any vacancy shall be assigned day by day.

In the case of an inverse assignment on an indefinite hold-down, the indefinite hold-down will be rebid every thirty calendar days. It will be reposted in the fourth week, to be effective the fifth week.

When there are more vacancies than extra board to fill, the yard TAS will FAX this information to the other yards. This is acknowledged as a courtesy and is not grievable.

Posting Assignment

A TAS will post the extra board. In the event the yard TAS is absent, the TAS extra board will be utilized. If the TAS extra board is exhausted, overtime procedures will apply. If no one accepts the overtime, the

Operations Supervisor and steward will meet to ensure all contractual procedures have been followed and discuss how to proceed.

Once bid, there is no need for the employee to be contacted to reconfirm the hold-down request.

Polling for Hold-downs

T/O: The extra board must be polled, first in the home yard and thereafter in the other yards if unbid hold-downs remain. The polling must occur on Friday before 1300 hours. Preferences voiced by the board prior to the polling is not a recognized bid for polling purposes.

T/O: If the employee is not reachable by phone, the TAS will note on the recorded phone the no-contact and the time.

T/O: Where remaining hold-downs are unfilled in a particular yard, that yard TAS will contact the other yards for names of free extra board. The TAS with unbid vacancies will be responsible for phoning the free extra board. Examples follow:

a. The RY clerk has two unbid hold-downs after exhausting the RY extra board. The RY clerk will call the CY, HY, and DCY clerks for any free extra board. The RY clerk then polls the free extra board, in seniority order, for the RY hold-downs.

b. Both HY and CY each have one unbid hold-down after exhausting their respective boards. The HY and CY clerks will then coordinate contacting RY and DCY for the names of free extra boards AND phoning them, in seniority order, for their choice of the HY and CY hold-downs.

T/O: If the yard TAS makes an inverse assignment of the night-to-day or day-to-night board when there is a volunteer available (but who had not been polled), the volunteer will receive two hours of penalty pay for each day involved per the CBA.

Hold-Down Assignment Cancellations

When a hold-down for a home yard or line is posted and then subsequently cancelled (e.g. vacation cancellation return from medical leave), the employee maintains the hold-down RDOs for the week. On the first day of this "hold-down", the employee stays on the "hold-down" assignment; he/she becomes a free extra board beginning the second day.

If the cancelled hold-down is in another yard or line, the employee remains assigned to this bidded yard or line. On the first day of the cancelled hold-down, he/she remains on the "hold-down" assignment; on the second day, he/she becomes a free extra board in the bidded yard/line for the remainder of the week.

Hold-down Posting Errors

When a hold-down is posted incorrectly on Wednesday (wrong RDOs, report time, etc.) due to a typographical error, the hold-down schedule as posted remains in effect for the week. For a hold-down longer than one week, the correct hold-down will be reposted the following week. The employee will be notified by the TAS of the reposting.

When a hold-down is posted correctly on Wednesday but assigned incorrectly on the mark-up sheets on Friday, every effort will be made to contact the employee of the correct schedule as it appears on the Wednesday posting.

Polling for Day-to-Day Transfers

An employee cannot assume a vacant shift if not properly rested.

If a vacancy in another yard/line is known before the posting of the extra board but is not posted, AND the employee is assigned to this vacancy upon reporting to work, this employee will receive portal-to-portal plus the two-hour penalty pay.

T/O: Should the Tower Supervisor not be able to reach the employee, the Tower Supervisor will note the no-contact and time on the recorded phone AND record the no-contact on the turnover log.

T/O: Should the Tower Supervisor fail to attempt to contact the employee about an assignment, the harmed employee will receive a penalty pay of two hours at the time-and-half rate per the CBA.

T/O: The employee will not be transferred to another yard if the vacancy report time at the other yard is outside the employee's protection window. This employee cannot be transferred to cover a part of the other yard's vacant assignment. For example, a 1300 Hayward report cannot cover a 12:01 Richmond shift.

T/O: When a shift exchange occurs, transfers are made on the basis of the seniority actually held by the employee(s) in the yard.

Shake-up

T/O+S/A: A shake-up is triggered by a return from leave. If an employee returns from leave, the employee can work the board of his/her choice with Saturday/Sunday RDOs as free extra board (placed in proper seniority order) until the extra board is rebid. The rebid will be posted no later than Monday, to go into effect the following Monday.

T/O+S/A: When a shake-up occurs, all available extra board shifts in the yard/line will be posted; the schedules as originally posted during the system bid will not be changed. The number of AM and PM (disability) shifts to be set aside will be determined by the Operations Supervisor and Tower Foreworker. Blanking of any extra board shifts will be prohibited prior to completion of the rebid.

Example: On the system bid, Richmond Yard had 20 available slots (10 day/10 night). Four of the 20 slots were left for disability after the bid (2 day/2 night). A T/O returns to Richmond from a disability causing an extra board shake-up. All 20 slots will be available for bid, with the Operations Supervisor and Foreworker deciding which board - day or night- will have the extra body. (They will decide if there will be 9 day/8 night or 8 day/9 night). However, they do not determine which particular slots will be set aside. This is determined by elimination as the bid proceeds.

T/O+S/A: When board imbalances occur, weekly day-to-night/night-to-day transfers will be utilized to fill vacancies.

T/O+S/A: When extra board slots are added, they must duplicate existing disability slots.

S/A: Shake-ups (as with all polling) are conducted by the SOFO Foreworker.

## OVERTIME

Overtime Slips/Requests

T/O: Offers of OT will be limited to the AM only or PM only (or AM/PM) choice made by the employee. Add-ons to the AM only or PM only (or AM/PM) choice cannot be made after the OT list is compiled.

An employee may remove his/her name or AM/PM availability prior to being offered OT without being penalized.

Employees who do not submit timely OT slips can be added to the bottom of the OT list on a first come, first served basis. (Foreworkers should note the time of the add-on for crew office use.) Late add-ons will be called before utilizing the system-wide OT list.

The Foreworker will call refusals before going system wide.

An employee can list up to two telephone numbers at which he/she can be reached. No pager numbers are allowed.

Compilation of Overtime Lists

T/O: The TAS will have primary responsibility for compiling the OT list, with the steward as the back up. In the event the TAS is absent and any attempts to fill the position are unsuccessful, the Tower Foreworker will notify the steward that he/she will need to compile the list.

Overtime Order

The sequence for offering OT is outlined in Section S28.4 of the CBA.

Should the District decide to fill a vacancy and the RDO OT list is exhausted, and the first half of the vacant shift is filled by an extension, it

is expected that the second half of the vacant shift will be filled by OT (probably an extension).

Incidental OT (less than four hours) will be filled by extensions or early call-ins.

T/O: When an extension is a length of four hours or more, the RDO list will be utilized before an extension is made.

Overtime Offers

An offer of OT to an employee off the clock will be made no sooner than one hour after the end of an employee's shift.

T/O+S/A: Foreworkers will indicate whether the OT shift is a part-time or full-time shift.

T/O+S/A: When an employee rejects an OT offer for his/her yard, his/her name goes to the bottom of the OT list.

T/O+S/A: Offers will be made based on 1) accumulated RDO hours worked and 2) seniority.

T/O+S/A: If the employee is a "no-contact", the Foreworker is not required to try again for that shift assignment-he/she moves to the next name on the OT list.

* Note: The procedures associated with the handling of busy signals, phone machines, etc. remain unchanged.

T/O+S/A: Should the Foreworker make an erroneous OT offer (insufficient rest, wrong shift, no shift, etc.), the Foreworker can cancel the offer IF he/she can reach the affected employee prior to the employee departing for work.

Should the Foreworker be unsuccessful in reaching the employee to cancel an erroneous offer, the employee will have the right to work the entire OT shift, except in cases of insufficient rest, when the employee will not be allowed to work.

T/O: When an employee is pulled out of service and he/she has submitted an OT slip(s), the OT list will include a notation that the employee is "out of service."

T/O: For incidental OT, in the event a less senior employee is scheduled for OT and a more senior employee arrives in the yard, the original OT offer can be cancelled IF the OT assignment has not been assumed.

Special Overtime

T/O+S/A: There is no limit as to the number of Special OT preferences available to employees.

T/O: When the number of shifts have been identified, the Special OT list will be utilized before the RDO OT list or extra board, followed by extensions and early call-ins. Should additional staff be needed on the day of the event or on short notice, flexibility to meet this staffing need will prevail, e.g. utilization of the extra board, extensions, etc.

T/O: Other than a procedural error on the part of the Foreworker, Special OT offers cannot be cancelled prior to the event. In the event the Special Event is cancelled, procedures for canceling regular OT applies, i.e. the Foreworker can cancel the offer IF he/she can reach the affected employee prior to the employee departing for work.

T/O: If at the EOE (end of event), there is a need for any yard support, extensions will be offered based upon the seniority of those employees in the yard at the time, including those on Special OT.

T/O: Special OT is awarded on accumulated OT hours.

All: Working or refusing Special OT (except on a holiday) is counted in the accumulated OT hours.

T/O: An offer of Special OT will not exceed eight hours. This does not preclude extensions.

T/O: Special OT will be posted and utilized separate from the RDO list.

Minimum Rest

Generally, the minimum rest calculation begins with the end of the employee's shift inclusive of any OT. Should an employee work any portion of his/her shift, minimum rest will be calculated from the employee's regular bidded shift hours. For sick absences, minimum rest will also be calculated from the employee's regular bidded shift hours. For pre-approved absences in full shift increments, specifically vacation, floaters/day off in lieu of, and birthday, minimum rest will be calculated from the employee's last day of work prior to the vacation, etc.

When Union representatives are participating in 2-2-1 or 3-3-1 arbitration panels or Grievance Committee meetings, minimum rest will be calculated from 1700 hours or from the adjournment of the hearing/meeting, whichever is later. When conducting bids, minimum rest will be calculated from the conclusion of the bid process.

Lunch Reliefs

S/A: Employees working lunch relief shifts will not be pulled off their regular shifts. They will follow the lunch relief schedule to include any vacant station(s).

T/O: The CBA is clear the Foreworker is responsible for the proper administration of breaks. He/she must give proper notification at the beginning of a lunch break **to include the time** that said lunch break starts. The Foreworker must initiate contact with the employee only

at the very time the lunch starts. (For example, an employee arrives at the Transportation Building at 1145 hours. The lunch window begins at 1200 hours. The Foreworker must assign the lunch break at 1200 hours and no earlier.) Should the Foreworker fail to designate the lunch time, it shall constitute a missed lunch for the employee.

Training

An employee in training will be allowed to work overtime, if scheduled and has successfully completed his/her training before the overtime shift. In the event the employee remains in training, the employee's name will be removed from the OT list.

(It is expected that OJT arrangements will be made prior to returning the employee to his/her regular shift.)

New Year's Eve Coverage

New Year's Eve shifts will be posted by Friday of the first full week of December and the Union will be enlisted to recruit for coverage.

Part-time Employees

There is no contract provision for the payment of a time and one-half rate for hours worked beyond the part-time employee's shift.

2-2-1 Arbitration Panel

When scheduling additional meeting(s), a Union-designated panelist has an obligation to raise OT compensation when his/her RDO coincides with a date(s) under consideration. Should he/she fail to do so and a meeting date is set, he/she waives any OT compensation when the panel convenes on the day in question.

MOU 003-4/2-2-1 Committee Procedures specifies that the shift hours for the Union-designated panelists and Advocate are 0900 to 1700 hours. As the District maintains that no OT compensation is provided for hearings that extend beyond 1700 hours, it is understood that the Union will exercise their discretion as to their ability/willingness to continue with the proceedings beyond 1700 hours.

## HOLIDAY BIDS

Sunday Schedule

T/O: The District agrees to staff according to the bid schedule for Sunday when the Sunday train schedule is utilized on a holiday. This also applies to the Double Header trains even when these trains will not be run. The bid schedule for Saturday will also be applied when a Saturday train schedule is used on a holiday.

Special Overtime

Special OT will be posted and utilized separate from the holiday bid.

Lunch Relief

S/A: A designated lunch relief(s) will be a part of the holiday bid.

Primary Booth Pay

The premium will be paid for those holidays worked retroactive to January 1993 or at the point it was discontinued.

Posting

The holiday bid will be posted the third Friday before the holiday. They will be posted in the Transportation buildings and the Station Agent booths. For the booths, in addition to posting the available shifts, the Foreworker or the Operations Supervisor will enter the information on the turnover log, followed by the date and time of entry. Additional copies of the bid will be left in the log. The location of the proxy box (for the R-Line, LMA2 is the new temporary location; for the M-Line, it is found in the Foreworker's office at Civic Center. No change on the other lines.) will be included on the cover sheet. If the employee wants his/her own copy of the bid, it will be the employee's responsibility to request or locate one.

Bids

NO FAXED Proxy bids

T/O: No phone bids; proxies to be placed in OT box.

S/A+F/W: Phone bids ok.

Tentative Bid Errors

Once detected, the employee is to inform either the bid steward or Operations Supervisor.

Corrections will be based on a reconstruction of the bid, requiring a review of proxies, phone calls to affected bidders, etc. Stewards will have the ability to telephone employees to correct the bid. It is understood that in reconstructing the bid with minimal disturbance, the parties will attempt to discuss the changes with the affected employees, but if employee responses are not forthcoming or if contact cannot be made within reason, the parties have the discretion to proceed with finalizing the bid.

It will be the responsibility of the employee who brings the error to the attention of the bid steward to check the final bid for his/her holiday assignment.

Inverse Assignments

T/O: Prior to making inverse assignments on the tentative bid, all volunteers from any yard, will be allowed to fill remaining available

shifts. (Volunteers interested in off-yard assignments must list their choice of yards on their proxies.)

After the tentative bid is posted, the procedures in MOU 15-4 apply.

S/A: Inverse assignments are made on the tentative bid; MOU 15-4 applies.

Minimum Rest

During the holiday bid, the satisfaction of minimum rest is determined by the employee's regular bidded shift hours. If the employee submits proof of a pre-approved absence (vacation, floating holiday, birthday) the day before or the day after the holiday, he/she will not be limited to his/her regular shift hours to satisfy the minimum rest; if this pre-approved absence is subsequently cancelled, the employee's holiday assignment will be cancelled.

Training

An employee in training will be allowed to bid, and if scheduled, will be permitted to work the holiday IF he/she has successfully completed his/her training BEFORE the holiday. In the event the employee remains in training, the extra board will be used to cover the employee's shift.

The following are sample scenarios:

1) If the employee is in refresher training, he/she will be allowed to bid.

2) The employee has been out ill for two weeks. If the employee informs the Union that he/she will be available for work on the holiday, the employee would be allowed to bid.

3) The employee has been on a medical leave for six months. The employee's doctor's note releases him/her two days before the holiday. Anticipating at least one week of update training upon his/her return to work, the employee would not be allowed to bid.

Extra Board Assignments/Holiday

A "make whole" may result where an inverse extra board assignment the week of the holiday does not provide sufficient rest to enable the employee to work the holiday shift.

Where a "make whole" is owed because of a minimum rest problem the day before or day after the holiday, the "make whole" will be made for all involved hours on one day (the "make whole" day will be at the discretion of the Foreworker.)

T/O: Extra board assignments can only be bid IF the bidder can work the full shift, inclusive of the two-hour protection.

In the case where the bidder is working the extra board at the time of the holiday bid, a "make whole" may result as the bidder's extra

board assignment the week of the holiday will not be known at the time of the bid.

Tardy Steps

Should a tardy step suspension coincide with the holiday, the employee will not be allowed to work, pursuant to Arbitration #444-84.

## OTHER

Grievances (General)

Failure to cite the correct contract Section violated (and there is no reference to the catch-all "not limited thereto" relative to the "Articles violated" on the grievance form) will be regarded by the District as a basis for denying the grievance.

"No contract violation." or "Grievance denied." with no accompanying explanation is an insufficient District response.

## ADDENDUM

GRIEVANCE RESOLUTION PROJECT TRAINING
QUESTIONS AND ANSWERS

*Extra Board*

Q: At what time do the known hold-down vacancy notices come down?

A: Friday at either 0800 or 0900 depending upon the yard.

Q: When polling for yard-to-yard or line-to-line transfers, does the Foreworker have to give the employee information regarding available shifts in the home yard/line?

A: Yes, the Foreworker should provide all relevant information regarding off-line and home yard vacancies so the employee can make an informed decision.

Q: When a full-time Station Agent assumes a part-time Station Agent vacancy, what happens after the part-time shift ends?

A: At the end of the shift, the Agent may be utilized elsewhere on the line; however, overtime or extra board assignments cannot be circumvented by filling a vacant assignment.

Q: Can a free board Station Agent cover two part-time shifts?

A: No.

Q: If a Station Agent on the extra board covers a two-hour tardy, can he/she assume a full eight-hour shift afterwards?

A: Yes.

Q: If an extra board Station Agent is moved to another station on the same line, does he/she receive a two-hour penalty pay?

A: No. The two-hour penalty pay applies to off-line assignments.

*Overtime*

Q: Can a temporary EDS work his/her RDOs in his/her regular classification?

A: Not if the temporary assignment bridges the RDOs. If the assignment has ended, the RDOs may be worked.

Q: How are the RDO late add-ons used system wide?

A: In the order the names were added on the OT lists.

Q: Can a full-time employee be charged with a refusal if he/she turns down a part-time shift?

A: Yes.

Q: What is the timeframe requirement for posting Special OT?

A: As soon as the need is known.

Q: Who polls for Special OT?

A: The Foreworker.

Q: Five Train Operators are brought in for Special OT for game trains. On the day of the event, Central calls for only four trains. What happens to the fifth Train Operator?

A: The fifth Train Operator remains in the yard until the end of event or until his/her off-time according to the Special Event posting.

Q: When is EOE (end of event) for a Station Agent?

A: For the Coliseum station, the EOE is declared at the discretion of the Supervisor or Foreworker. For outlying stations, it's when the last event train arrives at the station.

Q: If the Special Event is cancelled, what happens?

A: The Foreworker will follow the same procedure for canceling an erroneous OT offer, i.e., the Foreworker will attempt to reach the affected employee(s) prior to the employee(s) departing for work. If not reached, the employee(s) will work the offered shift(s).

Q: What's the difference between RDO OT and Special OT, administratively speaking?

A: Only that there are separate lists.

Q: How is the lunch relief administered at a multi-centroid station?

A: The Station Agents relieve each other; and the Agents at 19th Street can relieve MacArthur and the Agents at Civic Center can relieve 16th Street Station.

Q: In the event a lunch relief arrives at a station that is vacant, does he/she stay there?

A: Yes, he/she stays for the lunch relief period and then moves on to the next relief.

Q: If a Train Operator reports for OT with 10 hours and 59 minutes rest, is the Train Operator made whole or sent home?

A: The Train Operator is sent home.

Q: In the scenario above, can the shift hours of the OT shift be modified?

A: No.

Q: Does a Station Agent working a primary position on his/her RDO (or while extending) receive primary (or lead) pay?

A: Yes.

*Holiday*

Q: Is the M-Line proxy box in a new location?

A: Yes, it's now located in the Foreworker's office at Civic Center Station.

*Miscellaneous*

Q: If a part-time Station Agent is working the secondary booth and the primary booth becomes vacant does the part-time Agent move to the primary booth?

A: No, the part-time Agent is not eligible for primary pay.

## PROJECT COMMITTEE MEMBERS

Union:

- Craig Anderson
- Jim Baker
- Joe Downs
- Tim Kraus
- Colleen McCarthy
- Wanda McPherson
- Gene Pepi
- Bob Smith

Management:

- Steve Brigham
- Nathaniel Ford
- Al Johnson
- Roy Sipp
- Shirley Wong

STIPULATED DECISION AND MOU 10/22/03 FOREWORKER BARGAINING UNIT WORK

| | |
|---|---|
| **AMALGAMATED TRANSIT UNION, LOCAL 1555,**<br><br>Union,<br><br>and<br><br>**BAY AREA RAPID TRANSIT DISTRICT,**<br><br>Employer.<br><br>Re: Foreworker Bargaining Unit Work. | **Stipulated Decision**<br><br>**of**<br><br>**Barbara Chvany,**<br><br>**Med-Arbiter**<br><br>**and**<br><br>**Memorandum of Understanding between the Parties**<br><br>**-oOo-**<br><br>**Oakland, California**<br><br>**October 22, 2003** |

## APPEARANCES

**On Behalf of the Union:**

Victoria Chin, Esq.
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# STIPULATED DECISION

# AND

# MEMORANDUM OF UNDERSTANDING

# CONCERNING FOREWORKER BARGAINING UNIT WORK

## I. INTRODUCTION-BACKGROUND AND INTENT

As a result of a med-arb proceeding before Med-Arbiter Barbara Chvany pursuant to a Med-Arb Agreement between the District and the Union, dated March 22, 2002, and incorporated herein by reference, the Med-Arbiter issues this Stipulated Decision for the purpose of resolving issues concerning the scope of Foreworker bargaining unit work. This Stipulated Decision shall be incorporated in the Labor Agreement as a Memorandum of Understanding.

Since approximately October 1988, the Parties have had an ongoing dispute regarding the nature and scope of exclusive Foreworker bargaining unit work and the adequacy of Foreworker staffing to perform such work. The Union has filed numerous grievances regarding the performance of historical and traditional Foreworker bargaining unit work by non-ATU personnel and the reduction of Foreworker positions. The District has taken the position that some of this work is not exclusive and, therefore, under certain circumstances, may be performed by non-ATU personnel.

The Parties' dispute has given rise to five (5) arbitrations, four before Arbitrator Sam Kagel and one before Arbitrator Barbara Chvany, whose decisions in 1989, 1990, 1994, 1998, and 2000, are incorporated herein by reference, as well as CSMCS and related court proceedings, and has been a major subject of at least three Contract negotiations, in 1988, 1991 and 1994. The opening statements and exhibits in the med-arb summarize the Parties' positions. Both Parties agree that it is in the best interest of the collective bargaining relationship that this matter be resolved.

## II. FOREWORKER BARGAINING UNIT WORK RECOGNITION

A. Recognition of Foreworker Bargaining Unit Work

Work which has been historically and traditionally performed by Foreworkers in the ATU bargaining unit, as described below, shall be performed by Foreworkers and shall not be

performed by employees outside the bargaining unit, except in the circumstances set forth in Sections D and E below.

B. General Statement of Foreworker Bargaining Unit Work and Relationship to Other Levels of Supervision

Under general supervision, Foreworkers, as the first line of supervision for Train Operators, Station Agents, and Yard Transportation Administration Specialists, plan, direct, supervise and review the work of operations staff involved in revenue system support in rail, yard, terminal zone and/or station operations, and have historically and traditionally performed this role.

As management's first level of interface with Train Operators, Station Agents, and Yard Transportation Administration Specialists, Foreworkers assign, direct, coordinate and instruct these employees in the daily performance of their work, mediate and resolve minor disputes, and ensure coverage of revenue vehicles and station locations and the build up and break down of trains. Having been cross-trained in Train Operator and Station Agent duties, Foreworkers also provide assistance to Train Operators and Station Agents in the performance of their duties, when such assistance is necessary.

"First line of supervision" for Train Operators and Station Agents in this context means the Foreworker has daily, direct contact with these bargaining unit employees. Foreworkers are intended, in most instances, to be the first interface with Train Operators and Station Agents. Phrases such as "under general supervision," "first line of supervision" and "first level of supervision," as used herein, expressly acknowledge that Foreworkers, and those they supervise, operate within a supervisorial/managerial hierarchy. The definition of Foreworker Bargaining Unit work in this Stipulated Decision is not intended to eliminate, exclude or unreasonably restrict the legitimate supervisorial and managerial role played by those above Foreworkers in the hierarchy.

Management has a responsibility to manage and oversee the work to meet department goals and objectives, to ensure that rules and regulations are applied consistently, and to administer discipline. Operations Supervisors handle problems Foreworkers are unable to resolve and perform work which requires the Operation Supervisor's coordination or administration

On the other hand, particularly with respect to duties that involve the performance of hands-on bargaining unit work, exceptions to exclusive Foreworker Bargaining Unit work are to be construed narrowly. Exceptions are not to be applied in a manner that results in non-ATU bargaining unit personnel encroaching upon Foreworker Bargaining Unit work, or in a manner which supplants, replaces or eliminates Foreworker positions.

Pertinent references to Foreworker duties are contained in numerous District documents, including various job descriptions for Operations Foreworker and Senior Operations Foreworker (and previous job titles for these positions, including but not limited to Foreworker II and III).

C. Exclusive Foreworker Assignments/Duties

The assignments and duties described below and in the referenced exhibits attached hereto[1] have historically and traditionally been performed by ATU-represented Foreworkers:

**1. Line Foreworkers - EXHIBIT A**

(including duties performed by SOFO Foreworkers, whose duties from 3/10/89 through 9/8/02 were performed in the SOFO office, and whose duties prior to 3/10/89 and since 9/9/02 were incorporated into those of the Line Foreworkers)

**2. Systemwide Foreworkers - EXHIBIT B**

**3. Tower/Yard Foreworkers - EXHIBIT C**

**4. TM (Terminal) Zone Foreworkers - EXHIBIT D**

**5. Administrative and Operations Rules and Procedural Development Foreworkers - EXHIBIT E**

Regarding the Med-Arb Agreement, Exhibit B, para. 3, grievance 91-278, is consolidated in the med-arb process along with issues of Administrative Foreworker work jurisdiction. That grievance and those issues are remanded to the Implementation Committee for a period of 30 days. If not resolved, they will proceed to the next step in the dispute resolution procedure in Section V.

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[1] **To the extent information contained in the documents referenced in the attached exhibits is inconsistent with this Stipulated Decision, the Stipulated Decision governs.**

6. **Extra Board Foreworkers - EXHIBIT F**

   The duties ordinarily within the scope of these assignments in some cases overlap (e.g. Extra Board Foreworkers fill shifts, as needed for various Foreworker job assignments.)

**D. Additional Important Foreworker Duties**

In addition to the exclusive duties listed in Section II.C., Foreworkers are the first line of supervision to perform the following Foreworker duties. Other employees may perform these duties to the extent described below and subject to the principles set forth in Section II.B.

1. Foreworkers enforce the uniform policy. Supervisors have the responsibility to oversee the work and to ensure that rules and regulations are followed.

2. Foreworkers transport injured employees to appropriate medical facilities. When appropriate, other employees may also transport injured employees to medical facilities. Foreworkers are often necessary to remain at the location to perform the bargaining unit work of the injured employee until properly relieved.

3. Foreworkers troubleshoot trains to resolve problems when Train Operators and/or technicians are unavailable or require assistance. When time is of the essence to avoid secondary delays, non-ATU personnel may also assist. A Foreworker in the immediate vicinity of a train with a problem will assume primary responsibility for providing troubleshooting assistance. To the extent there are fixed posts on platform during commute hours, Foreworkers will have priority for such assignments.

4. Foreworkers resolve minor disputes between employees and/or between passengers and employees. They also respond to Central's direction to assist Train Operators with passenger problems. If a Foreworker is present, this duty normally falls to the Foreworker to handle. If no Foreworker is present, Operations Supervisor is present, and dispute requires resolution at that time, Operations Supervisor handle. If neither is present, a Foreworker will be sought first; if not available within a reasonable time frame, then an Operation Supervisor may handle.

5. Foreworkers assist with crowd control, including coordinating with train controllers releasing trains in a safe manner, directing patrons and assisting Station Agents. If special overtime is posted for Train Operators or Station Agents and the need for supervisor(s) is determined by

Management, then special overtime will be posted for Foreworkers as follows:

(a) If there are two Line Foreworkers working the Line during the time that assistance with crowd control is needed, then special overtime will be posted for at least one Foreworker to cover the event;

(b) If there is one Line Foreworker working the Line during the time that assistance with crowd control is needed, then special overtime will be posted for at least two Foreworkers to cover the event;

(c) If there are three Operations Supervisors assigned to work a special event and there are two Line Foreworkers working the Line during the time that assistance with crowd control is needed, then special overtime will be posted for at least two Foreworkers to cover the event;

(d) If there are three Operations Supervisors assigned to work a special event and there is one Line Foreworker working the Line during the time that assistance with crowd control is needed, then special overtime will be posted for at least three Foreworkers to cover the event.

6. Foreworkers visit each station according to commute/passenger demand/possible problems. On arrival at each station, they inspect for cleanliness (cleaning schedule known), graffiti (follow-up), and maintenance defects (follow-up). Operation Supervisors are not precluded from visiting and inspecting stations or trains.

7. Foreworkers communicate with Station Agents, Train Operators and Transportation Administration Specialists. They follow up on their needs, emphasize customer relations, and solve employee problems at the first level. As necessary, Foreworkers counsel undesirable behaviors. Operation Supervisors may communicate directly with bargaining unit Train Operators, Station Agents and Transportation Administration Specialists regarding undesirable behaviors, rules violations, safety concerns or other matters that Operation Supervisors observe that require prompt action.

8. Foreworkers maintain logs and records, prepare reports and review the accuracy of reports of Train Operators and Station Agents, as well as perform related administrative work as assigned. Operations Supervisors are not precluded from generating reports or requesting reports, such as Unusual Occurrence Reports, from ATU

employees. Management is responsible for ensuring that all relevant facts are gathered in investigations, and for analyzing the information and drawing conclusions about the appropriate actions to be taken.

9. Ride Checks are performed by Operations Supervisors and Foreworkers.

10. Foreworkers are the first line of supervision for Test Track work (e.g. Foreworker checks Train Operator in and out). Operations Supervisor serves as Safety Monitor.

**E. Exceptions For Emergency Circumstances And De Minimus Acts**

Employees outside the bargaining unit may perform any task historically and traditionally performed by Foreworkers, as described above, during a bona fide emergency. A bona fide emergency includes a natural or man-made disaster or incident that may jeopardize or has compromised the physical integrity of the BART system, property, or the safety of BART employees, patrons, or other persons on BART property. A bona fide emergency also includes those circumstances not addressed above, but declared an emergency by non-BART governmental officials, BART police, other emergency response agencies or by the District in good faith in circumstances of similar exigency. This would include, but is not limited to, securing medical assistance for an injured person, transporting the injured person to a medical service provider, assisting a coroner or other investigating authority, and severely overcrowded stations or platforms related to a bona fide emergency.

A bona fide emergency does not refer to normal transit industry occurrences, such as crowded stations or platforms, train delays, or special events requiring additional staffing (e.g. sporting events, concerts, parades, etc.) Therefore, Foreworkers shall be scheduled to assist with crowd control, including releasing trains, and directing Station Agents, as described above.

Additionally, the parties recognize that non-unit employees may perform bargaining unit work on a de minimus basis. "De minimus" refers to work which is minor, done in passing, not planned in advance, and happens only on rare occasions. This exception shall not be applied in a manner which results in non-ATU employees encroaching on Foreworker bargaining unit work.

## III. FOREWORKER CORE STAFFING

A. Original Foreworker Core Staffing-(See B Below For 2009-2013 Foreworker Core Staffing)

To ensure that there are sufficient Foreworkers to perform Foreworker bargaining unit work, as described herein, the District shall maintain a core level of staffing for Foreworkers ("Core Staffing"). The Core Staffing is the minimum staffing level for Foreworkers, subject to the Maintenance provision below.

The total Core Staffing initially shall be 75 Foreworker bargaining unit positions, effective February 9, 2004, with an increase to a total of 77 positions as soon as the first 75 positions are filled with permanent, fully certified Foreworkers (i.e. Foreworkers who have successfully completed all aspects of the Training Program, described in the next Section). The staffing categories and numbers within each category shall be the following:

Senior Operations Foreworker (Foreworker III) positions (initially 49, then 51 positions):

1. Tower Primary Foreworker - 16.8 positions
2. Line Foreworker - 21.4 positions
   a. 15.4 existing positions
   b. 6 additional Line positions, to provide for two a.m. and two p.m. shifts Monday through Friday on the A, M and C Lines
3. Systemwide Foreworkers - 1.8 positions
4. Administrative and Operations Rules and Procedural Development Foreworker - 1 position.
5. Extra Board Foreworkers - initially 8, then 10 positions

Operations Foreworker (Foreworker II) positions (26 positions):

1. Tower Secondary Foreworker - 6 positions (2 Richmond, 2 Hayward, 1 Daly City, 1 Concord)
2. TM Zone Foreworker - 20 positions

This Core Staffing structure is illustrated in EXHIBIT G, attached hereto.

To ensure that the Core Staffing positions are filled with permanent, fully certified Foreworkers, the District shall fill

all Foreworker vacancies resulting from whatever reasons (including but not limited to retirement, promotion to Operations Supervisor or other positions, or any other attrition or reason for vacancy). The District shall promote Foreworkers (Operations Foreworkers and Senior Operations Foreworkers) on a one-for-one basis within 30 days of any Foreworker vacancy. For example, if a vacancy occurs in any Foreworker position (Operations Foreworker or Senior Operations Foreworker), the District shall fill the resulting vacancy by promoting an employee on the JEC Foreworker promotion/eligibility list to Operations Foreworker within 30 days of the vacancy. If the vacancy occurs in any Senior Operations Foreworker position, the District shall also promote an Operations Foreworker to Senior Operations Foreworker within 30 days of the vacancy. In addition, if any employee promoted to Foreworker does not successfully complete his/her Foreworker training, then another Station Agent or Train Operator shall be promoted to Foreworker within 30 days to ensure that all 77 of the Core Staffing positions are filled with permanent, fully certified Foreworkers.

During the initial period of transition to permanent, fully certified Foreworkers filling the 77 Core Staffing positions, all vacancies in Core Staffing positions shall be filled with the Extra Board, and in the event the Extra Board is exhausted, all vacancies shall be filled with overtime, in accordance with Sections 23.0 and 28.4 of the Labor Agreement.

Upon initially reaching full Foreworker Core Staffing of 77 permanent, fully certified Foreworkers, the District will promote an additional 2 employees to Foreworker on a temporary basis. They will complete all aspects of the Foreworker Training Program. If any employee promoted to Foreworker does not successfully complete his/her Foreworker training, then another Station Agent or Train Operator shall be promoted to Foreworker within 30 days. If the 77 Core Staffing positions are filled with permanent, fully certified Foreworkers, they will revert to their previous classification until such time as a permanent vacancy occurs in the Core Staffing. Refresher training will be provided if more than 30 days have elapsed from certification until appointment to a permanent Foreworker position. If the 77 Core Staffing positions are not filled with permanent, fully certified Foreworkers, they will be

promoted on a one-for-one basis to a permanent Foreworker position, and another employee will start the Foreworker Training Program subject to the provisions above. The District will continuously maintain a reserve of 4 additional Foreworkers (above the number of vacancies) either in training, or certified and available to fill the next permanent vacancy.

B. Foreworker Core Staffing For July 1, 2009 To June 30, 2013

To ensure that there are sufficient Foreworkers to perform Foreworker bargaining unit work, as described herein, the District shall maintain a core level of staffing for Foreworkers ("Core Staffing"). The Core Staffing is the minimum staffing level for Foreworkers, subject to the Maintenance provision below.

The total Core Staffing initially shall be 75 Foreworker bargaining unit positions, effective February 9, 2004, with an increase to a total of 77 positions as soon as the first 75 positions are filled with permanent, fully certified Foreworkers (i.e. Foreworkers who have successfully completed all aspects of the Training Program, described in the next Section). The staffing categories and numbers within each category shall be the following:

Senior Operations Foreworker (Foreworker III) positions (initially 49, then 51 positions):

1. Tower Primary Foreworker - 16.8 positions

2. Line Foreworker - 17.4 positions

   a. 11.4 existing positions, day and swing shifts daily on all

   b. 6 additional Line positions, to provide for two a.m. and two p.m. shifts Monday through Friday on the A, M and C Lines

3. Systemwide Foreworkers - 1.8 positions

4. Administrative and Operations Rules and Procedural Development Foreworker - 1 position

5. SOFO: 1 position, graveyard shift6. Extra Board Foreworkers - initially 11, then 13 positions

6. Extra Board Foreworkers-Initially 11, then 13 positions

Operations Foreworker (Foreworker II) positions (26 positions):

1. Tower Secondary Foreworker - 6 positions (2 Richmond, 2 Hayward, 1 Daly City, 1 Concord)

2. TM Zone Foreworker - 20 positions

This Core Staffing structure is illustrated in EXHIBIT G, attached hereto.

To ensure that the Core Staffing positions are filled with permanent, fully certified Foreworkers, the District shall fill all Foreworker vacancies resulting from whatever reasons (including but not limited to retirement, promotion to Operations Supervisor or other positions, or any other attrition or reason for vacancy). The District shall promote Foreworkers (Operations Foreworkers and Senior Operations Foreworkers) on a one-for-one basis within 30 days of any Foreworker vacancy. For example, if a vacancy occurs in any Foreworker position (Operations Foreworker or Senior Operations Foreworker), the District shall fill the resulting vacancy by promoting an employee on the JEC Foreworker promotion/eligibility list to Operations Foreworker within 30 days of the vacancy. If the vacancy occurs in any Senior Operations Foreworker position, the District shall also promote an Operations Foreworker to Senior Operations Foreworker within 30 days of the vacancy. In addition, if any employee promoted to Foreworker does not successfully complete his/her Foreworker training, then another Station Agent or Train Operator shall be promoted to Foreworker within 30 days to ensure that all 77 of the Core Staffing positions are filled with permanent, fully certified Foreworkers.

During the initial period of transition to permanent, fully certified Foreworkers filling the 77 Core Staffing positions, all vacancies in Core Staffing positions shall be filled with the Extra Board, and in the event the Extra Board is exhausted, all vacancies shall be filled with overtime, in accordance with Sections 23.0 and 28.4 of the Labor Agreement.

Upon initially reaching full Foreworker Core Staffing of 77 permanent, fully certified Foreworkers, the District will promote an additional 2 employees to Foreworker on a temporary basis. They will complete all aspects of the

Foreworker Training Program. If any employee promoted to Foreworker does not successfully complete his/her Foreworker training, then another Station Agent or Train Operator shall be promoted to Foreworker within 30 days. If the 77 Core Staffing positions are filled with permanent, fully certified Foreworkers, they will revert to their previous classification until such time as a permanent vacancy occurs in the Core Staffing. Refresher training will be provided if more than 30 days have elapsed from certification until appointment to a permanent Foreworker position. If the 77 Core Staffing positions are not filled with permanent, fully certified Foreworkers, they will be promoted on a one-for-one basis to a permanent Foreworker position, and another employee will start the Foreworker Training Program subject to the provisions above. The District will continuously maintain a reserve of 4 additional Foreworkers (above the number of vacancies) either in training, or certified and available to fill the next permanent vacancy.

The parties agree that this provision is intended to be in compliance with the Foreworker Bargaining Unit Work SD/MOU and specifically the recognition of Foreworker Bargaining Unit Work under Section II.A.

## IV. TRAINING PROGRAM AND TRANSITION TO CORE STAFFING WITH PERMANENT, FULLY CERTIFIED FOREWORKERS

The following provisions revise the Foreworker Training Program. The parties agree that the fact that this program was collaboratively revised will not be used as evidence in any future proceeding to establish the obligation, or lack thereof, to bargain about training programs.

The purpose of the Foreworker Training Program is to promote and train Foreworkers immediately in order to fill and maintain the requisite Foreworker Core Staffing with permanent, fully certified Foreworkers. A permanent, fully certified Foreworker is an employee who has successfully completed all aspects of the Training Program, as defined below. In addition, to have Foreworkers perform bargaining unit work as soon as possible during periods of transition to full Core Staffing, the TM Zone positions and the six additional Line positions (i.e. the second M-F positions on a shift and Line) may be filled temporarily by qualified Foreworkers in the Training Program, as defined further below. If unfilled in that manner, those positions shall be filled with Extra Board and overtime to the extent provided in Section III.

The Training Program shall consist of 5 weeks of Station Agent cross-training (for Train Operators), 10 weeks of Train Operator cross training (for Station Agents), 8 weeks of TM Zone training, 8 weeks of Line training, and 25 weeks of Tower training (including 3 weeks of Tower classroom training, 10 weeks in one Tower and 4 weeks in each of the other Towers). Foreworker trainees will be evaluated every 250 hours of training. Employees who do not successfully complete the Training Program shall revert to their former ATU classification, without loss of seniority, regardless of the amount of time spent in training.

Prior to the February 2004 bid, the District will promote 24 existing Operations Foreworkers (Foreworker II) to Senior Operations Foreworker (Foreworker III), in accordance with the JEC provisions of the Labor Agreement. No later than December 1, 2003, the District will also convene the JEC in order to identify and promote qualified candidates to the remaining vacant Operations Foreworker (Foreworker II) positions recently posted (i.e. 15 promotions, in addition to the 3 currently in the Training Program). Posting will be extended to enable the Parties to notify employees of the terms of this Stipulated Decision.

As a temporary mechanism for filling Foreworker positions during periods of transition to full Core Staffing with permanent, fully certified Foreworkers, qualified Foreworkers in the Training Program may assist temporarily in the unbid TM Zone positions and the unbid second positions on Line shifts. The goal of this measure is to fill the unbid TM Zone and unbid second positions on Line shifts in an expeditious manner with Foreworkers who have the requisite training to work in those positions, but who have not yet received Tower training. Those employees who successfully complete TM Zone training (and for Station Agents, Train Operator cross-training), will be qualified to work in the TM Zone positions which have not been bid by permanent, fully certified Foreworkers. Those employees who successfully complete Line training, and cross-training (Station Agent training for Train Operators; and Train Operator training for Station Agents) will be qualified to work in the six unbid second positions on Line shifts, so long as the first Line position on that same shift and Line is bid by a permanent, fully certified Foreworker. In the event that Extra Board and overtime are exhausted, Foreworkers in training may be called from a supplemental overtime list to fill Foreworker vacancies in the TM Zone or as the second positions on Line shifts if they are qualified in those positions.

During periods of transition to full Core Staffing with permanent, fully certified Foreworkers, all vacancies in Core Staffing shall be filled with the Extra Board, and if the Extra Board is exhausted, with overtime to the extent provided in Section III.

During periods of transition to full Core Staffing with permanent, fully certified Foreworkers, Tower training will be provided to four employees at a time, until all employees have received Tower training. Within 30 days of 2 of the 4 spaces in the Tower becoming open for training, two employees will be placed in the Tower for training. Employees will be placed in Tower training based upon their promotion date, seniority, and completion of Train Operator training.

The parties recognize the District's interest in not being overstaffed or understaffed while in transition to full Core Exhibit A - Page 1 of 2 Staffing. The District will initially promote four more employees to Foreworker than the number of open positions, with the understanding that as employees leave the Foreworker ranks, the District will continue to carry no less than two Foreworkers in training above the number of open positions, until the initial Core Staffing level of 75 positions has been reached. Once the initial Core Staffing level of 75 has been filled by permanent, fully certified Foreworkers, the District will increase the Core Staffing level to 77 positions, by adding two more positions to the Extra Board for a total of 10 positions. After the initial two employees leave the Training Program and there are only two employees in training above the number of open positions, the District will thereafter promote one employee for each one employee who leaves, within 30 days of that employee leaving.

The proposed schedule and methodology for implementation of the Training Program described above is loosely illustrated in Exhibit H, attached and made part of this Stipulated Decision.

When attrition occurs of permanent, fully certified Foreworkers, due to retirement, promotion to Operations Supervisor or other positions, or any other reason, the District shall fill the resulting Foreworker vacancy, on a one-for-one basis, within 30 days of the vacancy.

Foreworker promotion/eligibility lists (for both Operations Foreworker and Senior Operations Foreworker positions) will be kept current so that promotions may be made within 30 days of every vacancy. New promotion/eligibility lists will be

in place and in effect every 12 months, or as soon as a list is exhausted, whichever occurs first.

## V. MAINTENANCE PROVISIONS

The parties shall honor the obligations reflected in this Stipulated Decision. This Section incorporates dispute resolution mechanisms for enforcing those commitments, as well as a mechanism for adjusting the Foreworker Core Staffing level, when warranted, as described below.

### A. Implementation Committee and Med-Arbiter's Continuing Jurisdiction

An Implementation Committee, comprised of one Union member and one management member, will be formed to oversee implementation of the Stipulated Decision. The Implementation Committee will be comprised of Marta Carney and Al Johnson, or their substitutes selected, respectively, by the Union and the District.

There shall be a grace period from the date of the signing of the Stipulated Decision until the February 2004 bid. During the grace period, the Implementation Committee and the Parties will work cooperatively and in good faith to ensure implementation of the Stipulated Decision, but the Parties and their constituents will refrain from filing complaints concerning alleged violations absent exigent circumstances. The failure to assert violations during the grace period shall not be deemed waiver or acquiescence. Rather, the agreement to a grace period reflects mutual recognition by the Parties that the provisions of the Stipulated Decision will take time to implement. The Parties may seek the assistance of the Med-Arbiter during the grace period to assist with any problems that may arise.

During the grace period, the Union will inform ATU bargaining unit members and the District will inform members of its management team about the provisions and requirements of the Stipulated Decision.

Regular status reports will be prepared by the Transportation Department covering events relevant to the implementation and monitoring of the Stipulated Decision. The Implementation Committee will determine what information is to be contained in these reports, and at what intervals the reports need to be prepared and reviewed. Either member of the Implementation Committee, or the Med-Arbiter, may request a status report or additional information. The Implementation Committee will review the

status reports on a regular basis to monitor compliance with the Stipulated Decision. The Committee shall take immediate action to attempt to resolve any problems or issues that may arise based upon their review of the reports.

Prior to the February 2004 bid, the Implementation Committee will develop a complaint form to be utilized to document and report concerns, complaints or alleged violations related to the Stipulated Decision. The printed form shall set forth how it is to be filed with the Implementation Committee. A completed form shall set forth a description of the concern, complaint or alleged violation, the date that it occurred, and the remedy or resolution sought.

As the first level of the expedited dispute resolution procedure under the Stipulated Decision, the Implementation Committee will review all such forms, and take immediate action to resolve the complaint or violation, if possible. The Implementation Committee shall record the following information on the form: (1) when it received the form; (2) when it met to review and attempt to resolve the matter; (3) its comments or findings, including if the Implementation Committee members agree or do not agree on a resolution; and (4) the nature of any resolution reached, such as the action to be taken or a remedy to be awarded.

The Implementation Committee will retain all forms that are filed, along with any pertinent related documentation reflecting actions taken and/or remedies implemented. The forms may be utilized for such purposes as tracking compliance with the Stipulated Decision, identifying recurring problems or violations, and devising appropriate responsive measures. Upon request, the Med-Arbiter or counsel may obtain copies of these file materials.

If the Implementation Committee fails or is unable to resolve an issue at the first level, either party may invoke the continuing jurisdiction of the Med-Arbiter to resolve the dispute by submitting the complaint form to the Med-Arbiter by facsimile or U.S. Mail. To be timely, the form must be faxed or post-marked to the Med-Arbiter within forty (40) working days of the occurrence of the dispute, or when the employee or Union could have been aware of the occurrence.

The Med-Arbiter shall be Barbara Chvany, or her substitute as mutually agreed by the Parties. The costs of med-arb are shared equally by the parties.

Normally within 30 days, but no later than 60 days, the Med-Arbiter shall attempt to resolve the matter informally, through mediation with the Implementation Committee, either by telephone conference or in person. A telephone conference shall be the favored method, when appropriate. Ten working days prior to the informal mediation session, the parties shall exchange and submit to the Med-Arbiter all available information regarding the subject complaint.

At the informal mediation step, the Implementation Committee may elect, or the Med-Arbiter may request, the participation of other persons or the submission of additional information. The Med-Arbiter, with input from the parties, has authority to determine the appropriate procedure that will apply, including but not limited to whether (a) mediation will be utilized to assist the Parties in resolving the matter directly; and/or (b) the Med-Arbiter will render a final and binding determination of the matter at the informal med-arb stage. Because the Med-Arbiter may render a final and binding determination of the matter at the informal mediation step, all substantive discussions, meetings and sessions are to be held jointly, not ex parte, to ensure due process.

The results of the informal step, including any determination by the Med-Arbiter, shall be recorded on the complaint form, and shall be retained in the Implementation Committee records.

The Med-Arbiter has authority to order a formal arbitration hearing and to issue a final and binding decision on the issue. When this procedure is invoked, the complaint form is deemed the equivalent of a grievance, but the matter shall proceed directly to an arbitration step under the Med-Arbiter's continuing jurisdiction pursuant to the Stipulated Decision, bypassing other steps of the grievance procedure of the Labor Agreement. The Arbitrator will schedule an arbitration hearing as soon as possible. A transcript of the proceedings will be taken. The Med-Arbiter will determine if briefs will be submitted. The decision will be issued in writing, and may be in abbreviated or expedited form, depending upon the nature of the dispute. Any decision rendered at the arbitration step shall be based upon the arbitration record, not upon settlement discussions at the informal mediation step. The decision of

the Med-Arbiter shall be retained in the Implementation Committee records.

The Med-Arbiter shall hold regular, periodic status conferences with the Implementation Committee to monitor compliance with the Stipulated Decision. Counsel or other party representatives may attend, as needed.

B. Changes in Circumstances Affecting Core Staffing of Foreworkers

The Parties agreement regarding full Core Staffing for Foreworkers represents their mutual intent (1) to attain and maintain a sufficient core number of Foreworkers to perform Foreworker bargaining unit work, as described herein, and (2) not to assign Foreworker bargaining unit work to non-ATU personnel.

The Core Staffing level for Foreworkers may be adjusted in accordance with this provision when substantial changes in conditions occur that affect the amount and/or nature of Foreworker bargaining unit work. Bargaining unit work performed by Foreworkers shall not be reduced or changed by assigning it to non-ATU personnel.

A claim by either party that the number of Foreworkers is excessive or inadequate to perform Foreworker bargaining unit work is subject to the med-arb dispute resolution procedure set forth hereinabove. In determining whether the Core Staffing level for Foreworkers should be maintained or changed, the following factors may be relevant to consider: the amount and nature of Foreworker bargaining unit work then existing; the nature and extent of any changes in conditions involving bargaining unit work; whether the Foreworker Core Staffing level has resulted in the preservation or erosion of Foreworker bargaining unit work; the effect on the bargaining unit; implementation issues related to this Stipulated Decision; the number and nature of violations of this Stipulated Decision, and findings/resolutions resulting therefrom; the number of vacancies and Line drafts; the effectiveness of the Training Program in filling and maintaining the Core Staffing; changes in the size of the transportation system, including ridership; workplace efficiencies; the District's financial condition; and any other changes in conditions the Med-Arbiter deems relevant. The Parties preserve their rights and positions regarding these factors and/or may raise other factors.

## VI. REMEDIAL PROVISIONS AND SETTLEMENT OF GRIEVANCES

This Stipulated Decision represents the full and final resolution of those issues in all grievances filed between October, 1988, and the date of execution of this Stipulated Decision, including but not limited to those contained in the Med-Arb Agreement, pertaining to the performance of duties alleged by the Union to constitute exclusive Foreworker work by non-ATU personnel. To the extent those grievances raise other issues, the grievances as to those other issues are preserved and not resolved by this Stipulated Decision, e.g. blanking, training, extra board, TMA, etc. Grievances consolidated in the med-arb process that raise such other issues are subject to the dispute resolution procedures in Section V. Grievances not consolidated in the med-arb process that raise such other issues are subject to the Grievance Procedure of the Labor Agreement.

It is expressly understood that by releasing the above described claims, the Union has not made any admission as to the invalidity of those claims and no such inference is to be presumed. Likewise, by compromising on this matter and making the payment described herein in exchange for such a release from the Union, as well as any other concessions or changes in operations made pursuant to this Stipulated Decision, the District has not made any admission as to the invalidity of its position. The District does not admit any liability or wrongdoing, and none is to be presumed.

As part of this Stipulated Decision, the District will make a payment to the Union totaling $1,750,000 (One Million, Seven Hundred Fifty Thousand Dollars) in two installments. The first installment, in the amount of $1 Million, will be made on or before July 1, 2004. The second installment, of the remaining $750,000, will be made on or before July 1, 2005. If requested by the Union, the District shall administer the distribution of checks, subject to: 60 days notice with instructions for employees' checks; 60 days notice with instructions for non-employee checks, and given to Union for distribution; Union to hold District harmless for any claim arising from distribution including costs associated with defending against such an action.

This Stipulated Decision is intended to provide guidance and assistance in interpreting and applying the Labor Agreement in future disputes, if any, over Foreworker work issues. This Stipulated Decision is non-precedential in disputes unrelated to the Foreworker issues addressed herein. The remedial payments provided for herein are not to be used in evidence in unrelated disputes, nor are they to be raised in Contract negotiations, as these terms represent a compromise settlement. The Parties recognize that this Stipulated Decision will continue to be effective beyond the term of the Labor Agreement.

October 22, 2003

Barbara Chvany, Med-Arbiter

**For the Union**

Mary Anne O'Rorke

Marta Carney

Victoria Chin

**For the District**

Paul Oversier

A. H. Johnson

Matthew H. Burrows

# EXHIBIT A

## Line Foreworkers, aka Zone Foreworkers/Supervisors

## (& Other Titles In Various Job Descriptions),

## Including The Work Performed By SOFO Foreworkers From 3/10/89 to 9/8/02

Line Foreworkers are management's first level of interface with and supervision of Station Agents and Train Operators on the lines and in the stations, and with respect to determining, administering and coordinating assignments for the filling of Station Agent vacancies. Their daily duties include but are not limited to the following:

- Assign, direct, instruct and coordinate the work of Station Agents on the lines and in the stations, and as necessary, Train Operators on the lines.

- Coordinate with SOFO staffing (3/19/89-9/8/02).

- Contact each station for morning report input. Check with Station Agent for needs (vouchers, forms, etc.). Coordinate with AFC for repairs of fare collection equipment and System Service for cleaning/maintenance.

-Deliver and pick up mail, forms, paychecks, reports (UOR's, Accident/Injury, etc.), and other materials.

- Pick-up mail, reports, etc. (UOR's, Accident/Injury, etc.). Follow-up at office/headquarters with reports. Keep line Operations Supervisor informed.

- Process station supply requests: order and dispense.

- Provide turn-over information in Foreworker turn-over log.

- When necessary, staff station (unavailable agent, breaks, etc.) providing full range of Station Agent services (opening & closing stations, manning booths, completing forms, providing information and customer assistance, fingertip maintenance of AFC equipment & other equipment for correction).

- When required/requested, operate train until relieved by replacement Train Operator safely and effectively.

- When required, staff Terminal Zone/Tower (line draft).

- During emergencies, act as Incident Commander until relieved or provide support to IC as required to resolve emergency and return to normal service (bus bridges, etc.).

- Administer routine discipline according to labor contract as required to solve agent performance problems.

- Conducts, along with Union Steward, line sign-ups and holiday bids.

- Apprise Transportation/Operations Supervisors of problems that require their attention.

- Assign and coordinate the work of Station Agents for the filling of Station Agent vacancies. [2]

- Administer the Extra Board mark-up sheets and Overtime rosters to fill Station Agent vacancies. [3]

- Check in

- Check turnover log

- Finalize crew sheets (a.m. shift closes out previous day p.m. sheets if not already done)

- Ready crew sheets for current day

- Fill any Station Agent vacancies first for that day

- Check Station Agents in and/or out on crew sheets - noting any anomalies (P.B. vacation, sick, extra board assignments, etc.)

- Approve vacations - P.B. and floating holidays

- Note other approved time off on crew sheets (union leave, training, special assignment, etc.)

- Prepare vacancy sheet for following day

- Post a.m. or p.m. extra board as appropriate

- On Wednesday post hold-downs for following week

- On Friday finalize hold down postings for following week

- Coordinate vacancy status with line offices, training and other departments as appropriate

- Notes any unusual circumstances in turnover log

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**[2]The Parties preserve their positions regarding the requirement or lack thereof to fill shifts by using overtime (i.e. blanking of shifts).**

**[3] See footnote 2.**

- For detailed explanation of procedures, forms, etc. handled by Line Foreworkers, see Station Agent, Train Operator and Foreworker Manuals. Information now includes four towers/yards, various AFC equipment, entire routing and interlocking systems, emergency procedures, etc.

- For materials documenting the historical and traditional Line and SOFO Foreworker responsibilities, see the Operations Foreworker and Senior Operations Foreworker (FW II and III) Job Descriptions; District Organizational Charts, Manuals, memorandums, correspondence, and training materials; and other materials describing Line or SOFO Foreworker job duties.

For example,

1970's "Zone Supervisors Duties" by BJ. Fraley

Various Correspondence from BART Managers re: Line Foreworker Responsibilities

6/26/88, 9/14/89, 5/11/90 "Exclusive Foreworker Duties/ Functions" (BART)

1/6/89 "Partial List of duties typically performed by Line Foreworkers" (ATU)

5/10/90 "Line Foreworker Guidelines and Responsibilities" by Martha Taylor, Dept Manager, Station Operations

Various BART Line Foreworker Manuals; Job Analysis and Job Descriptions

8/12/02 "Line Sr. Op./Op. Foreworkers' Procedures and Responsibilities" by A. H. Johnson, Chief Transportation Officer

3/10/89 Inter-office Communication from Ray Peters, Dept Manager, Station Operations to Senior Operations Foreworkers

6/26/88 "Exclusive Foreworker Duties/Functions" (BART)

9/14/89, 5/11/90 "Exclusive Foreworker Duties/ Functions" (BART)

1/6/89 "Partial List of duties typically performed by Line Foreworkers" (ATU)

Transcript Section 40.4 Arbitration, Vol. III - testimony of Paul Gravelle regarding performance of SOFO work as both a Line and SOFO Foreworker for over 25 years

## EXHIBIT B

## Systemwide Foreworkers, aka Nightriders, aka Graveyard Foreworkers

Systemwide Foreworkers are management's first level of interface with and supervision of Station Agents and Train Operators on the lines and in the stations throughout the system during their hours of work between 10:00 pm and 6:00 am. Their daily duties include but are not limited to the following:

- Opening and closing stations, as required, due to the absence of the Station Agent

- Transporting Station Agents and Train Operators

- Checking stations

- Responding to emergencies

- All of the duties of the Line Foreworkers, on a systemwide basis between the hours of 10:00 pm and 6:00 am., when necessary

- All of the duties of the SOFO Foreworkers when SOFO is closed/unstaffed (1989-2002).

- Duties of the Administrative Foreworker, when necessary

- All Systemwide Foreworker responsibilities described in the Operations Foreworker and Senior Operations Foreworker (FW II and III) Job Descriptions and Job Analysis; District Organizational Charts, Manuals, memorandums, and training materials; and other materials describing Systemwide Foreworker job duties.

For example,

1/29/91 "Supervisor to Foreworkers Graveyard Foreworker Guidelines/Responsibilities by David Kirstein, Operations

## EXHIBIT C

## Tower/Yard Foreworkers

Tower Foreworkers a.k.a. Yard Foreworkers are management's first level of interface with and supervision of Train Operators in the yards. Their daily duties include but are not limited to the following:

- Assign, direct, instruct and coordinate the work of Train Operators in the yards, including filling vacancies[4], and control train movement in the yards

- Check turnover log and sign in

- Check vacancy status of any Train Operator assignments and respond accordingly

- Determine that trains are of proper configuration and size, and also revenue ready to ensure availability for service

- Coordinate with shops for delivery of bad order and/or p.m. cars and pick-up of "go" -cars

- Coordinate with Central to replace bad order trains

- Coordinate with TM Zone Foreworker to replace trains and assure adequate Train Operator staffing

- Approve time off, i.e., vacation, floating holidays, personal business, etc.

- Oversee all activities in the yard and assure everyone is in compliance with District rules and procedures

- Check in and out, and observe Train Operators for compliance with the District's uniform policy and Drug and Alcohol policy

- Check Transportation Administration Specialists in and out

- Monitor and control electrification for uninterrupted 3rd rail power

- Act as incident commander in the event of an emergency and complete all necessary paperwork

- Report unusual occurrences to Operations Central Control (Central) that might affect revenue service

- Report unusual circumstances to Operations Supervisors

- Request the services of fire and police departments as needed

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[4] **The Parties preserve their positions regarding the requirement or lack thereof to fill shifts by using overtime (i.e. blanking of shifts).**

- To the extent possible, provide for the safety of all personnel in the yard

- All Tower Foreworker responsibilities described in the Operations Foreworker and Senior Operations Foreworker (FW II and Ill) Job Descriptions and Job Analysis; District Organizational Charts, manuals, memorandums, correspondence and training materials, and other materials describing Tower/Yard Foreworker job duties.

For example,

6/30/00 Tower Foreworker Manual
1980's Tower Supervisors Manual
Various Tower Foreworker Certification Training Manual
6/26/88 "Exclusive Foreworker Duties/Functions" (BART)
9/14/89, 5/11/90"

## EXHIBIT D

## TM (Terminal) Zone Foreworkers

TM Zone Foreworkers are management's first level of interface with and supervision of Train Operators in the Terminal Zones. Their daily duties include but are not limited to the following:

- Assign, direct, instruct and coordinate the work of Train Operators in the TM zones

- Coordinate with Station Agents e.g. regarding Lost and Found on the trains, train delays, and customer service

- Check turnover log and sign log

- Log train arrival and departure

- Ensure that Train Operators are assigned to proper departing trains

- Supervise Train Operator fallback breaks and lunch

- Make public address announcements to patrons regarding train service, delays, makes/breaks as necessary

- Coordinate with appropriate yard/tower to effect relief when requested by the Train Operator or required by the train schedule.

- Supervise train length make/breaks

- Coordinate with Central Control for the replacement of bad-order trains

- Coordinate with yard/towers the extra board assignments and holiday work assignments

- Responds to emergencies occurring onboard trains and/or platforms, as necessary

- Troubleshoot trains to resolve problems, when Technicians and/or Train Operators are unavailable to troubleshoot

- Observe Train Operators for compliance with the District's uniform policy and the Drug/Alcohol policy

- Utilize District ATZ logger for location of trains, the MARIS for the current status of trains and District radios for communication with Train Operators, trains, yard/towers and Central Control

- All TM Zone Foreworker responsibilities described in the Operations Foreworker and Senior Operations Foreworker (FW II and Ill) Job Descriptions and Job Analysis; District Organizational Charts, manuals, memorandums, correspondence and training materials; and other materials describing TM Zone Foreworker job duties.

| | |
|---|---|
| **AMALGAMATED TRANSIT UNION, LOCAL 1555,**<br><br>Union,<br><br>and<br><br>**BAY AREA RAPID TRANSIT DISTRICT,**<br><br>Employer<br><br>Re: Foreworker Bargaining Unit Work | **Order Re:**<br><br>**Exhibit E to the Stipulated Decision**<br><br>**and**<br><br>**Memorandum of Understanding between**<br><br>**the Parties**<br><br>**-oOo-**<br><br>**Oakland, California**<br><br>**December 8, 2004** |

This Order concerns Exhibit E to the October 22, 2003 Stipulated Decision of the Med-Arbiter and Memorandum of Understanding between the Parties. At the time the Decision/MOU was issued, Exhibit E, describing the assignments and duties of the Senior Operations Foreworker Rules and Procedures Position, was designated as "*pending*" (at page 25). Pursuant to the Decision/MOU (Item II.C.5 at page 4), the determination of the final content of Exhibit E was remanded to the Implementation Committee, subject to the applicable dispute resolution process if the Committee was unable to reach agreement.

Prior to a status conference held with the Med-Arbiter on November 29, 2004, the Implementation Committee reached agreement on the final content of Exhibit E. At the status conference on that date, the Parties agreed that the final version of Exhibit E was to be incorporated into the Stipulated Decision/MOU.

Accordingly, by stipulation of the Parties and by order of the Med-Arbiter, the final version of Exhibit E, attached hereto, governing the Senior Operations Foreworker Rules and Procedures Position, is hereby incorporated into the October 22, 2003 Stipulated Decision

of the Med-Arbiter and Memorandum of Understanding between the Parties, replacing and superseding the "*pending*" version of Exhibit E.

December 8, 2004

Barbara Chvany, Med-Arbiter

# EXHIBIT E

## Senior Operations Foreworker Rules And Procedures Position (CBA Section 19.10)*

Under general supervision of the Manager of Rail/Station Operations, Senior Operations Supervisor and/or Operations Supervisor, the Rules and Procedures Senior Operations Foreworker performs various duties including but not limited to the following:

- Assigns and coordinates the work of Foreworkers for the filling of Foreworker Extra Board work assignments and Foreworker shift vacancies in accordance with the Med-Arbiter Stipulated Decision of October 22, 2003.

- Creates and updates the Station Agent, Train Operator, and Foreworker Manuals and coordinates with other departments in obtaining this information as necessary.

- As directed, assists in drafting and issuing of memoranda to Rail/Station Operations personnel as it pertains to technical changes, modifications in operating procedures, and/or other matters.

- Assists in identifying and scheduling training for Station Agents, Train Operators, and Foreworkers including but not limited to re-certification training.

- In consultation with Line Foreworkers, reviews, develops and recommends improvements in work methodology and procedures in the Foreworkers' area of responsibility.

- Monitors all special events such as sporting or cultural events and coordinates with Line/Yard Management personnel to provide Foreworker coverage for special events.

- Arranges for staffing in cases of emergencies as needed.

- Assists in conducting research on operational issues and evaluating employee suggestions as directed.

- Approves vacation, personal business and floating holidays.

- All Rules and Procedures Senior Operations Foreworker responsibilities described in the Senior Operations Foreworker (FW III) Job Descriptions and Job Analysis; District Organizational Charts, manuals, memorandums, correspondence and training

materials; and other materials describing Rules and Procedures Foreworker job duties. For example,

3/31/89 "Administrative & Operations Rules & Procedural Development Foreworker - Job Qualifications" by Ray Peters, Dept Manager Station Operations to all Operations Foreworkers

1989 Job Analysis

1996 Settlement Agreement

*** The Senior Operations Foreworker Rules and Procedures Position is also known as the Administrative and Operations Rules and Procedural Development Foreworker a.k.a. Admin or Rules and Procedures Foreworker**.

# EXHIBIT F

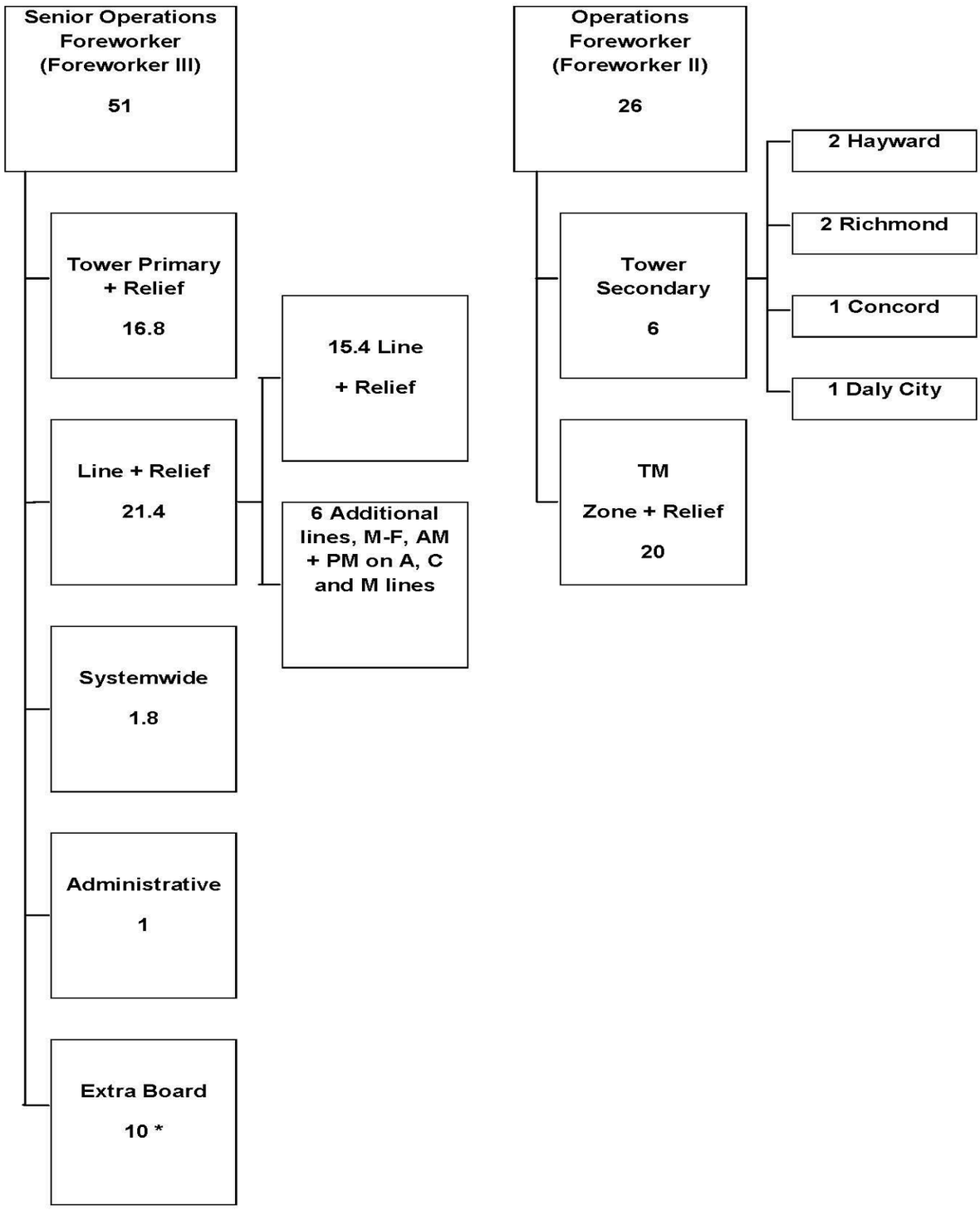
## Extra Board Foreworkers (Section 23.0)

Extra Board Foreworkers perform all of the work of the Foreworker position to which they are assigned. They fill vacancies in all Foreworker positions.

# EXHIBIT G

## FOREWORKER CORE STAFFING

## PER SECTION III.A

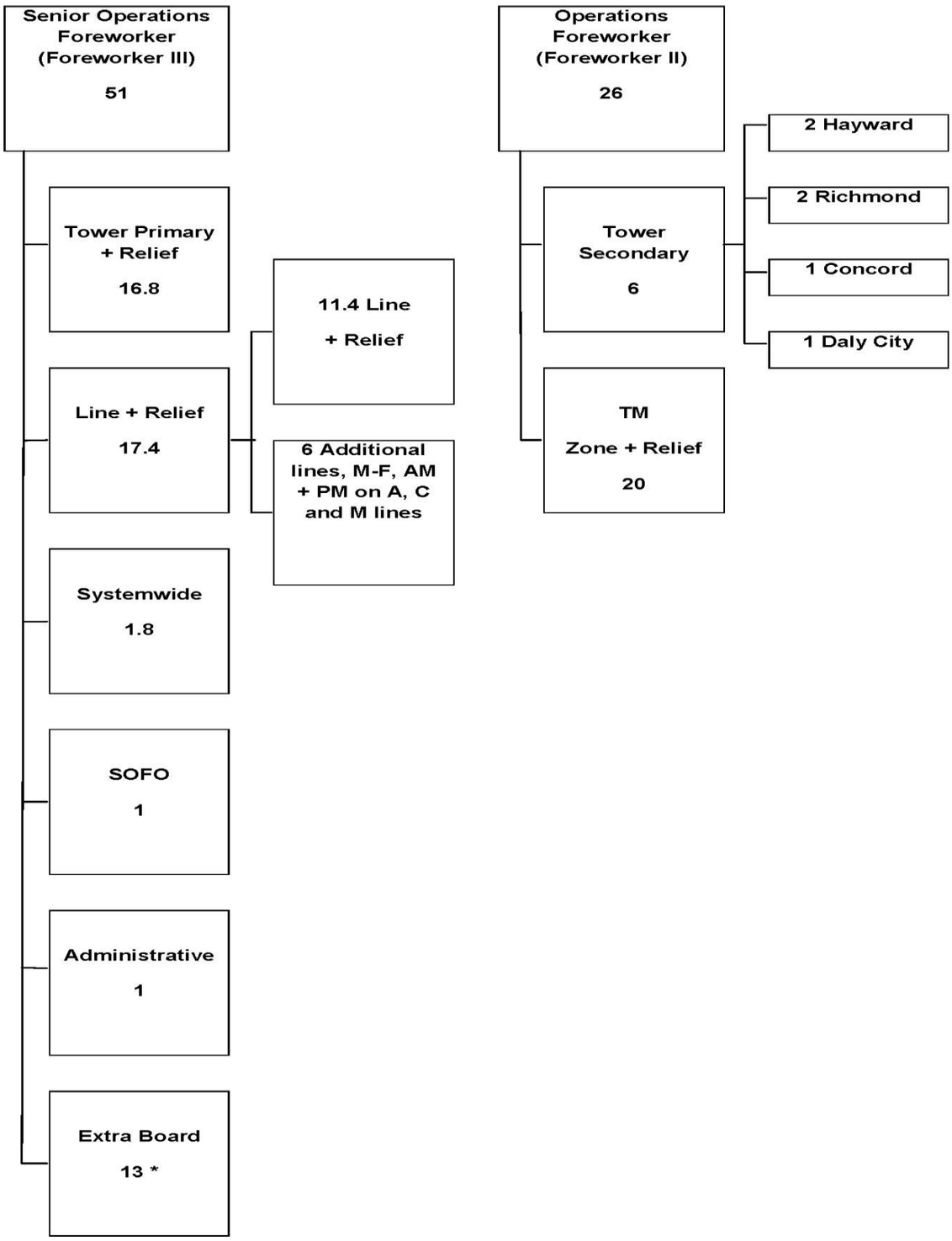



* Initially 11 Extra Board during transition, then 13 Extra Board for full core staffing

# EXHIBIT G

## FOREWORKER CORE STAFFING

## PER SECTION III.B




* Initially 11 Extra Board during transition, then 13 Extra Board for full core staffing

# FLOW CHART OF FOREWORKER PROMOTIONS AND TRANSITION TO FOREWORKER CORE STAFFING PER SECTION III.A

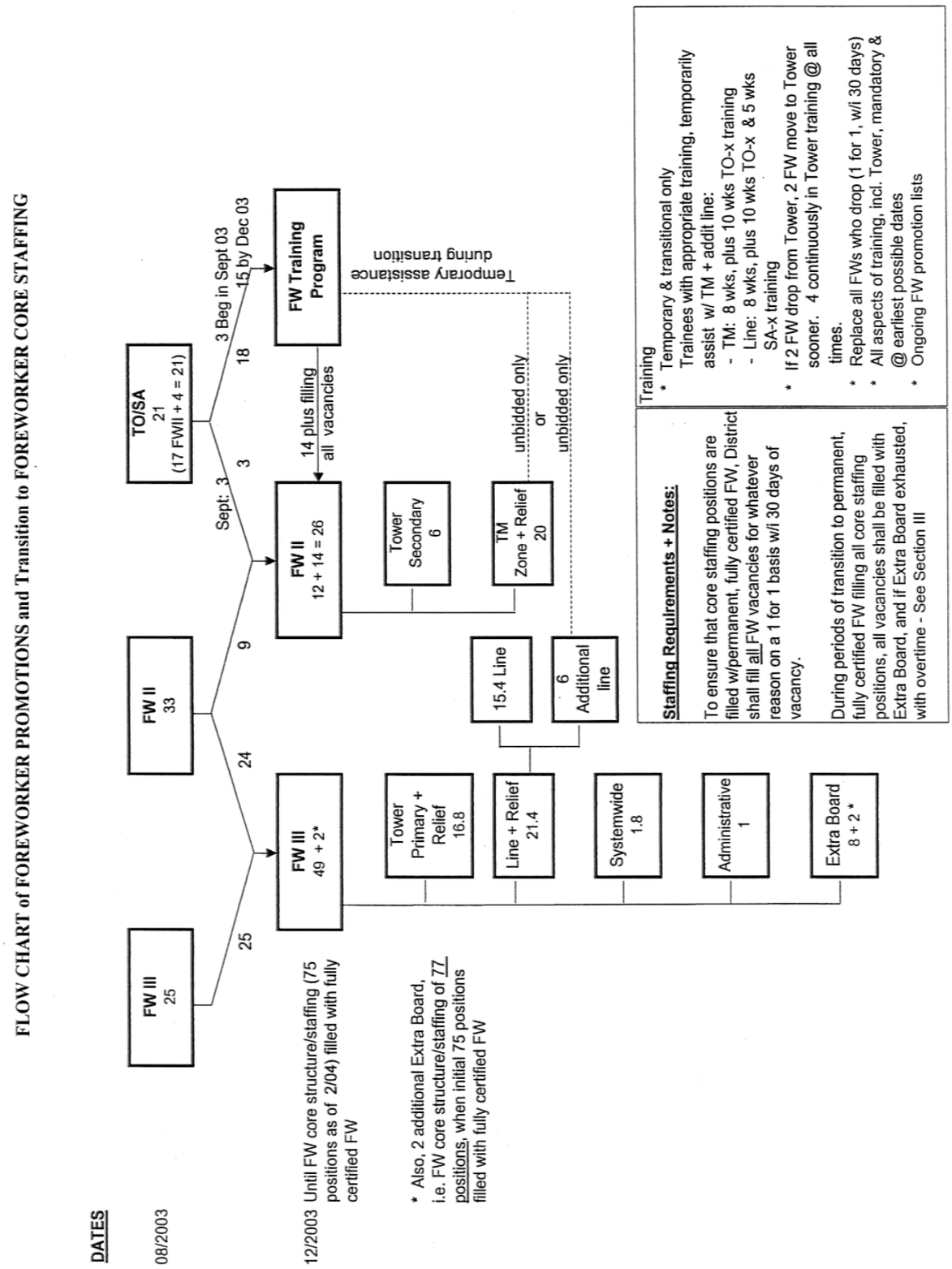
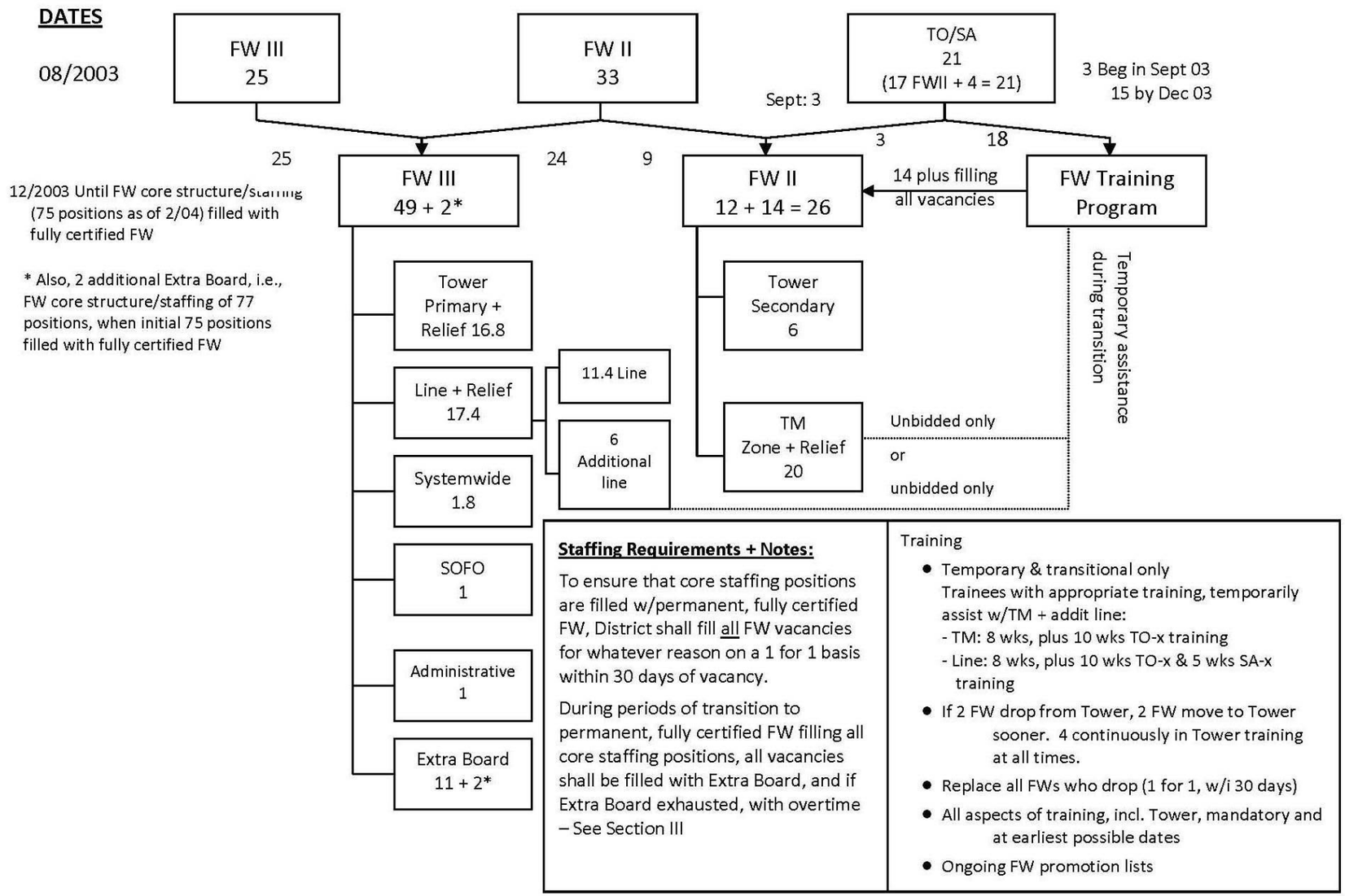


**EXHIBIT H**

**FLOW CHART of FOREWORKER PROMOTIONS and Transition to FOREWORKER CORE STAFFING**

**PER SECTION III.B**



## CLERICAL EXTRA BOARD

## Stipulated Decision and Memorandum of Understanding

This dispute arises under the Labor Agreement between Amalgamated Transit Union, Local 1555 ("the Union") and the San Francisco Bay Area Rapid Transit District ("the District"). Pursuant to the Labor Agreement, the Arbitrator was mutually selected to hear and resolve multiple grievances for arbitration regarding the issue of Transportation Administration Specialist Extra Board staffing. In the interests of mutual cooperation and understanding, the parties agree to the following terms of this Stipulated Decision and forego arbitrating the issues currently before Arbitrator Barbara Chvany. This Stipulated Decision shall be included in the parties' Labor Agreement as a Memorandum of Understanding. However, the exhibits to the Decision will not be reproduced: The terms of this Decision and Memorandum of Understanding shall prevail over any perceived inconsistencies or conflicts with the terms of the Labor Agreement.

## Introduction - Background

Since approximately 1986, the parties have had an ongoing dispute regarding the appropriate staffing levels for the Clerical Extra-Board. The Union filed numerous grievances regarding the District's failure to properly staff the positions of Transportation Administration Specialist, which resulted in a lack of staffing for the Clerical Extra-Board. These grievances were consolidated for arbitration before Arbitrator William Eaton. The parties' dispute gave rise to five (5) arbitration decisions by Arbitrator William Eaton dated May 19, 1992, June 18, 1992 (but issued June 18, 1993), October 20, 1993, November 9, 1993, and March I, 1994, and to two orders and a judgment by the Honorable James R. Lambden of the Alameda County Superior Court, dated December 16, 1993, January 13, 1994, and January 25, 1994. These decisions, orders, and judgment are incorporated herein by reference, and are attached hereto as Exhibits I through 8.

Both parties agree that it is in the best interest of the collective bargaining relationship that this matter be resolved.

## Overview and Intent

The parties agree that while the District shall have the right to implement technologies that may affect the ATU bargaining unit, work which has been historically and traditionally performed by the ATU bargaining unit job classifications shall continue to be performed by those same ATU bargaining unit job classifications, consistent with the current Labor Agreement, so long as such work, or its functional equivalent continues to exist.

## Settlement Terms

1. The District agrees to pay Transportation Administration Specialists, including those who served on the Clerical Extra-Board who were employed during the period of the grievances, from February 1, 1993 through the present, the lump sum of four hundred and fifty thousand ($450,000.00) dollars, to be paid in two (2) equal installments. The first installment of two hundred and twenty-five thousand ($225,000.00) shall be paid on July 15, 2005. The second installment of two hundred and twenty-five thousand ($225,000.00) shall be paid on July 15, 2006. The Union will provide the District with a list reflecting the names of the Transportation Administration Specialists employed during this period and the amounts owed to each.

2. The District agrees to immediately hire a sufficient number of employees so that the Clerical Extra-Board is staffed with four (4) positions. In addition, the District agrees to staff all eighteen (18) of the current bid-able Clerical positions in the Crew Office, the TM Zones, and the Yards (hard shifts)..

3. The District agrees it will maintain at least the 22 Transportation Administration Specialist positions referenced in Paragraph 2 above, in the Crew Office, the TM Zones and the Yards and the Clerical Extra-Board, during the period from the execution of the Stipulated Decision through at least the twelve (12) month period following its achievement of a successful "go-live date" in implementing its Business Advancement Plan ("BAP"). The District will have achieved a successful "go-live date" when it meets its goal of 90 days of system availability and releases its System Integrator, Maximus, from its maintenance obligations as described in Section 15.2 the contract between the District and the System Integrator, a copy of which is attached hereto as Exhibit 9. The District shall notify the Union in writing upon achieving a successful "go-live date."

4. The District agrees that all employees holding the positions of Transportation Administration Specialist on the date twelve (12)

months following its achievement of a successful "go-live date," shall retain their positions as Transportation Administration Specialists through at least December 31, 2008, unless terminated for just cause as defined in the Labor Agreement. During this period, (i.e., the date 12 months from the District's achievement of a successful "go-live" date through December 31, 2008), when any Transportation Administration Specialist retires, otherwise voluntarily vacates their position, or is terminated for just cause as defined in the Labor Agreement, the District does not have the obligation to back-fill the vacated position. Although the District has no obligation to back-fill positions vacated through attrition, the District agrees it will not layoff any Transportation Administration Specialist through at least December 31, 2008. Should the District decide not to back-fill a vacated position pursuant to this paragraph, and should the Union believe no reduction in staffing is appropriate, the parties will meet and confer in an attempt to resolve the matter as described in Paragraph 9 of this Decision. In the event that the parties are unable to mutually agree to a resolution of the matter, they will submit the matter to the Med-Arbiter pursuant to Paragraph 9 of this Decision.

5. The District agrees that until December 31, 2008, it will maintain the following formula for Clerical Extra-Board shifts to hard shifts: when there are one (1) to ten (10) hard shifts, the District will maintain a minimum of two (2) filled Clerical Extra-Board positions; when there are eleven (11) to fifteen (15) hard shifts, the District will maintain a minimum of three (3) filled Clerical Extra-Board positions; when there are sixteen (16) to twenty (20) hard shifts, the District will maintain a minimum of four (4) filled Clerical Extra-Board positions; when there are twenty-one (21) to twenty-five (25) hard shifts, the District will maintain a minimum of five (5) filled Clerical Extra-Board positions.

6. In regards to paragraphs two (2), three (3), and four (4), and five (5), the District will post for required and unfilled positions within two weeks from the execution of this Stipulated Decision, and will forward acceptable candidates to HR for hiring within 30 days of the closing date of the posting. The positions shall be filled within 60 days of the closing date of the postings. In order to facilitate the District's ability to fill vacancies and maintain staffing levels, the District will maintain a current eligibility list at all times.

7. The parties understand and mutually agree that this Decision does not alter the vacancy filling procedures required by the Labor Agreement, as reflected in Sections 15.15 and 23.0 of that

agreement. The parties thus agree that any attrition in the positions of Transportation Administration Specialist, will not trigger a change of schedule, but shall instead be reflected on the system sign-up described in Section 15.2 (1) of the Labor Agreement.

8. In the manner set forth below, the Union will cooperate with the District in support of the implementation of its Business Advancement Plan:

A. The parties agree that the job descriptions for the Transportation Administration Specialists will be modified to include new minimum qualifications reasonably appropriate to the job functions performed by the Transportation Administration Specialists, including but not limited to, knowledge of and experience in PeopleSoft time and labor and PeopleSoft payroll. The parties' mutual intent is for the newly revised job descriptions to reflect the job functions performed by the Transportation Administration Specialists after the implementation of BAP. The District agrees to provide the Transportation Administration Specialists with full and adequate training, to include, and not be limited to the use of the Help Center where they can perform their daily job with the assistance of a trainer.

To best maximize the benefits of the training program for its members, the Union will have the opportunity to give the District input and feedback about the training program. Should any dispute arise between the parties regarding the training program, they will meet and confer in an attempt to resolve the matter.

Those Transportation Administration Specialists that pass the training program will be grandfathered, in terms of meeting the new minimum qualifications for the Transportation Administration Specialist positions, and shall retain their positions as Transportation Administration Specialists within the ATU bargaining unit. Objective, verifiable criteria will be used by the District to determine whether Transportation Administration Specialists pass the training program. The District shall provide the Union with notice of what these criteria are. Those Transportation Administration Specialists who fail to pass the training program will be provided with remedial training reasonably geared to address the deficiencies particular to that individual. In the event that any Transportation Administration Specialists taking this remedial training do not pass it, but are within 5% of a passing score, the District will provide a second remedial training, also geared to address the deficiencies particular to that individual. Should any Transportation Administration Specialist fail to pass the remedial training described

herein, the District shall place the employee in another position for which the employee is qualified, looking first to ATU positions, in a manner consistent with the Labor Agreement, then outside the bargaining unit, but without any loss of pay.

B. The Union acknowledges that the District may send employees to training determined to be appropriate by the Systems Integrator. The District's intent is that the Systems Integrator will train the trainer, as specified in the BAP Agreement between the District and the Systems Integrator. Thereafter, the District will provide the training for its employees, which is described in subparagraph A, above. This employee training shall be provided by an ATU bargaining unit EDS or temporary EDS, who will provide training to employees regarding their job functions, consistent with the District's established training processes. The parties mutually understand that on a non-precedent setting and non-citable basis only, there maybe narrow and targeted instances where the Systems Integrator's training staff may train BART personnel directly during the implementation of BAP.

C. Recognizing that the training provided by the District will provide its members with additional job skills and expertise that will be of benefit to them, the Union agrees to communicate both orally and in writing with its membership encouraging the membership to attend and fully participate in all aspects of the training program. Included in the oral and written encouragement is support of all the Systems Integrator's reasonable and appropriate survey efforts to identify current skill levels and training needs of ATU members.

D. The Union acknowledges that the District does not intend to hire a permanent clerical EDS, but will instead train Transportation Administration Specialists to act as Temporary EDSs in a manner consistent with the Labor Agreement.

E. The parties agree that the District may change the manner in which employees record the beginning and end of their shift, in that some form of an electronic verification will be utilized in place of the current system. The change specified herein applies to the manner in which employees record such events, but does not extend to changes in report locations for the recording of such events or changes in the personnel supervising such events. Other than the manner in which employees record the beginning and ending of their shift, the impacts of the District's decision are subject to Paragraph 12 of this Decision.

F. The parties acknowledge that the implementation of BAP will cause the Union to have concerns about how BAP may impact its members. The District believes it is important to address and attempt to resolve the Union's concerns. The District will provide the Union with notice of the status of BAP and its implementation by providing the Union with drafts of its Executive Decision Documents on the Monday those drafts are circulated at the District, which occurs the week prior to the actual meeting of BART's Board of Directors ("Board"). The parties acknowledge that the purpose of providing the Union with copies of the draft Executive Decision Documents the week prior to the Board meeting is so that the Union may review the draft and thus have notice of the content of the District's Board presentation as it relates to BAP. In the event that the Union, after reviewing the draft Executive Decision Documents, has concerns that the aspects of BAP described therein may impact its members or its Labor Agreement, the Union will attempt to resolve that issue with the District. To resolve these issues as expeditiously as possible, the Union's elected officers and Executive Board members agree to give the District six (6) days notice of problems and issues reflected in any draft Executive Decision Documents before raising these issues at the Board level.

G. The parties agree to schedule periodic meetings with the Transportation Administration Specialists and their managers and supervisors, during which the parties may address the Transportation Administration Specialists' concerns and questions regarding the implementation of BAP and its impact on the Transportation Administration Specialists. The parties will discuss and agree upon the appropriate times to hold these meetings and the content of these meetings. The first joint meeting to be held with the Transportation Administration Specialists will be after the execution of this Stipulated Decision, so that the parties may explain its content and jointly address any questions raised by the Transportation Administration Specialists about the Stipulated Decision.

9. An Implementation Committee, comprised of representatives for the Union and the District, will be formed to oversee implementation of this Decision. Regular status reports will be prepared by the District covering events relevant to the implementation and monitoring of the Stipulated Decision. The Implementation Committee will determine what information is to be contained in these reports, and at what intervals the reports need to be prepared and reviewed. The Implementation Committee will review the status reports on a regular basis to monitor compliance

with the Stipulated Decision. The Committee shall take immediate action to attempt to resolve any problems or issues that may arise based upon their review of the reports. At the first level of the expedited dispute resolution procedure under the Stipulated Decision, the Implementation Committee will meet and confer to resolve any complaint or violation of the Stipulated Decision, if possible. The Implementation Committee shall record: when it met to review and attempt to resolve the matter; the comments or findings, including if the Implementation Committee members agree or do not agree on a resolution; and the nature of any resolution reached, such as the action to be taken or a remedy to be awarded and shall provide copies of such records to the Med-Arbiter. The Implementation Committee will retain any documentation reflecting actions taken and\or remedies implemented. The forms may be utilized for such purposes as tracking compliance with the Stipulated Decision, identifying recurring problems or violations, and discussing appropriate responsive measures. On request, counsel may obtain copies of the file materials.

If the Implementation Committee fails or is unable to resolve an issue at the first level, either party may invoke the continuing jurisdiction of the Med-Arbiter to resolve the dispute by submitting a written complaint to the Med-Arbiter by facsimile or U.S. Mail. To be timely, the form must be faxed or post-marked to the Med-Arb within 40 working days of the occurrence of the dispute, or when the employee or the Union could have been aware of the occurrence.

The Med-Arbiter shall be Barbara Chvany, or her substitute, as described below. The costs of med-arb are shared equally by the parties. Should Barbara Chvany determine she cannot continue to retain jurisdiction over the implementation of this Decision, the parties will choose an alternate Med-Arbiter from their panel of arbitrators set forth in their Labor Agreement.

Normally within 30 days, but no later than 60 days, the Med-Arbiter shall attempt to resolve the matter informally through mediation with the Implementation Committee, either by telephone conference or in person. A telephone conference shall be the favored method, when appropriate. Ten (10) working days prior to the informal mediation session the parties shall exchange and submit to the Med-Arbiter all available information regarding the complaint.

At the informal mediation step, the Implementation Committee may elect, or the Med-Arbiter may request, the participation of other persons or the submission of additional information. Counsel may

participate if either party wishes. The Med-Arbiter, with input from the parties, has authority to determine the appropriate procedure that will apply, including but not limited to whether mediation will be utilized to assist the parties in resolving the matter directly; and\or the Med-Arbiter will render a final and binding determination of the matter at the informal med-arb stage. Because the Med-Arbiter may render a final and binding determination of the matter at the informal mediation step, all substantive discussions, meetings and sessions are to be held jointly, not ex parte, to ensure due process.

The result of the informal step, including any determination by the Med-Arbiter, shall be recorded in writing and shall be retained in the Implementation Committee records. The Med-Arbiter has authority to order a formal arbitration hearing and to issue a final and binding decision on the issue. When this procedure is invoked, the complaint or violation which the parties brought to the Med-Arbiter shall serve as the equivalent of a grievance, but the matter shall proceed directly to arbitration under the Med-Arbiter's continuing jurisdiction pursuant to the Stipulated Decision, bypassing other steps of the grievance procedure of the Labor Agreement. A grievance will be considered timely so long as it meets the time limits described in this Decision. The Arbitrator will schedule an arbitration hearing as soon as possible. A transcript of the proceedings will be taken.

The Med-Arbiter will determine if briefs will be submitted. The decision will be issued in writing, and may be in abbreviated or expedited form, depending upon the nature of the dispute. Any decision rendered at the arbitration step shall be based upon the arbitration record, not upon settlement discussions at the informal mediation step. The decision of the Med-Arbiter shall be retained in the Implementation Committee records.

To most efficiently and effectively resolve any issues regarding the implementation of this Stipulated Decision, the parties will schedule quarterly status conferences with the Med-Arbiter during each year of this Decision. Should the parties mutually agree there are no issues requiring resolution during one of these quarterly meetings, the parties may cancel the quarterly status conference with the Med-Arbiter in accordance with the Med-Arbiter's regular cancellation policy and/or fee policy.

Both at the informal mediation step and at any arbitration hearing, the Med-Arbiter shall have only the power to interpret the terms of this negotiated Stipulated Decision, and to fashion an appropriate remedy consistent with the terms of this Decision, which

shall include, but not be limited to, the backpay remedy used by the parties in resolving grievances 03-016 and 03-108. That backpay remedy will be used here to maintain consistency with the resolution of the above-cited grievances involving Transportation Administration Specialists. Therefore, should the arbitrator, maintaining jurisdiction over the implementation of this Decision, find a violation, the remedy shall include, at a minimum, backpay calculated using the following formula: for the duration of each vacant shift, the District shall pay 1.5 times the pay rate in effect at the time the arbitrator resolves the matter, for each day of each shift that is unfilled, to be divided among all Transportation Administration Specialists. This backpay remedy is being used on a non-precedent setting, non-citable basis. If the District alleges, and the Arbitrator finds, that the Union is breaching any term of this Decision, the Arbitrator has the power to award to the District a reasonable amount of liquidated damages appropriate to remedy the breach, but not to exceed the amount of the July 15, 2006 payment under this Decision. This remedy is being used on a non-precedent setting, non-citable basis.

10. The parties agree that at 11:59 p.m., on the 31st of December 2008, the District's staffing obligations under this Stipulated Decision terminate.

11. The parties agree that this is the full and final settlement of any and all grievances that have been filed regarding the issue of staffing for the Transportation Administration Specialist positions in the Crew Office, the TM Zones and the Yards and the Clerical Extra-Board, including but not limited to grievances 93-031, 93-203, 96-049, 02-198, 03-099, 03-107, 04-107 and 04-108.

12. Both parties to this agreement recognize that the implementation of BAP may lead to decisions and impacts not addressed in this Stipulated Decision. To that end, each party retains all rights it otherwise may have under the Labor Agreement and under law, that have not been determined under this Stipulated Decision.

Date: June 21, 2005

Barbara Chvany, Med-Arbiter

for the Union

Harold K. Brown

Gordon Robinson

for the District

Beth Tripp

FOR THE DISTRICT:

Darrell Murray

**AMALGAMATED TRANSIT UNION,**

**LOCAL 1555, Union**

**and**

**BAY AREA RAPID TRANSIT, Employer**

**Station Agent Staffing & Bidding**

**Stipulated Decision/**
**Memorandum Of Understanding**
**Between The Parties**

**Barbara Chvany, Med-Arbiter**
Oakland, California

November 10, 2005*

APPEARANCES

| On The Union's Behalf | On The District's Behalf |
|---|---|
| Victoria Chin, Esq.<br>Leonard Carder, LLP<br>1330 Broadway, Suite 1450<br>Oakland, California 94612 | M. Carol Stevens<br>Janet Cory Sommer<br>Kay & Stevens<br>545 Middlefield Road, Suite 180<br>Menlo Park, California 94025 |

* Modified to reflect 2007 and 2008 Implementation Committee complaint and grievance resolution agreements (shown in italics), 2009 negotiated agreements, and temporary modifications. (See Appendix F for list of implementation Committee agreements incorporated by reference.)

# STIPULATED DECISION OF BARBARA CHVANY,

# MED-ARBITER,

# AND

# MEMORANDUM OF UNDERSTANDING BETWEEN THE PARTIES CONCERNING STATION AGENT STAFFING AND BIDDING



## 1. Introduction And Statement Of Purpose

As a result of a Med-Arb proceeding before Med-Arbiter Barbara Chvany pursuant to a Med-Arb Agreement between the District and the Union, dated December 3, 2003, and incorporated into this Stipulated Decision by reference, the Med-Arbiter issues this Stipulated Decision/MOU for the purposes of resolving issues concerning Station Agent staffing and bidding. This Stipulated Decision/MOU shall be incorporated in the Labor Agreement as a Memorandum of Understanding. The provisions of this Stipulated Decision/MOU are binding on the parties.

At various times since approximately 1986, the parties have had ongoing disputes regarding Station Agent staffing and bidding issues, including but not limited to the scheduling and providing of lunch relief for all Station Agents, the scheduling and use of Part-Time Station Agents on weekdays and weekend days, the staffing of second and third booths in multi-centroid stations, the filling of vacant Station Agent shifts, the use of the Station Agent Extra Board, and the payment of primary booth leadworker pay. The Union has filed numerous grievances regarding these issues, including the 239 grievances included in the Med-Arb Agreement, and the District has disputed the Union's grievances.

The parties' disputes on related issues have given rise to a number of arbitration decisions in the past, incorporated in this Stipulated Decision/MOU by reference. This Med-Arb process had its origins in the Section 40.4 decision, dated October 10, 2000, and an Interim Procedural Decision was issued by the Med-Arbiter on January 30, 2004.

In the best interest of the collective bargaining relationship, and to avoid incurring further costs and expenses, the District and the Union agree to resolve their ongoing disputes concerning Station Agent staffing and bidding issues described in and on the terms set forth in this Stipulated Decision/MOU. This resolution is not, in any way, an admission of liability, fault, or wrongdoing by either party.

In addition, this resolution is limited to the Station Agent classification.

In reaching this Stipulated Decision/MOU, the parties and the Med-Arbiter have considered all relevant provisions of the Labor Agreement, Side Letters, Memoranda of Understanding, the Grievance Resolution Project, bargaining history, past practice, arbitration awards, and other documents and matters that aid in interpreting the Labor Agreement. The parties agree that the provisions included in this Stipulated Decision/MOU are consistent with all requirements of the Labor Agreement and the documents, decisions, bargaining history, past practices, and other matters relevant to interpreting the Labor Agreement. The parties mutually intend this Stipulated Decision/MOU to clarify the Labor Agreement provisions at issue and to set forth procedures to ensure appropriate interpretation and implementation of those provisions in the future.

The parties acknowledge that Section 4 of the Med-Arb Agreement refers to the mediation settlement discussions as confidential. The parties also acknowledge that information or documents not otherwise confidential did not become confidential solely because the parties discussed or shared the information or documents during the mediation process.

A. Confidential Mediation Process

The mediation component of the Med-Arb process is “mediation” within the meaning of California Evidence Code Section 1115, et seq., and the Med-Arbiter has functioned (and will continue to function) as a mediator within the meaning of those statutes. The party participants in the mediation are the District and the Union. All persons participating in the mediation, with the exception of the Med-Arb, served in a representative capacity of either the Union or the District.

Except as provided by statute (including but not limited to Evidence Code Sections 1120, 1122, 1123) and/or as expressly waived in Section 1C of this Stipulated Decision/MOU, all oral and written statements or expressions in the mediation component of the Med-Arb process are confidential to the full extent provided by law (including but not limited to Evidence Code Sections 1119, 1126, 1127). This confidentiality protection specifically encompasses oral and written communications in caucuses and drafting sessions.

B. Termination Of Mediation

This matter has been in mediation since November 4, 2003. The mediation will continue beyond the date this Stipulated Decision/MOU is signed, given the matters subject to remand and the continuing jurisdiction of the Med-Arbiter.

Accordingly, the execution of this Stipulated Decision/MOU does not terminate the mediation within the meaning of California Evidence Code Section 1125(a)(1). Nor shall the mediation terminate automatically by operation of Evidence Code Section 1125(a)(5). All parties to the mediation expressly waive that provision. The parties and the Med-Arbiter agree that the mediation will terminate when all matters under the Med-Arbiter's retained jurisdiction are fully resolved or referred to arbitration, and the Med-Arbiter notifies the parties in writing that the mediation is terminated.

C. Limited Waiver

Without waiving any evidentiary objections such as attorney-client or work product privileges, the Union and the District agree to waive confidentiality in future arbitration hearings, status conferences, and other civil proceedings only with respect to the following material:

- Arbitration awards, bargaining history, and historic documents related to bargaining history and/or past practice discussed by the parties and added to the Issue and other Med-Arb Binders during the Med-Arb process;
- All verbal and written statements and proposals made by a party to the other party during Med-Arb sessions, including the Union's and the District's bargaining notes of same;
- Data collected jointly by the parties, including the detailed grievance chart and the CD-ROMs of past bids;
- Status Conference discussions and documents, except the Med-Arbiter's confidential notes and files (see Section 12 of this Stipulated Decision/MOU);
- Information not otherwise confidential; and
- Court reporter transcripts and exhibits in the Station Agent bidding and staffing arbitration hearing.

The Union and the District expressly waive California Evidence Code Section 1128, to allow reference to the mediation in subsequent arbitration hearings, status conferences, and other civil proceedings to the extent allowed by the limited waiver provided in this Section.

The Med-Arbiter concurs in the Union's and District's limited waiver set forth in this Section. To that extent only, the Med-

Arbiter waives statutory confidentiality protections regarding the specified items. The Med-Arbiter does not waive any of her statutory confidentiality protections, including but not limited to Evidence Code Sections 1119, 1126, 1127, with respect to her files and notes pertaining to the Med-Arb process.

The Med-Arbiter has functioned, and will continue to function during the period of continuing jurisdiction over this matter, as a mediator and arbitrator within the meaning of Evidence Code Section 703.5. Accordingly, the Med-Arbiter shall not be called to testify in any subsequent civil proceeding, including any arbitration hearing, concerning any statement, conduct, decision, or ruling, occurring at or in conjunction with the Med-Arb process, except as required by law.

**2. Primary Booth Premium Pay**

**Labor Agreement**

- **S13.3 PREMIUM PAY/PRIMARY BOOTH**

A. The Station Agent working the primary booth in a multi-centroid station shall be a leadperson and paid accordingly. This position shall be bid at all sign-ups for Station Agents.

B. The Union recognizes that the District may in the future close the second and third booths of multi-centroid stations for one (1) shift per day. The District agrees to continue to pay the remaining Agent the leadperson premium in such situation.

C. The premium pay shall be paid to the Agent who is actually working the primary booth.

- **S28.8 LEADWORKER AND INSTRUCTOR PREMIUM**

*******

An employee assigned, in the absence of supervision, as a leadworker to lead other bargaining unit employees shall be paid a leadworker premium of ten percent (10%) per hours additional to his/her applicable rate of pay for such time so assigned.

- **Grievance Resolution Project, 1995.**
ADDENDUM, Grievance Resolution Project Training Questions and Answers, Overtime, page 2:

> *"**Q:** Does a Station Agent working a primary position on his/her RDO (or while extending) receive primary (or lead) pay?*
>
> ***A:** Yes."*

- **Grievance Resolution Project, 1995.**
  ADDENDUM, Grievance Resolution Project Training Questions and Answers, Miscellaneous, page 3:

  "**Q:** If a part-time Station Agent is working the secondary booth and the primary booth becomes vacant, does the part-time Agent move to the primary booth?

  **A:** No, the part-time Agent is not eligible for primary pay."

**Clarification**

The District and the Union agree to clarify the relevant provisions of Labor Agreement Sections 13.3 and 28.8 and past practice as follows:

A. Primary Booth Premium Pay

Each Full-Time Station Agent working the primary booth in a multi-centroid station, except when providing relief or occasional assistance, shall be a leadworker and shall be paid the leadworker premium pay defined by Labor Agreement Section 28.8; these positions shall be bid at all Station Agent sign-ups. *See Morris Davis Arbitration Award #662-92, October 28, 1992.* The District shall designate and post the Full-Time Station Agent primary booth positions for bid at all sign-ups for Station Agents. The District shall pay this premium pay for the entire designated and bid shift even if the primary booth Station Agent has no other Station Agents to lead and/or the District has designated overlapping primary booth Station Agent shifts.

Consistent with Labor Agreement Section 44.12B and this Stipulated Decision/MOU, the primary booth Station Agents shall assign Part-Time Station Agents to specific booths within the multi-centroid station. Primary booth Station Agents shall coordinate the assignment of Full-Time Station Agents to the second (2nd) and/or third (3rd) booths within a station, and shall coordinate relief work within the stations.

B. Primary Booth Premium Pay While On Union Business Leave

While a Full-Time Station Agent assigned by bid to work the primary booth in a multi-centroid station is on Union Business, the Full-Time Station Agent is actually working for the purpose of Labor Agreement Section 13.3C and shall be paid leadworker premium pay. See *Barry Winograd Arbitration Award #790-98, September 24, 1998.*

Clarification Of Labor Agreement Section 13.3B

The parties' clarification and agreed upon implementation of Labor Agreement Section 13.3B is stated in Section 3: Total Core Staffing and Section 11: Multi-Centroid Booths of this Stipulated Decision/MOU.

**3. Total Core Staffing**

The District shall staff Station Agents at the following Total Core staffing level to perform Station Agent bargaining unit work in compliance with the Labor Agreement and this Stipulated Decision/MOU.

A. Definition Of Total Core Staffing

For the purpose of this Stipulated Decision/MOU, "Total Core Staffing" shall include Fixed Core Staffing (including Lunch Relief), Flexible Core staffing, and Extra Board staffing. Total Core Staffing shall be the minimum staffing level for Station Agents unless the staffing level is adjusted by application of Section 9: Bona Fide Emergency, Section 11: Multi-Centroid Booths, and/or Section 12: Implementation and Dispute Resolution.

B. Multi-Centroid And Single Centroid Stations: Lunch Relief Fixed Core Staffing – Everyday

As part of the Fixed Core Staffing, the District shall schedule by bid sufficient Station Agents to provide lunch breaks for all Full-Time Station Agents and for all Part-Time Station Agents assigned to a shift of seven (7) or more hours. *(See Labor Agreement Sections 44.10, 13.2, and 13.7. Also see Section 10 of this Stipulated Decision/MOU.)*

C. Multi-Centroid Stations: Primary Booth Fixed Core Staffing – Everyday

On weekdays and weekend days (Saturday-Sunday), the District shall schedule by bid at least one (1) Full-Time Station Agent shift in the primary booth of each multi-centroid station during all hours of station operation.

D. Multi-Centroid Stations: Primary Booth Flexible Core Staffing – Weekdays

The District shall schedule by bid at least six (6) additional Full-Time Station Agent shifts in primary booths per weekday. The District shall not be required to schedule the six (6) additional Full-Time Station Agents described in this sub on reduced service holidays. See Labor Agreement, including Section 27.1. The meaning of "reduced service holidays" as used in this Section 3D will be remanded to the Implementation and Dispute Resolution Procedure, Section

12 of this Stipulated Decision/MOU. *See Labor Agreement Section S27.3.*

E. Multi-Centroid Stations: Secondary And Third Booths Fixed Core Staffing – Weekdays

In multi-centroid stations with three (3) or more booths, the District shall schedule by bid at least four (4) Full-Time Station Agent shifts per weekday in either the second (2nd) and/or third (3rd) booth(s) to provide coverage during all weekday hours of station operation. The Primary Booth Station Agent shall coordinate the assignment of these Station Agents to the second (2nd) and third (3rd) booth(s) within the station.

In multi-centroid stations with two (2) booths, the District shall schedule by bid at least three (3) Full-Time Station Agent shifts per weekday in the second (2nd) booth to provide coverage for the second (2nd) booth during all weekday hours of station operation.

F. Multi-Centroid Stations: Second And Third Booths Fixed Core Staffing – Weekend Days

On weekend days (Saturday-Sunday), the District shall schedule by bid at least one (1) Full-Time Station Agent shift per weekend day in either the second (2nd) and/or third (3rd) booth(s) of a multi-centroid station. The District shall schedule by bid either Full-Time or Part-Time Station Agents to cover all weekend hours of station operation in either the second (2nd) and/or third (3rd) booth(s).

G. Single-Centroid Stations: Fixed Core Staffing – Weekdays

On weekdays (Monday-Friday), the District shall schedule by bid at least one (1) Full-Time Station Agent shift during all hours of station operation in single-centroid stations.

H. Single-Centroid Stations: Fixed Core Staffing – Weekend Days

On weekend days (Saturday-Sunday), the District shall schedule by bid at least one (1) Full-Time or Part-Time Station Agent shift during all hours of station operation in single-centroid stations.

I. Multi-Centroid And/Or Single Centroid Stations: Flexible Core Staffing

In addition to the Fixed and Flexible Core Staffing described above in Sections B though H, and the Extra Board Staffing described below in Section J, the District shall schedule by

bid at least fifteen (15) Full-Time Station Agents for each System Sign-Up. In accordance with the bid process, the District shall determine and identify the stations at which these additional Full-Time Station Agent positions shall be scheduled by bid. (See Section 3K.) The District's exercise of its discretion to determine where to schedule by bid the Flexible Core Staffing shall not be subject to review by a Med-Arbiter and shall not be subject to the grievance procedure in Article 40 of the Labor Agreement unless the District's determination constitutes a clear abuse of discretion.

J. Extra Board Staffing

As stated in Section 6B of the Stipulated Decision/MOU, the District shall determine the number of Station Agents on the Extra Board; however, the number of Station Agents on the Extra Board shall not be less than twenty-three percent (23%) of the Full-Time Station Agent shifts, excluding Extra Board shifts.

During the period of August 1, 2009 through June 30, 2013, the number of agents on the Extra Board shall not be less than twenty-one percent (21%) of the Full-Time Station Agent shifts, excluding Extra Board shifts.

K. Procedure For Preparing And Verifying Total Core Staffing

A procedure for preparing system wide bids and verifying that the District is staffing Station Agents in compliance with the Labor Agreement and Section 3 of this Stipulated Decision/MOU is attached as Appendix A, entitled "Procedure For Preparing And Verifying Total Core Staffing," and incorporated into this Stipulated Decision/MOU.

L. *Compliance With Station Agent Stipulated Decision/MOU Section 3: Total Core Staffing And Appendix A*

*1. Phase I – Demonstration Of Preparedness For Total Core Staffing*

*At the time the District submits its proposed systemwide bid to the Union in accordance with Labor Agreement Section 13.4 and Appendix A of the Station Agent Stipulated Decision/MOU, the District shall demonstrate that it has sufficient Station Agents to participate in the Sign-Up and fill all positions on the bid. At the same time, the District shall complete Phase I of the "Total Core Staffing Compliance Worksheet" attached as Appendix A-1, and provide to the Union the Worksheet and bid packet, including the Station Agent Bid Roster with the names of*

*Station Agents as described in this paragraph. As used throughout this Agreement, Station Agent Bid Roster means the document officially entitled, "Station Agent Bid Report Times." During Phase I only, the Station Agent Bid Roster must include: (a) uncertified Station Agents in training expected to be certified on or before the first day of the systemwide Sign-Up; and (b) Part-Time Station Agents the District anticipates promoting to full-time effective on or before the first day of the systemwide Sign-Up. The Bid Roster includes Station Agents described in Labor Agreement Section 24.1 as on a leave of absence known to be for a period in excess of two (2) workweeks from the effective date of the bid.*

*Unanticipated retirements, terminations, deaths, or resignations occurring between the time the bid is furnished to the Union and the date the bid is sent to the printer shall not be counted for purposes of achieving Total Core Staffing. Those names may be removed from the bid roster and an equal number of positions above Total Core staffing, if any, may be removed from the bid.*

*2. Phase II - Achieving Total Core Staffing On The First Day Of Each Systemwide Sign-Up*

*On the first day of each systemwide Sign-Up, the District shall achieve Total Core Staffing. Specifically, the District shall staff Station Agents in compliance with Section 3 and Appendix A of the Stipulated Decision/MOU. On the first day of each systemwide Sign-Up, the District shall have sufficient certified Station Agents to participate in the Sign-Up and fill all positions on the bid. At the time of the Sign-Up, the number of certified Station Agents on the Station Agent Bid Roster shall match the number of positions on the bid. On the first day of the Sign-Up, the District shall complete Phase II of the attached "Total Core Staffing Compliance Worksheet," and provide to the Union the Worksheet, and Station Agent bid documents.*

*Individuals who retire, terminate, die, or resign between the date the bid is sent to the printer and the first day of the systemwide Sign-Up shall remain on the Station Agent Bid Roster but shall not be counted for purposes of achieving Total Core Staffing. The resulting vacant positions shall be Extra Board positions and shall be reserved on the Extra Board and treated the same as a*

*Station Agent position described in Labor Agreement Section 24.1.*

*Unanticipated reversions or reinstatements shall be counted for purposes of achieving Total Core Staffing on the date the unit member's reversion or reinstatement to a Station Agent position is effective.*

*3. Participation In Sign-Up*

*Only certified Station Agents may participate in the Sign-Up and fill positions on the bid. Station Agents in training shall not participate in the Sign-Up and shall not fill full-time positions on the bid. Station Agents who have been promoted or transferred to other positions (with reversion rights) shall not participate in the Sign-Up and shall not fill positions on the bid. Only Full-Time Station Agents may sign-up on the full-time bid. To bid for full-time positions, Part-Time Station Agents must be promoted to full-time effective on or before the first day of the Sign-Up.*

*4. Calculation Of Extra Board*

*At the time of each systemwide bid, the District shall compute the number of Station Agents on the Extra Board for purposes of Total Core Staffing by including only: (a) Full-Time Extra Board Station Agents; and (b) Station Agents described in Labor Agreement Section 24.1 as on a leave of absence known to be for a period in excess of two (2) workweeks from the effective date of the bid. In computing the number of Station Agents on the Extra Board, the District shall exclude: (a) Part-Time Station Agents not promoted to full-time effective on or before the first day of the Sign-Up; (b) promoted or transferred employees with reversion rights; (c) Station Agent retirements, terminations, deaths, or resignations; and (d) uncertified Station Agents in training.*

M. *Actions Required If The District Does Not Comply With Station Agent Total Core Staffing*

*If the District does not achieve Total Core Staffing on the first day of each systemwide Sign-Up, the District shall take the following actions:*

1. *If trained and certified Station Agent(s) are available, the District shall fill all Full-Time Total Core Staffing positions on the bid by offering Part-Time Station*

*Agents(s) promotion to full-time effective immediately. The District shall immediately initiate action to recall furloughed Station Agents with recall rights under Labor Agreement Sections 30 and 44.22 to fill all Total Core Staffing positions on the bid. The District will notify each Station Agent to be recalled by a recorded telephone call to the telephone number provided to the District by the furloughed Station Agent. Full-time positions shall be filled before part-time positions.*

2. *The District shall fill all shift vacancies through the Extra Board and overtime by complying with Section 28.4 of the Labor Agreement.*

3. *The District shall begin a Station Agent Class with sufficient trainees within thirty (30) calendar days.*

4. *The District shall comply with Section 3: Total Core Staffing and Appendix A before the maintenance* **provisions in Section 4 of the Stipulated** *Decision/MOU apply.*

N. *If the District fails to comply with Sections 3L or 3M of this Agreement, the parties agree to convene the Implementation Committee within seven days of the filing of the complaint and, in the event the Implementation Committee does not reach agreement regarding the complaint, the parties agree to immediately invoke the continuing jurisdiction of the Med-Arbiter.*

*In any dispute about an alleged violation of Sections 3L or 3M, the District and the Union retain all of their rights to argue the extent of the Med-Arbiter's remedial jurisdiction. In any proceeding involving the Med-Arbiter about an alleged violation of Sections 3L or 3M of this Agreement, neither the Union nor the District shall present evidence regarding proposals or statements made about the Med-Arbiter's remedial jurisdiction during negotiations over this Agreement.*

*The parties stipulate that their failure to reach agreement about the Med-Arbiter's remedial jurisdiction shall not be deemed a waiver of either party's position.*

**4. Maintaining Total Core Staffing Positions**

The following provisions shall apply only to Station Agent Total Core Staffing positions:

A. Definition Of Vacant Position

For the purpose of maintaining Total Core Staffing positions, a Full-Time Station Agent "vacant position" exists on the first day after a Full-Time Station Agent separates from District employment or on the first day a position is no longer held for a Full-Time Station Agent on probation, in training, on leave, on vacation, on disability, or with reversion rights.

B. Filling Vacant Positions

Whenever a Full-Time Station Agent position is vacant and a trained and certified Station Agent is available, including a furloughed Station Agent with recall rights under Section 30, the District shall fill the vacant position within thirty (30) calendar days.

C. Training Classes To Fill Vacant Positions

Whenever at least five (5) Full-Time Station Agent positions are vacant and an insufficient number of trained and certified Station Agents are available for appointment, the District shall begin a Station Agent Class within sixty (60) calendar days. (See also MOU 1-99.)

D. Filling Vacant Shifts While Recruiting/ Training/Filling Vacant Positions

Whenever Full-Time Station Agent vacant positions exist as defined in Section A, the District shall fill vacant shifts from the Full-Time Station Agent Extra Board. If an insufficient number of Extra Board Station Agents are available to fill the vacant shifts, the District shall fill all Total Core Staffing vacant shifts with overtime by complying with each step of Section 23R and Section 28.4 of the Labor Agreement. See also Section 7D of this Stipulated Decision/MOU.

If the District complies with each step of Section 23R and Section 28.4 of the Labor Agreement and is unable to fill a vacant shift, the District has not violated Labor Agreement Sections 23R and 28.4.

E. *The Union agrees that the District is required to maintain the minimum total core staffing levels in Section 3 of the Stipulated Decision/MOU, but is not required to maintain staffing levels above the minimum total core staffing levels.*

*The Union's agreement to this clarification assumes that the 23% Extra Board and minimum total core staffing levels are computed excluding employees who at the time the bid was posted had reversion rights to Station Agent positions.*

As stated in Section 6B of the Stipulated Decision/MOU, the District shall determine the number of Station Agents on the Extra Board; however, during the period of August 1, 2009 through June 30, 2013, the number of agents on the Extra Board shall not be less than twenty-one percent (21%) of the Full-Time Station Agent shifts, excluding Extra Board shifts.



## 5. Part-Time Station Agent Work Rules

**Labor Agreement**

- See Labor Agreement Sections 44.0 through 44.22.
- See October 24, 1994, ATU/MOU #03-94.
- The third paragraph of Labor Agreement Section 44.12C provides, "Part-time shifts shall not be scheduled for the purpose of circumventing a full-time shift (e.g. 'yo-yoing' and/or 'combining')."

**Clarification**

The Total Core Staffing provisions in Section 3 of this Stipulated Decision/MOU, and the following clarifications of the Labor Agreement, together reflect the parties' intent to use Part-Time Station Agent shifts to support and not to replace Full-Time Station Agent shifts. With the adoption of these provisions, the Union and the District resolve their disputes regarding the third paragraph of Section 44.12C as applied to Part-Time Station Agents.

This Stipulated Decision/MOU and its clarification of the meaning of "circumvention" for Station Agents shall have no effect on the interpretation of Labor Agreement Section 44.12C as applied to Train Operators.

A. Part-Time Circumvention (Section 44.12C)

In the context of Total Core Staffing and as applied to Station Agents, the third paragraph of Section 44.12C prohibits only the scheduling described in Sections (1) through (4) below:

1. Combining Shifts

The District will not combine two (2) or more Part-Time Station Agent shifts on weekdays to replace a full-time shift by scheduling two (2) or more part-time shifts at a station when the total time between the beginning of

the first part-time shift and the end of the second part-time shift exceeds six (6) hours and is less than twelve (12) hours. Examples are attached as Appendix B, entitled "Illustration Of Section 5 Rule About Combining Part-Time Shifts," and incorporated into this Stipulated Decision/MOU.

2. Yo-Yoing Shifts

The District will not replace a Full-Time Station Agent shift on weekdays by "yo-yoing" two (2) part-time shifts with a full-time shift in between when there are two (2) hours or less between the full-time shift and both of the adjacent part-time shifts. Examples are attached as Appendix C, entitled "Illustration of Section 5 Rule About Yo-Yoing Part-Time Shifts," and incorporated into this Stipulated Decision/MOU.

3. Single Centroid Stations and Part-Time Station Agents

Consistent with the Total Core Staffing requirements of Section 3G of this Stipulated Decision/MOU, the District shall not schedule a Part-Time Station Agent shift by bid at single-centroid stations unless at least one Full-Time Station Agent shift is also scheduled at the station at the same time. This restriction shall not apply:

- on weekends or holidays (Labor Agreement Section 44.6, Side Letter 8-10; Stipulated Decision/MOU, Section 3 [Total Core Staffing]); or
- when the Part-Time Station Agent is providing lunch relief for a Full-Time Station Agent (Labor Agreement Section 44.11).

4. Multi-Centroid Stations and Part-Time Station Agents

The District shall not schedule Part-Time Station Agent shift(s) by bid in multi-centroid stations unless Full-Time Station Agent shifts are scheduled by bid in the same stations as required by the Total Core Staffing provisions of Sections 3B – 3F of this Stipulated Decision/MOU. The District shall also comply with the requirements of Labor Agreement Section 44.12B.

B. Part-Time Shift Length On Weekends

Section 44.6 (minute clarification) provides in part, "The five (5) hour per workday limitation shall be inapplicable to Part-Time Station Agents who work on weekends . . . ." The October 24, 1994, ATU/MOU #-03-94 provides, "7) Part-time

Station Agents may be assigned weekend shifts comprised of up to ten hours to maximize weekend RDOs for full-time Station Agents.

When scheduling part-time shifts of up to eight (8) or ten (10) hours under these provisions, the District may schedule shifts for fractional hours, but may not schedule Station Agent shifts for fractional hours of more than six (6) hours and fewer than seven (7) hours (e.g. not 6.25, 6.5, 6.75 hours).

## 6. Station Agent Extra Board Staffing

**Labor Agreement**

- See Labor Agreement Section 23.0.
- See the Grievance Resolution Project, 1995.

  Principles and Procedures, EXTRA BOARD, pages 1-9, and ADDENDUM, Grievance Resolution Project Training, Questions and Answers.

**Clarification**

The District and the Union agree that as applied to Station Agents, Labor Agreement Section 23.0 shall be clarified to include the following provisions:

A. Definition Of Extra Board

The primary purpose of the Extra Board is to fill both full-time and part-time shift vacancies. Station Agents on the Extra Board shall be Full-Time Station Agents, and all references to Station Agents on the Extra Board are to Full-Time Station Agents. *See Labor Agreement Sections 23.0 and 44.11.*

B. Minimum Extra Board

The District shall determine the number of Station Agents on the Extra Board, however, the number of Station Agents on the Extra Board shall not be less than twenty-three percent (23%) of the Full-Time Station Agent shifts excluding Extra Board shifts. During the period of August 1, 2009 through June 30, 2013, the number of agents on the Extra Board shall not be less than twenty-one percent (21%) of the Full-Time Station Agent shifts, excluding Extra Board shifts.

C. Calculation Of Extra Board Staffing

Extra Board staffing as described in Section 6B shall be calculated at the time of each system bid. For the purpose of computing the number of Station Agents on the Extra Board, the District shall include Station Agents described in Labor

Agreement Section 24.1 as on a leave of absence known to be for a period in excess of two (2) workweeks from the effective date of the bid.

D. Free Extra Board Assignments

If the District has filled all vacancies from the Extra Board, and the District has posted and filled Special Overtime for Station Agents as required by Section 8 of this Stipulated Decision/MOU, the District may assign free Extra Board Station Agents to perform unplanned extra work on the Line where the work originated.

If free Extra Board is available after the District has assigned Extra Board Station Agents to perform unplanned extra work on the Line where the work originates, the District may assign free Extra Board Station Agents to perform unplanned extra work system-wide.

E. Extra Board Start Time

Full-Time Station Agents assigned to the Extra Board shall report at times that coincide with the starting times of regularly scheduled shifts. *See March 14, 1986, Barbara Chvany Arbitration Award #469-85.*

*F. Compliance With Labor Agreement Section 23.0 M: Extra Board Guaranteed Minimum Hours/Pay Per Day*

*As stated in Labor Agreement Section 23.0 M, "Extra board employees shall be guaranteed a minimum of eight (8) consecutive hours work/pay per day on each of five (5) days in the workweek. Extra board employees will be under pay for all work until the end of the day's assignments."*

*When a Part-Time Station Agent shift is vacant, a Full-Time Extra-Board Station Agent shall be used to cover vacancies occurring in part-time slots. See Labor Agreement Section 44.11. The Full-Time Extra-Board Station Agent shall report at the time that coincides with the starting time of the regularly scheduled and vacant part-time shift. See Stipulated Decision/MOU, Section 6E. The Full-Time Extra-Board Station Agent shall be guaranteed a minimum of eight (8) consecutive hours work/pay per day when used to cover vacancies occurring in part-time slots. In accordance with the Labor Agreement, including but not limited to Sections 7.2, 13.4 R, 13.6, 23.0, the Grievance Resolution Project, and Stipulated Decision/MOU Section 6, the District may assign the Full-Time Extra Board Station Agent to another Station Agent report location after the end of the regularly scheduled and vacant part-time shift to fill (a) partial shift vacancies, or (b) previously posted Station Agent*

*Special Overtime on the line. The Full-time Extra Board Station Agent shall check out at the end of revenue service and shall be made whole for eight (8) hours as defined in Labor Agreement Section 23.0 M.*

**7. Filling Station Agent Shift Vacancies**

**Labor Agreement**

- See Labor Agreement Sections 23R and 28.4.
- See Grievance Resolution Project, 1995.

**Clarification**

The District and the Union agree to the following clarifications of relevant provisions of Labor Agreement Sections 23.0 and 28.4 as applied only to Station Agents:

A. Filling Fixed Core, Including Lunch Relief, Shift Vacancies

The District and the Union recognize that vacancies should be filled, and that the Extra Board is intended to fill vacancies in most cases. When Fixed Core shifts, including lunch relief shifts, become vacant and the Extra Board is exhausted, the District shall fill all vacancies in the Fixed Core shifts, including Lunch Relief shifts, by completing each step of Section 23R and Section 28.4 of the Labor Agreement and in accordance with the GRP.

B. Filling Flexible Core Shift Vacancies

The District shall have the discretion to fill or not fill vacancies in Flexible Core shifts only if all of the following conditions exist:

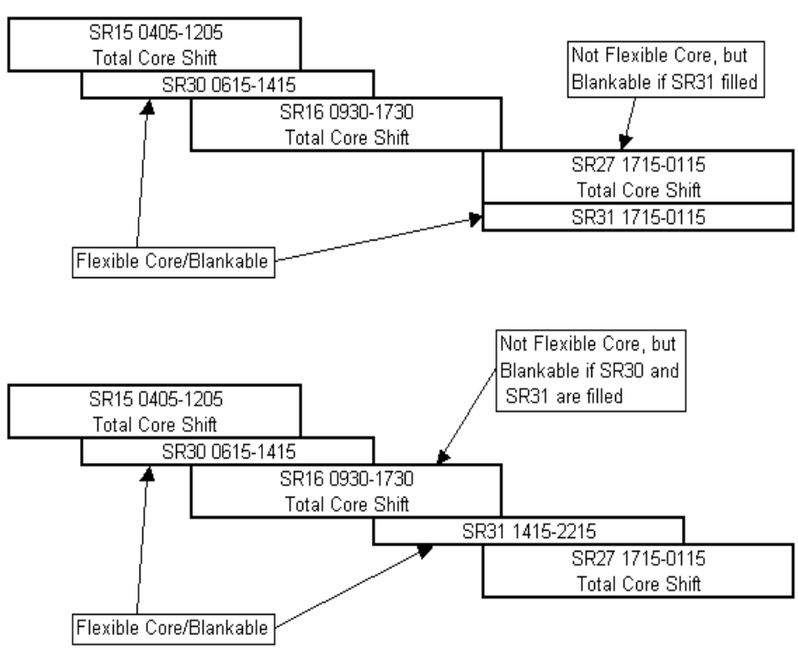
1. All Total Core Staffing positions are filled by fully certified Station Agents; and
2. All Fixed Core shifts are filled as required by Section 3 and Section 7A of this Stipulated Decision/MOU; and
3. All Station Agents have lunch relief as scheduled by bid and required by Section 10 and Section 3B of this Stipulated Decision/MOU; and
4. The Extra Board is exhausted; and (For the period of July 1, 2009 to June 30, 2013, this condition shall be suspended.)
5. A shift identified in Section 7C of this Stipulated Decision/MOU becomes vacant.

C. Determining Flexible Core Shift Vacancies That May Not Be Filled

For the purpose of implementing this Section 7 of this Stipulated Decision/MOU, the Union and the District shall identify during the pre-posting meeting before each system-wide bid which shifts are Flexible Core shifts the District may leave unfilled (blanked) if the conditions described above in Section 7B "Filling Flexible Core Shift Vacancies" exist. In a booth with at least two (2) Full-Time Station Agents scheduled for at least eight (8) hours of concurrent booth coverage, the District and the Union agree that either of the shifts shall be treated as Flexible Core as long as at least staffing equivalent to the Fixed Core Staffing required by Section 3 of this Stipulated Decision/MOU is maintained on the same work day.

*In interpreting which shifts the District may leave unfilled pursuant to this Section 7C, the parties agree to clarify that designated shifts in the configurations illustrated below may be left unfilled:*

**Illustration Of Shifts That May Be Left Unfilled Under Section 7C**
**All Conditions Required By Section 7 Must Be Met**
**Before Shift May Be Left Unfilled (Blanked)**




D. Filling Shift Vacancies While Recruiting/Training/Filling Vacant Positions

Whenever Full-Time Station Agent vacant positions exist as defined in Section 4A of this Stipulated Decision/MOU, the District shall fill vacant shifts from the Full-Time Station Agent Extra Board. If an insufficient number of Extra Board Station Agents are available to fill the vacant shifts, the District shall fill all Total Core Staffing vacant shifts with overtime by complying with each step of Section 23R and

Section 28.4 of the Labor Agreement. See also Section 4D of this Stipulated Decision/MOU.

E. Conditions For No Violation For Failure To Fill Shift Vacancies

If the District complies with each step of Labor Agreement Sections 23R and 28.4 and is unable to fill a vacant Total Core Staffing Position shift, the District has not violated Sections 23R and 28.4 of the Labor Agreement.

**8. Posting Special Overtime For Station Agents**
**Labor Agreement**

Grievance Resolution Project, 1995.

Principles and Procedures: OVERTIME, page 8-9:

"Special Overtime

T/O + S/A: There is no limit as to the number of Special OT preferences available to employees."

"T/O: When the number of shifts have been identified, the Special OT list will be utilized before the RDO OT list or extra board, followed by extensions and early call-ins. Should additional staff be needed on the day of the event or on short notice, flexibility to meet this staffing need will prevail, e.g. utilization of the extra board, extensions, etc."

"T/O: Other than a procedural error on the part of the Foreworker, Special OT offers cannot be cancelled prior to the event. In the event the Special Event is cancelled, procedures for canceling regular OT applies, i.e. the Foreworker can cancel the offer IF he/she can reach the affected employee prior to the employee departing for work."

"T/O: If at the EOE (End Of Event), there is a need for any yard support, extensions will be offered based upon the seniority of those employees in the yard at the time, including those on Special OT."

"T/O: Special OT is awarded on accumulated OT hours."

"All: Working or refusing Special OT (except on a holiday) is counted in the accumulated OT hours."

"T/O: An offer of special OT will not exceed eight hours. This does not preclude extensions."

"T/O: Special OT will be posted and utilized separate from the RDO list."

- **Grievance Resolution Project, 1995.**

ADDENDUM, Grievance Resolution Project, Training Questions and Answers, Overtime, page 2:

"**Q:** What is the time frame requirement for posting Special OT?

**A:** As soon as the need is known."

"**Q:** Who polls for Special OT?

**A:** The Foreworker."

"**Q:** When is EOE (end of event) for a Station Agent?

**A:** For the Coliseum station, the EOE is declared at the discretion of the Supervisor or Foreworker. For outlying stations, it's when the last event train arrives at the station."

"**Q:** If the Special Event is cancelled, what happens?

**A:** The Foreworker will follow the same procedure for canceling an erroneous OT offer, i.e., the Foreworker will attempt to reach the affected employee(s) prior to the employee(s) departing for work. If not reached, the employee(s) will work the offered shift(s)."

"**Q:** What's the difference between RDO OT and Special OT, administratively speaking?

**A:** Only that there are separate lists."

**Clarification**

The District and the Union agree to implement the Grievance Resolution Project with respect to Station Agent Special Overtime according to the following clarifications:

Special Overtime

A. Based on operational needs, the District shall determine the need for Station Agents to work Special Overtime. *When the District determines that operational needs require Station Agents to work Special Overtime, the District shall post the Special Overtime as described in Section 8B.*

B. The District shall post Special Overtime as soon as the need is known, but no later than 1000 hours on the second (2nd) calendar day prior to the special event. Station Agents may bid for the Special Overtime.

C. *The District shall designate and post any Special Overtime to be worked in a primary booth position when posting Special Overtime under Sections 8 A and B. Full-Time Station Agents working Special Overtime designated and posted for bid in the primary booth in a multi-centroid station shall be a leadworker and shall be paid the leadworker premium pay defined by Labor Agreement Section 28.8. A Station Agent who does not bid a designated primary booth shift shall not work the primary booth except when providing relief or occasional assistance (See Stipulated Decision/MOU Section 2 A).*

D. When the number of shifts have been identified, the Special OT list will be utilized before the RDO OT list or Extra Board, followed by extensions and early call-ins. Should additional staff be needed on the day of the event or on short notice, flexibility to meet this staffing need will prevail, e.g., utilization of the extra board, extensions, etc.

E. Except for Foreworker procedural errors, the District shall not cancel Special OT. If the Special Event is cancelled, the Special OT shall be cancelled by following the procedures for canceling regular OT, i.e. the Foreworker can cancel the offer if the Foreworker can reach the affected Station Agent before the Station Agent departs for the BART work reporting location.

F. For the purpose of overtime distribution, working or refusing Special OT (except on a holiday) shall be counted in the accumulated OT hours.

G. An offer of Special OT will not exceed eight (8) hours. This does not preclude extensions.

H. If the District determines a need for station coverage at the EOE (End of Event), the District shall offer extensions to the Station Agents at the station based upon the seniority of the Station Agents, including Station Agents on Special OT. If none of the Station Agents at the station accept the extension, the District shall offer the extension according to Labor Agreement Section 28.4. For the Coliseum station, the end of event (EOE) shall be determined by the Foreworker/Supervisor. At outlying stations, the end of event (EOE) shall be when the last event train arrives at the station.

**9.Bona Fide Emergency**

A. Definition Of Bona Fide Emergency

For the purpose of this Stipulated Decision/MOU, a “bona fide emergency” includes a natural or human created disaster or incident that may jeopardize or has compromised the physical integrity of the BART system, property, or the safety of BART employees, patrons, or other persons on BART property.

B. Staffing Reductions In Bona Fide Emergency

During a bona fide emergency, the District may reduce the Fixed and/or Flexible Core Staffing defined in this Stipulated Decision/MOU pursuant to an agreement between the parties or pursuant to the Implementation and Dispute Resolution Section 12 of this Stipulated Decision/MOU.

C. Notice And Opportunity To Bargain

Prior to seeking a reduction of the Fixed and Flexible Core Staffing defined in this Stipulated Decision/MOU, the District shall give the Union notice and opportunity to bargain about the decision and the decision’s effects on the mandatory subjects within the scope of bargaining. The District and the Union shall meet and negotiate for no more than two (2) sessions of at least four (4) hours per session. By mutual agreement, the District and the Union may extend the number and/or duration of the meet and negotiation sessions. At the request of either party, the Med-Arbiter may attend the negotiation sessions to begin learning about the issues.

D. Mediation

If the District and the Union are unable to reach agreement, either party may request mediation under the Implementation and Dispute Resolution Section 12 of this Stipulated Decision/MOU.

E. Arbitration

If the matter remains unresolved, the parties agree to submit any outstanding issues to arbitration under the Implementation and Dispute Resolution Section 12 of the Stipulated Decision/MOU, including, but not limited to the following issues:

- Was notice and the specified opportunity to bargain provided as required by this Stipulated Decision/ MOU?
- Does a bona fide emergency exist?
- If so, does the bona fide emergency justify the extent of the District's proposed reduction of the Fixed and/or Flexible Core Staffing?
- If not, what, if any, reduction is warranted?
- Is the period of time that the reduced staffing is proposed to be in effect appropriate, and/or are the conditions proposed for a return to Total Core Staffing reasonable?
- What effect does the proposed staffing reduction have on the performance of Station Agent bargaining unit work?
- What effect does the proposed staffing reduction have on compliance with other provisions of the Labor Agreement and this Stipulated Decision/MOU?
- If the parties disagree about the issues to be submitted to arbitration, the issue(s) may be determined by the Med-Arbiter.

F. Implementing Staffing Reductions Consistent With Labor Agreement

In the event staffing reductions are agreed upon by the parties or ordered by the Med-Arbiter, the District and the Union agree that any staffing reductions permitted by this Section 9 of the Stipulated Decision/MOU shall be implemented according to the terms of the Labor Agreement, including, but not limited to, Sections 30.0 and 44.22.

## 10. Scheduling And Staffing Lunch/Rest Breaks

**Labor Agreement**

- **S13.2 LUNCH/REST BREAKS EIGHT (8) HOUR SHIFTS**

  A. There shall be two (2) paid fifteen (15) minute rest breaks; one in the first half of the shift and the second in the last half of the shift for an eight (8) hour shift.

  B. There shall be one (1) paid thirty (30) minute lunch break between the beginning of the fourth (4th) hour and before the end of the sixth (6th) hour of an eight (8) hour shift.

  C. The District shall pay overtime rates whenever the employee is not permitted time off for lunch and/or rest breaks. For the thirty (30) minute lunch break, if not so relieved, the employee will be paid overtime for such lunch break and will not be required to take the lunch break.

  D. An Agent may request relief for the lunch break from a Foreworker and, if said relief is made by the Foreworker, no overtime payment is due for this break.

- **S13.4 CHOICE OF SHIFTS/SIGN-UPS ***

  All shift assignments shall be posted to show reporting location, starting time, and rest days. Station Agent shift configurations may include report locations anywhere on the line. The District will limit report location spread on the bidded line to the extent practicable. Assignments in multi-centroid stations may include relief work on a daily basis, to be performed only in said station, except to cover MacArthur and 16th and Mission Stations.

***

- **S13.7 4-10 WORK WEEK/STATION AGENTS**

  The District may establish an alternate work week in Station Operations consisting of four (4) days per week and ten (10) hours per day (4-10 Plan) at any station. Employees working under this Plan shall be governed by the following conditions:

***

  E. Meal and Break periods for employees working in this Plan shall be as follows:

    1. A thirty (30) minute paid meal period within a continuous ten (10) hour shift shall be granted.

2. Three (3) fifteen (15) minute paid break periods shall be provided at two (2) hour intervals after starting time of the employee's shift, or breaks may be taken on an irregular basis as determined by Management.

***

- **S44.9 REST BREAKS ***

Part-Time Station Agents shall receive one (1) paid fifteen (15) minute rest break approximately mid-shift. Part-Time Station Agents assigned a shift of seven (7) hours or more will receive two (2) fifteen (15) minute paid breaks (one in the first half of the shift and the second in the last half of the shift) and a thirty (30) minute paid lunch break between the beginning of the fourth (4th) hour and before the end of the sixth (6th) hour.

***

- **S44.10**

- **COVERAGE FOR VACANCIES/BREAKS ***

Part-Time Train Operators and Station Agents shall not be allowed to temporarily fill full-time slots. The full- time extra board shall be used to cover vacancies occurring in part-time slots. Vacancies occurring in part-time shifts shall not be filled by a hold-down and shall be filled on a day-to-day basis from the full-time extra board.

Lunch and rest breaks of Station Agents in single-centroid stations may be covered by Part-Time Station Agents.

*** Minute Clarification**

The District agrees to schedule as many full-time Stations Agents for weekend RDOs as operationally permissible.

- **S44.11 LIMITATIONS ON PART-TIME WORK**

***

B. <u>Station Agents</u>

Part-Time Station Agents will not be scheduled by bid in a primary booth within a multi-centroid station unless a full-time Station Agent is also scheduled to work the primary booth. Vacancies in a primary booth within a multi-centroid station shall be filled pursuant to the procedures in Article S28.4 - RDO Overtime Request/ Overtime Administration. In the event a full-time Station Agent is unavailable pursuant to the procedures in Article S28.4, and another full-time Station Agent is working the

secondary booth, the full-time Station Agent in the secondary booth shall cover the primary booth and the part-time Station Agent shall cover the secondary booth.

***

- **Grievance Resolution Project, 1995.**

  Principles and Procedures: Lunch Reliefs, page 9:

  > "S/A: Employees working lunch relief shifts will not be pulled off their regular shifts. They will follow the lunch relief schedule to include any vacant station(s)."

- **Grievance Resolution Project, 1995.**

  ADDENDUM, Grievance Resolution Project Training, Questions and Answers, Overtime, page 2:

  > "**Q**: How is the lunch relief administered at a multi-centroid station?
  >
  > **A:** The Station Agents relieve each other; and the Agents at 19th Street can relieve MacArthur and the Agents at Civic Center can relieve 16th Street station."
  >
  > "**Q:** In the event a lunch relief arrives at a station that is vacant, does he/she stay there?
  >
  > **A:** Yes, he/she stays for the lunch relief period and then moves on to the next relief."

**Clarification**

The District and the Union agree to the following clarifications of specific lunch/break provisions of the Labor Agreement, the GRP, and past practice:

A. Lunch Relief Scheduling/Staffing

1. As stated in Section 3B of this Stipulated Decision/ MOU as an element of Fixed Core Staffing, the District shall schedule sufficient Station Agents to provide lunch breaks for all Full-Time Station Agents and for all Part-Time Station Agents assigned to shifts of seven (7) or more hours. The District shall not intentionally fail to schedule lunch reliefs required by this Section.

2. Failure To Schedule Lunch Breaks

In the event the District inadvertently fails to schedule a lunch break for a Station Agent, the District shall compensate the affected Station Agent for two (2) hours at the overtime rate of pay for each missed unscheduled lunch break.

B. 10-Hour Shift Lunch/Rest Breaks

1. The District and the Union agree that the provisions of Sections 13.2C and D of the Labor Agreement apply to ten (10) hour shifts.

2. For each ten (10) hour Station Agent shift, the District shall schedule one (1) thirty (30) minute paid lunch period between the beginning of the fourth (4th) hour and the end of the seventh (7th) hour.

C. Multi-Centroid Station Lunch/Rest Breaks

1. Relief Assignments

All Full-Time and Part-Time Station Agents assigned to a particular multi-centroid station shall provide lunch/rest break relief only for other Station Agents within the same station, except that Station Agents assigned to the 19th Street Station may provide lunch relief for Station Agents at the MacArthur Station, and Station Agents at the Civic Center Station may provide lunch relief for Station Agents at the 16th Street Station. Within a multi-centroid station, Part-Time Station Agents may provide lunch/rest relief for a Station Agent *in the same station* working a secondary or third booth.

2. Relief By Multi-Centroid Station Agents

Except as specifically stated in Section 10C1 of this Stipulated Decision/MOU, the District shall not schedule a Station Agent assigned to a multi-centroid station to provide lunch/rest breaks for a Station Agent assigned to a single-centroid station.

3. Relief By Single-Centroid Station Agents

The District shall not schedule a Station Agent assigned to a single-centroid station to provide lunch/rest breaks for a Station Agent in a multi-centroid station.

D. Station Agents Providing Lunch Relief

When either a Full-Time or Part-Time Station Agent is scheduled by bid to provide lunch relief, the District shall not

pull that lunch relief Station Agent off his/her bid lunch relief schedule and assign that lunch relief Station Agent to remain at and cover a vacant station beyond the scheduled lunch relief period.

E. An illustration of lunch and rest breaks is attached as Appendix D, entitled "Illustration Of Lunch And Breaks Requirement," and incorporated into this Stipulated Decision/MOU.

F. *Lunch Relief Guide*

*At the time the District submits its proposed systemwide bid to the Union in accordance with Labor Agreement Section 13.4 and Appendix A of the Station Agent Stipulated Decision/MOU, the District shall provide a Lunch Relief Guide to demonstrate that the District has sufficient Station Agents to provide lunch breaks for all Full-Time Station Agents and for all Part-Time Station Agents assigned to a shift of seven (7) or more hours. The Lunch Relief Guide shall demonstrate that the bid complies with Stipulated Decision/MOU Sections 3B and 10A1. The Lunch Relief Guide shall specify all Station Agent shifts that will be required to provide lunch relief at stations other than their reporting locations ("designated lunch relief shifts"). The Lunch Relief Guide will specify all the locations and shifts for which each designated lunch relief shift shall be required to provide lunch relief. As stated in Sections 3B and 10A of the Stipulated Decision/MOU, lunch relief is an element of Fixed Core Staffing, and lunch relief must be provided by Fixed Core Staffing. The District may not require a Station Agent other than one assigned to a designated lunch relief shift to provide lunch relief at a station other than the Station Agent's reporting location.*

a. *Corrections To Lunch Relief Guide Prior To The First Day of Sign Up*

*During the pre-posting meeting, the District and the Union shall identify any and all errors in the bid that will result in one or more Station Agents not receiving a lunch break. In the event that after the District submits its proposed systemwide bid to the Union in accordance with Labor Agreement Section 13.4 and Appendix A of the Station Agent Stipulated Decision/MOU and before the first day of the systemwide Sign-Up, the District discovers an inadvertent error in the bid that will result in one or more Station Agents not receiving a lunch break as required by Stipulated Decision/MOU Sections 3B and 10A1, the District shall correct the Lunch Relief Guide. The parties agree that on or after the effective date of the Systemwide Sign-Up, the compensation described in Stipulated Decision/MOU Section 10 (A)(2) must be paid unless the Station Agent is relieved by*

*a Foreworker according to Section 13.2(D) or is relieved by a Station Agent working Special Overtime.*

H. *Designated Lunch Relief Shift Arrives Late*

*If the designated lunch relief shift does not arrive at any station in time to provide lunch relief for a Station Agent, the District may on a de minimus basis require another Agent in an overlapping shift at the station to provide the lunch relief. A Station Agent may not refuse to take a lunch break on the basis that the relieving Agent is not the Station Agent assigned to the designated lunch relief shift listed on the Lunch Relief Guide. The District may on a de minimus basis require a Station Agent to provide lunch relief at his/her reporting location without including the shift on the Lunch Relief Guide.*

I. *Designated Lunch Relief Shift Drops Sick*

*If any designated lunch relief shift drops sick for any portion of a designated lunch shift and the Extra Board is exhausted, the District shall fill the lunch relief shift vacancy by completing each step of Section 23R and Section 28.4 of the Labor Agreement. (See Stipulated Decision/MOU, Section 7A.) If the District complies with each step of Labor Agreement Sections 23R and 28.4 and is unable to fill a vacant lunch relief shift due to the shift vacancy caused by the lunch relief shift agent dropping sick, the District may on a de minimus basis require a Station Agent in an overlapping shift at the station to provide lunch relief at his/her reporting location without including the shift on the Lunch Relief Guide.*

J. *Lunch Relief Agent Breaks*

*The parties agree that Station Agents who bid for a designated lunch relief shift shall be entitled and have sufficient time to take the breaks described in Labor Agreement Sections 13.2, 13.7, and 44.10 during the shift when not providing a lunch relief for a Station Agent. See Appendix D of the Stipulated Decision/MOU for applicable lunch windows.*

*K. For the purpose of this Agreement, "de minimus" shall mean "work that is minor, not planned in advance, and happens only on rare occasions."*

## 11. Multi-Centroid Booths

**Labor Agreement**

- **S13.3 PREMIUM PAY/PRIMARY BOOTH**

***

B. The Union recognizes that the District may in the future close the second and third booths of multi-centroid stations for one (1) shift per day. The District agrees to continue to pay the remaining Agent the leadperson premium in such situation.

***

**Clarification**

A. Preservation Of Argument

The District believes that except for the parties' dispute about the meaning of Labor Agreement Section 13.3B, the District would have the unambiguous management right to reduce service to the public by closing a booth in a multi-centroid station. The Union believes that Labor Agreement Section 13.3B prohibits the District from closing any booth(s) in multi-centroid stations.

B. Agreement Through June 30, 2009

To resolve the dispute about the meaning of Labor Agreement Section 13.3B, the District agrees not to close a booth in any multi-centroid stations through June 30, 2009. For the purpose of this Section, "multi-centroid stations" means the following: Embarcadero, Montgomery, Powell, Civic Center, SFIA, Millbrae, 12th Street, 19th Street, and Berkeley.

C. Agreement After June 30, 2009

After June 30, 2009, the District shall have the discretion to close one (1) booth at each of these stations: Civic Center, 19th Street, and Millbrae stations. The District agrees not to close any other booth in any multi-centroid station unless it reaches an agreement with the Union. This Section 11C shall define the status quo for negotiation purposes during and after the current 2005-2009 Labor Agreement unless changed by the successor Labor Agreement.

## 12. Implementation And Dispute Resolution

A. Rescinding Part-Time Station Agent Layoffs

Effective June 17, 2005, the District shall rescind the twenty-eight (28) preliminary layoff notices served on Part-Time Station Agents.

B. Posting

On or before July 1, 2005, the District shall post notices of upcoming Station Agent classes to fill available Station Agent positions.

C. Promoting Part-Time To Full-Time

On or before August 22, 2005, the District shall promote to Full-Time Station Agent positions all Part-Time Station Agents who submitted a written promotion request to the District on or before August 5, 2005.

D. District And Union Joint Training

On a mutually agreeable date(s) on or before January 16, 2006, the District and Union shall jointly develop and present training session(s) regarding the implementation of this Stipulated Decision/MOU. The parties shall provide the training to BART supervisors, Foreworkers, and Station Agent union stewards.

E. Future Foreworker/Station Agent Certification And Refresher Training

For all future Foreworker and Station Agent certification and refresher training, the District and the Union shall jointly prepare materials and/or presentations regarding this Stipulated Decision/MOU.

F. Med-Arbiter's Continuing Jurisdiction

The parties shall honor the obligations reflected in this Stipulated Decision/MOU. This Section incorporates dispute resolution mechanisms for enforcing the District's and the Union's agreement. The Med-Arbiter retains jurisdiction over any disputes that may arise over the interpretation and implementation of this Stipulated Decision/MOU.

The Med-Arbiter shall be Barbara Chvany, or her substitute as mutually agreed by the parties. The costs of Med-Arbiter are shared equally by the parties.

G. Implementation Committee

An Implementation Committee, comprised of at least two Union members and two but not more than four management members, will be formed to oversee implementation of this Stipulated Decision/MOU. The Union and the District shall, respectively, select their representatives on the Implementation Committee. The Implementation Committee and the parties will work cooperatively and in good faith to ensure implementation of the Stipulated Decision/MOU.

Counsel or other party representatives may attend as needed. In addition, other persons or consultants may be invited to attend.

H. Status Reports And Conferences

Regular status reports will be prepared by the Transportation Department covering events relevant to the implementation and monitoring of the Stipulated Decision/MOU. See the Staffing Projection Report attached as Appendix A-2. The Implementation Committee will determine what information is to be contained in these reports, and at what intervals the reports need to be prepared and reviewed. Members of the Implementation Committee, or the Med-Arbiter, may request a status report or additional information. The Implementation Committee will review the status reports on a regular basis to monitor compliance with the Stipulated Decision/MOU. The Committee shall take immediate action to attempt to resolve any problems or issues that may arise based upon its review of the reports.

The Med-Arbiter shall hold regular, periodic status conferences with the Implementation Committee to monitor compliance with the Stipulated Decision/MOU. Counsel or other party representatives may attend, as needed. In addition, other persons or consultants may be invited to attend.

I. Complaint Forms

Prior to the February 2006 bid, the Implementation Committee will develop a complaint form to be utilized to document and report concerns, complaints, or alleged violations related to the Stipulated Decision/MOU. The printed form shall set forth how it is to be filed with the Implementation Committee. A completed form shall set forth a description of the concern, complaint, or alleged violation, the date that it occurred, and the remedy or resolution sought.

J. First Level Review By Implementation Committee

As the first level of the expedited dispute resolution procedure under the Stipulated Decision/MOU, the Implementation Committee will review all complaint forms, and take immediate action to resolve the complaint or violation, if possible. The Implementation Committee shall record the following information on the form: (1) when it received the form; (2) when it met to review and attempt to resolve the matter; (3) its comments or findings, including if the Implementation Committee members agree or do not agree on a resolution; and (4) the nature of any resolution reached, such as the action to be taken or a remedy to be awarded.

K. Record Of Complaint Forms

The Implementation Committee will retain all forms that are filed, along with any pertinent related documentation reflecting actions taken and/or remedies implemented. The forms may be utilized for such purposes as tracking compliance with the Stipulated Decision/MOU, identifying recurring problems or violations, and devising appropriate responsive measures. Upon request, the Med-Arbiter or counsel may obtain copies of these file materials.

L. Time Limits

To be timely, a complaint form, grievance, or equivalent notice must be faxed, post-marked, or hand-delivered to the District at the Status Conference within forty (40) working days of the occurrence of the dispute or when the employee or Union could have been aware of the occurrence.

M. *Filing and Processing Complaints And Grievances*

1. *Filing A Complaint*

*The Union or any bargaining unit member may file complaints regarding "concerns, complaints, or alleged violations related to the Stipulated Decision/MOU" and such complaints are timely if "faxed, post-marked, or hand-delivered to the District at the Status Conference within forty (40) working days of the occurrence of the dispute or when the employee or Union could have been aware of the occurrence."*

2. *Processing The Complaint*

*To facilitate the resolution of disputes: (1) the District and the Union shall appoint representatives, to the Implementation Committee with the authority to resolve complaints; (2) the Implementation Committee agrees to meet on a quarterly basis; (3) the Implementation Committee shall review and discuss each complaint at the next quarterly meeting after the complaint is filed; (4) in reviewing and analyzing each complaint prior to and during the Implementation Committee meetings, the District and the Union shall share data and information about the people, dates, and facts involved; and (5) the Union need not file a grievance concurrently with the filing of a complaint because the time limit for filing grievances in Labor Agreement Section 40.3 shall be held in abeyance during the dispute resolution process in Section 12 of this Stipulated Decision/MOU.*

3. *Grievance Time Lines Held In Abeyance*

*The parties agree that the Union preserves its right to file grievances concerning issues or matters that are also the subject of complaints as long as the Implementation Committee has not resolved the matter. The time limit stated in Labor Agreement Sections 40.3 shall be held in abeyance during the dispute resolution process in Section 12 of this Stipulated Decision/MOU and shall not begin to run until either: Section (1) the Implementation Committee agrees in writing to refer a matter to the grievance procedure; or Section (2) the Med-Arbiter determines that a matter exceeds his/her jurisdiction and must be referred to the grievance procedure.*

4. *Definition Of "Occurrence Of The Dispute"*

*For matters or issues which are the subject of Complaints, the parties agree that a matter or issue shall cease to be held in abeyance and the time limits in Section 40.3 shall begin to run as follows:*

a. *If the Implementation Committee agrees in writing to refer a matter or issue to the grievance procedure, the date of the parties' written agreement shall be the "occurrence of the dispute" as that term is used in Labor Agreement Section 40.3. In other words, the Union must file a grievance about the matter or issue within forty (40) working days from the date of the parties' written agreement to refer a matter or issue to the grievance procedure.*

b. *If the Med-Arbiter exercises the authority described in Section 12 N of this Stipulated Decision/MOU to refer a matter or issue to the grievance procedure, the Med-Arbiter shall notify the parties by letter of her/his determination that the matter or issue exceeds the Med-Arbiter's retained jurisdiction and shall be referred to the grievance procedure. The date the Union receives the Med-Arbiter's letter of notification shall be the "occurrence of the dispute" as that term is used in Labor Agreement Section 40.3. In other words, the Union must file a grievance about the matter or issue within forty (40) working days from the date the Union receives the Med-Arbiter's letter of notification.*

5. *District's Time Line For Responding*

*As stated in Labor Agreement Section 40.4, the District shall have twenty-five (25) calendar days after receiving*

*a dispute or grievance to review and respond to the grievance or dispute.*

6. *Grievance Committee Referring A Grievance To The Complaint Processing Procedure*

*The parties and/or the Grievance Committee may refer grievances to the Implementation Committee and dispute resolution process under Section 12 of the Stipulated Decision/MOU if the issues or matter covered by the grievance arise over the interpretation and implementation of the Stipulated Decision/MOU. If timely filed under Labor Agreement Section 40.3, such grievances shall be considered timely complaints under Section 12 L and shall be processed according to the terms of this Stipulated Decision/MOU and subsequent related agreements, including this Agreement.*

N. Invoking Continuing Jurisdiction Of Med-Arbiter

If the Implementation Committee fails or is unable to resolve an issue at the first level, either party may invoke the continuing jurisdiction of the Med-Arbiter to resolve the dispute with notice to the Med-Arbiter and the opposing party.

O. Informal Mediation Step

Normally within thirty (30) days, but no later than sixty (60) days, the Med-Arbiter shall attempt to resolve the matter informally, through mediation with the Implementation Committee, either by telephone conference or in person. A telephone conference shall be the favored method, when appropriate. Ten (10) working days prior to the informal mediation session, the parties shall exchange and submit to the Med-Arbiter all available information regarding the subject complaint.

At the informal mediation step, the Implementation Committee may elect, or the Med-Arbiter may request, the participation of other persons or the submission of additional information. The Med-Arbiter, with input from the parties, has authority to determine the appropriate procedure that will apply, including but not limited to whether: (a) mediation will be utilized to assist the parties in resolving the matter directly; (b) the Med-Arbiter will render a final and binding determination of the matter at the informal Med-Arbiter stage; and/or (c) the dispute exceeds the Med-Arbiter's retained jurisdiction and shall be referred to the grievance procedure of the Labor Agreement. Because the Med-Arbiter may render a final and binding determination of

the matter at the informal mediation step, all substantive discussions, meetings, and sessions are to be held jointly, not ex parte, to ensure due process.

The results of the informal step, including any determination by the Med-Arbiter, shall be recorded on the complaint form, and shall be retained in the Implementation Committee records.

P. Formal Arbitration Step

The Med-Arbiter has authority to order a formal arbitration hearing and to issue a final and binding decision on the issues falling within her retained jurisdiction. When formal arbitration is ordered, the Med-Arbiter will schedule an arbitration hearing as soon as possible. A transcript of the proceedings will be taken. The Med-Arbiter will determine if briefs will be submitted. The decision will be issued in writing, and may be in abbreviated or expedited form, depending upon the nature of the dispute. Any decision rendered at the arbitration step shall be based upon the arbitration record, not upon settlement discussions at the informal mediation step. The Med-Arbiter's decision shall be retained in the Implementation Committee records. The record and the arbitration decision in a formal arbitration pursuant to this Section are not confidential.

## 13. Remedial Payments

A. Settlement Amount

In consideration of the Union's dismissal with prejudice of all unresolved and unremanded Station Agent Staffing and Bidding grievances filed between 1986 and the date the Stipulated Decision/MOU is executed, as described more specifically in Section 14 below, and in consideration for the implementation and the clarification language contained in this Stipulated Decision/MOU, the District agrees to distribute to the affected Station Agents collectively the one-time lump sum amount of six million dollars ($6,000,000) in two (2) installments subject to the retained internal reserve account described in Section 13B below. Of the first installment of three million dollars ($3,000,000), two million, seven hundred thousand dollars ($2,700,000) shall be distributed to the affected Station Agents on or before August 20, 2006. The second installment of three million dollars ($3,000,000) plus the internal reserve account shall be distributed to the affected Station Agents on or before August 20, 2007.

As conditions precedent to the District's duty to distribute funds, the Union shall determine the service credits for distribution of funds as described in Section 13C, shall give the District a completed and executed Appendix E as described in Section 13E, and shall give the District the notice as required by Section 13E.

B. Retained Internal Reserve Account

From the first installment of three million dollars ($3,000,000) provided for in Section 13A above, the District shall retain an internal reserve account of three hundred thousand dollars ($300,000). This amount shall be utilized in the event adjustments or corrections are necessary in the payments to individual affected Station Agents after the first installment is distributed. Any funds remaining in the internal reserve account as of May 1, 2007, shall be distributed to the affected Station Agents with the second installment, utilizing the same criteria for calculating the distribution of these funds set forth in Section 13C, below, subject to any adjustments or corrections that have been ordered by the Med-Arbiter pursuant to Section 12 and/or Section 13D of this Stipulated Decision/MOU.

C. Distribution Criteria And Notice Of Calculation

The criteria for calculating the distribution of these funds to affected Station Agents shall be the length of service as a Station Agent between September 1, 1986, and October 31, 2005. The Union shall determine the definition and number of service credits based on Station Agent length of service and shall calculate each Station Agent's service credits. The Union shall post its calculation of Station Agent service credits for thirty (30) calendar days. For all affected Station Agents, the Union shall also mail its calculation to their last known address. With the District's cooperation, the Union is responsible for making reasonable efforts to determine the last known addresses of all affected Station Agents.

D. Appeal Process And Dispute Resolution

The Union shall establish a process by which individual affected Station Agents may appeal the accuracy of the calculation of their service credits. This appeal process is distinct from the Implementation and Dispute Resolution process described in Section 12 above. Its only function is to determine appeals by individual affected Station Agents concerning the accuracy of the Union's calculation of service credits.

Individual affected Station Agents shall have thirty (30) calendar days from the date notice is issued to file a written appeal. The posting and mailing of the Union's calculation shall constitute the date notice is issued. The Union shall issue a written determination of the appeal to the individual affected Station Agent within forty-five (45) days of the Union's receipt of the appeal. Any dispute concerning an individual affected Station Agent that persists after the Union's determination of the appeal shall be referred promptly by the parties to the Med-Arbiter.

Any other issues or disputes concerning the implementation of this Section 13, including any issues that may be raised by outside parties concerning the distribution of funds, shall be referred by the parties to the Med-Arbiter.

The District and the Union shall have the opportunity to be heard on any issues raised concerning the appropriate payee for any particular distribution. Such disputes shall be resolved in accordance with the District's standard payroll procedures and applicable law. In the event of an unresolved dispute concerning any particular distribution, the check shall be withheld until the matter has been resolved by order of the Med-Arbiter, even if the check is held beyond the installment date(s) in Section 13A above.

The Med-Arbiter may assist the Union in its functions under this Section 13, including but not limited to defining and calculating service credits, developing the notices of service credits, and establishing the appeals process.

E. Distribution Of Funds To Affected Station Agents

After the Union has determined the service credits for the distribution of funds to affected Station Agents and has completed the appeal process in Section 13D above, the Union shall prepare a final document specifying the service credits for distribution of funds to affected Station Agents. The Union shall submit this document to the Med-Arbiter with the complete records for all appeals. The Med-Arbiter shall have forty-five (45) days to review this documentation. If the final document is in order and supported by the appeals documentation, the Med-Arbiter shall sign the final document. The final document signed by the Med-Arbiter shall be attached and incorporated into this Stipulated Decision/MOU as Appendix E, entitled "Service Credits For Distribution of Funds To Affected Station Agents."

The Union shall give the District a copy of Appendix E, completed and executed by the Med-Arbiter, along with a separate written notice stating the dollar amount

multiplication factor required for the District to distribute the remedial payments. In no event shall the total payment for the first installment exceed two million, seven hundred thousand dollars ($2,700,000) nor shall the second installment, plus any interim distributions, exceed three million, three hundred thousand dollars ($3,300,000).

At the Union's request and upon receiving the necessary information as described in this Section 13E from the Union, the District shall administer the distribution of payments to affected Station Agents. Before the District must distribute the first installment, the second installment, and any internal reserve account funds to affected Station Agents, the Union shall provide the District notice as follows:

- Sixty (60) calendar days written notice with instructions for current and active employees' checks; no later than June 21, 2006, and June 21, 2007, respectively for each installment.

- Sixty (60) calendar days written notice with instructions for non-employees' checks no later than June 21, 2006, and June 21, 2007, respectively for each installment. For non-employees, the District shall prepare the checks and give them to the Union for distribution. In the event the Union cannot locate a non-employee within 90 days after receiving the check from the District, the Union shall return the check to the District. The District shall hold the check for the non-employee for one calendar year. If the non-employee has not claimed the check by the end of one calendar year, the District shall void the check and deposit such funds into the internal reserve account.

- The District shall void any check(s) from the first installment remaining uncashed as of February 16, 2007, and deposit such funds into the internal reserve account. The District shall void any checks from the second installment that remain uncashed as of February 16, 2008.

- The District shall issue a check to the Union representing the lump sum of all uncashed checks as of February 16, 2008, and all unclaimed checks as of August 20, 2008. The Union shall use these funds at its discretion to defray the costs of administering this settlement and/or for the benefit of Station Agents.

F. Taxation Of Payments

The District will issue an IRS form 1099 for the amount of each payment to each affected Station Agent when it issues all other IRS 1099 forms for 2006 and 2007, respectively. Each affected Station Agent is responsible for any and all federal and state taxes associated with the payment.

**14. Grievances Withdrawn With Prejudice/ Remanding Unsettled Grievances**

A. Grievances Withdrawn With Prejudice

The Union withdraws and dismisses with prejudice all unresolved and unremanded grievances, or portions of grievances, related to Station Agent staffing and bidding issues that were the subject of this Med-Arbiter process filed with the District on or before the date this Stipulated Decision/MOU is executed by the parties. This dismissal includes all issues included in all grievances listed in the December 3, 2003, Med-Arbiter Agreement between the parties, except the grievances remanded in Section 14B.

B. Remanding Unsettled Grievances

Grievances No. 95-014, 95-174, 99-034, 99-094, 02-233, only to the extent they deal with the issue of Scheduling Analysts, and Grievance No. 03-025, related to the issue of Holiday Schedule, are remanded to the Implementation and Dispute Resolution Procedure set forth in Section 12 of this Stipulated Decision/MOU, beginning with, but not limited to, First Level Review by the Implementation Committee.

The existing grievances, referred to above, shall constitute the complaint forms for purposes of the process.

Consistent with the provisions of Section 12 of this Stipulated Decision/MOU, either party may invoke the continuing jurisdiction of the Med-Arbiter to resolve these grievances, or any of them, in the event the Implementation Committee fails or is unable to resolve them.

## 15. Notice And Opportunity To Bargain Impacts Of Station Closure

The District has the right to reduce service to the public by closing a station or reducing a station's hours of operation as long as the District does not violate the Labor Agreement. However, before the District implements a decision to close a station or reduce a station's hours of operation, the District shall give the Union notice and opportunity to negotiate about the impacts of the District's decision that are mandatory subjects of bargaining and are not covered by the terms of the Labor Agreement.

In addition, Sam Trans contracts with the District to provide service to stations in San Mateo County and may decide to close the San Bruno, South San Francisco, and/or other stations. In the event that Sam Trans decides to close a station or reduce a station's hours of operation, the District shall implement the closure or reduction at the time of a system-wide bid/sign up, and no Station Agent will be scheduled by bid for the period when the station is closed or for the hours when the station is not in operation.

## 16. Section S43.0: Special Provisions-Remotely Staffed Stations (RSS)

The District and the Union agree that none of the grievances consolidated into this Med/Arb include remote staffing issues or require the interpretation of Section S43.0: SPECIAL PROVISIONS-REMOTELY STAFFED STATIONS (RSS). The parties agree that remotely staffed stations and Section S43.0 were not discussed, negotiated, or mediated as part of this Med/Arb.

During this Med/Arb, neither the District nor the Union has proposed to delete or modify Section S43.0.

The parties preserve their positions and rights with respect to the interpretation of Section S43.0.

## 17. Completion Of Agreement

The terms and conditions set forth in this Stipulated Decision/MOU represent the full and complete understanding between the parties of an integrated package settlement of the grievances and issues consolidated into this Med-Arb process. The parties agree that during the Med/Arb negotiations that culminated in this Agreement, each party enjoyed the opportunity to make demands and proposals or counter-proposals with respect to any matter, even though some matters were proposed and later withdrawn, and that the understandings and agreements arrived at after the exercise of that right and opportunity are executed in this Stipulated Decision/MOU. The parties agree that this Stipulated Decision/MOU is an integrated agreement and no provision may be severed from this Stipulated Decision/MOU.

## 18. Signatures And Acknowledgements

Concur For The District:

Paul Oversier
Assistant General Manager

Date: 11/10/05

Darrell Murray
Labor Relations Manager

Date: 11/10/05

Matthew H. Burrows
Office of the General Counsel

Date: 11/10/05

Concur For The Union:

Harold Brown
President ATU/Local 1555

Date: 11-10-05

Connie Rainey
ATU/Local 1555

Date: 11-10-05

Approved as to form:

M. Carol Stevens
Kay & Stevens

Approved as to form:

Victoria Chin
Leonard Carder, LLP

It is so ordered.

Barbara Chvany, Arbitrator
Chvany & Silbert LLP

Date: 11-10-05

# SAN FRANCISCO BAY AREA RAPID TRANSIT DISTRICT
# AND
# DIVISION 1555, AMALGAMATED TRANSIT UNION
# 2009 NEGOTIATIONS

## MODIFIED STATION AGENT STIPULATED DECISION/MOU

The parties have revised the November 10, 2005 Stipulated Decision/Memorandum Of Understanding to reflect 2007 and 2008 Implementation Committee complaint and grievance resolution agreements (shown in italics), 2009 negotiated agreements, and temporary modifications. (See Appendix F for list of Implementation Committee agreements incorporated by reference.)

**FOR THE DISTRICT**

M. Carol Stevens

M. Carol Stevens
Chief Negotiator

**FOR ATU**

Jesse Hunt

Jesse Hunt
President/Business Agent,
ATU/Local 1555

for Maria Robinson

Paul Oversier
Assistant General Manager

Maria Robinson

Maria Robinson
Acting Department Manager
Labor Relations

It is so ordered.

Selma R. K. Rader date: 9/08/09

19. Appendices

- Appendix A: Illustration/Example of FTE Required By Fixed And Flexible Core Staffing Calculation
  - Appendix A-1: Total Core Staffing Compliance Worksheet
  - Appendix A-2: Staffing Projection Report
- Appendix B: Illustration of Section 5 Rule About Combining Part-Time Shifts
- Appendix C: Illustration of Section 5 Rule About Yo-Yoing Part-time Shifts
- Appendix D: Illustration of Lunch And Breaks
- Appendix E: Service Credits for Distribution of Funds To Affected Station Agents
- Appendix F: List of Implementation Committee Agreements

## Appendix A: Procedure For Preparing And Verifying Total Core Staffing

The parties agree to the following procedure for preparing system wide bids and verifying that the District is staffing Station Agents in compliance with the Labor Agreement and Section 3 of this Stipulated Decision/MOU. On or before the deadline established by Labor Agreement Section 13.4D for submitting bids to the Union, the District shall prepare the following:

**FIXED CORE STAFFING**

The District shall prepare a proposed bid that complies with the Labor Agreement and the Fixed Core Staffing, including lunch relief, consistent with Stipulated Decision/MOU Sections 3 A, B, C, E, F, G, and H.

**FLEXIBLE CORE STAFFING**

Consistent with Sections 3 D and I of this Stipulated Decision/MOU, the District shall add and identify the Flexible Core Staffing in an ascertainable manner (e.g. bolding or italics) on the proposed bid.

**EXTRA BOARD**

Consistent with Section 3 J and Section 6 of this Stipulated Decision/MOU, the District shall calculate and add the number of Station Agents on the Extra Board.

After the District prepares the proposed bid and gives that proposed bid to the Union, the parties agree to follow the provisions of Labor Agreement Section 13.4

The parties acknowledge that for any specific bid, the District may exceed the minimum staffing required by Total Core Staffing without creating an obligation to continue that higher staffing in future bids as long as the Total Core Staffing is consistent with and permitted by the Labor Agreement and this Stipulated Decision/MOU.

**Appendix A-1**

**FOR ATTACHED STATION AGENT BID PACKET (INCLUDING BID ROSTER) FOR BID EFFECTIVE**

San Francisco Bay Area Rapid Transit District & ATU, Local 1555 Station Agent Stipulated Decision/Memorandum of Understanding Section 3 & Appendix A: Total Core Staffing Compliance Worksheet

| **MANDATED TOTAL CORE STAFFING** for Bid Effective: | **Total Core Staffing minimums as configured for this bid** | | **Phase I * Furnished to union Date:** | | **Phase II * First Day of Sign-Up Date:** | |
|---|---|---|---|---|---|---|
| | **FT** | **PT** | **FT** | **PT** | **FT** | **PT** |
| **Fixed Core Staffing (full-time and part-time)**, including lunch relief, consistent with Sections 3A, 3B, 3C, 3E, 3F, 3G, and 3H, Section 5, and Section 10 | | | | | | |
| **Flexible Core Staffing (full-time)** Section 3D (Primary Booth) | | | | | | |
| **Flexible Core Staffing (full-time)** Section 3I (Multi-Centroid and/or Single Centroid Stations) | | | | | | |
| **Total Core Staffing (full-time) Work Program used to calculate Extra Board** Section 3J | | | | | | |
| **Extra Board (full-time)** Section 3J and Section 6 (Minimum 23% Extra Board) # | | | | | | |
| Positions on the bid which exceed the Mandated Total Core Staffing (without creating an obligation to continue higher staffing in future bids) | | | | | | |
| **TOTAL JOBS/POSITIONS ON BID** | | | | | | |
| **Certified Station Agents** | | | | | | |
| Uncertified Station Agents In Training expected to certify on or before first day of Sign-Up | | | | | | |
| Anticipated part-time to full-time promotions effective on or before first day of Sign-Up | | | | | | |
| **TOTAL STATION AGENTS ON BID ROSTER** | | | | | | |

* Do not count employees with reversion rights to a Station Agent position.

# During Phase II do NOT block slots on the Extra Board for uncertified Station Agents in training, Station Agents who have not been promoted to full-time effective on or before the first day of the Sign-Up, or employees with reversion rights to a Station

## Appendix A-2

## Station Agent Stipulated Decision/MOU

## Staffing Projection Report

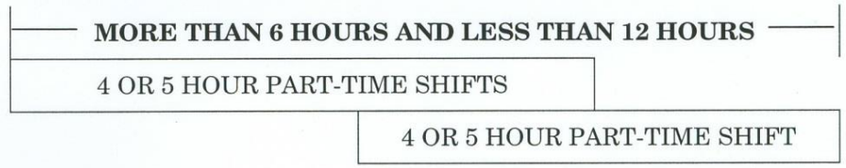
| Event | | Number Of Full-Time Station Agents | Number Of Part-Time Station Agents | Comments |
|---|---|---|---|---|
| **A** | Number of Certified Station Agents | | | See attached Station Agent Bid Roster. |
| **B** | **<u>Station Agent Class</u>** [*Insert* class *beginning and end dates and expected certification date*] | | | See attached list of Station Agents in training class. |
| **C** | Expected Attrition from Station Agent Class | | | |
| **D** | Projected Separation of Certified Station Agent from District (retirements, resignations, terminations, etc.) for period [*between date of report and total core staffing compliance date*] | | | Average permanent separations per month for the period. *Periodically, the District will adjust and explain the rationale for the average.* |
| **E** | Scheduled Station Agent Separations (e.g., promotions to train operator, foreworker, operations supervisor) | | | See attached list with projected promotion dates. |
| **F** | Part-Time Station Agents to be Promoted to Full-Time on [*insert date*] | | | |

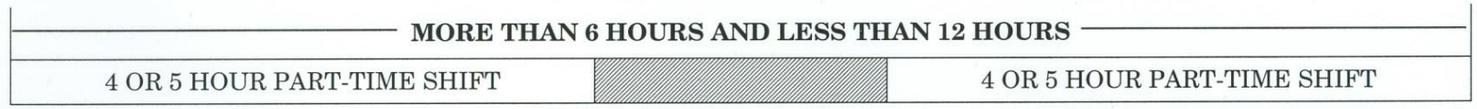
| | | | | |
|---|---|---|---|---|
| **G** | **PROJECTED TOTAL NUMBER OF STATION AGENTS AVAILABLE TO BID ON** [*insert date*] | (A + B + C + D + E + F) = | (A + B + C + D + E + F) = | Compare G to H. |
| **H** | **NUMBER OF POSITIONS ON UPCOMING BID** | | | Compare G to H. |
| **I** | **Reversions**<br>Number of employees with reversion rights to Station Agent positions (Stipulated Decision/MOU, Section 4) | | | |
| **J** | **<u>Future Staffing Plan</u>**<br>District will insert description when appropriate | | | |

# Appendix B: Illustration Of Section 5 Rule About Combining Part-Time Shifts

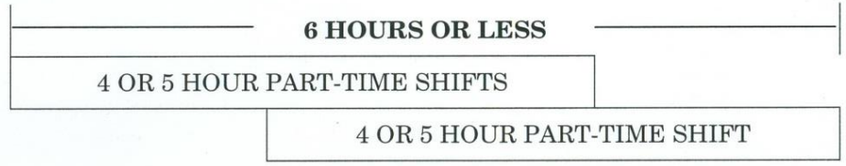
Rule: The District shall not schedule two or more part-time shifts when the total time between the beginning of the first part-time shift and the end of the second part-time shift exceeds six hours and is less than 12 hours.

## Violation Examples:

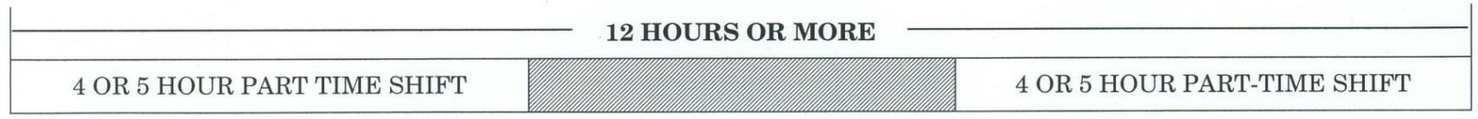



## No Violation Examples:




**OR**



# Appendix C: Illustration Of Section 5 Rule About Yo-Yoing Part-Time Shifts

Rule: The District shall not yo-yo part-time shifts with a full-time shift in between when there are two hours or less between the full-time shift and both of the adjacent part-time shifts.

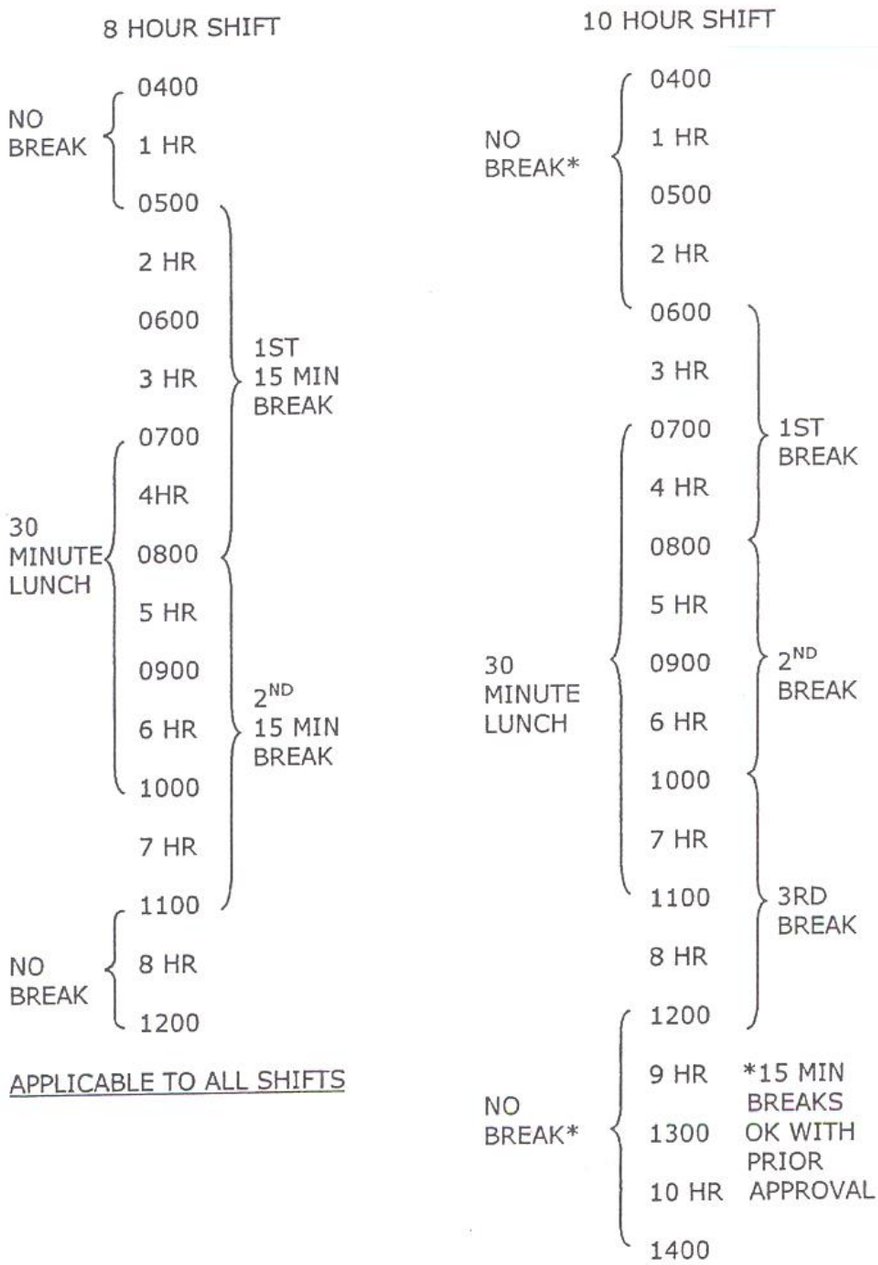
Violation:

No Violation Examples:[i]

[i] While the following examples do not violate the "Yo-Yoing" rule, one or more could violate the "Combining" rule illustrated in Appendix B. To avoid a violation of contract language, analyze a potential schedule under both the "No Combining" rule illustrated in Appendix B and the "No Yo-Yoing" rule illustrated in Appendix C.

# Appendix D: Illustration Of Lunch And Breaks

**206.04 Relief Break Schedules – Applicable to all eight (8) and ten (10) hour shifts**




[SAM Rev. 11/2001]

**206.05 Relief Break Schedule – Applicable to all Part-Time Station Agent Shift Assignments less than eight (8) hours**

- All Part-Time Station Agents are entitled to one (1) paid fifteen minute rest break to be taken approximately mid-shift.

4 HOUR SHIFT (APPLICABLE TO ALL SHIFTS)

| | | |
|---|---|---|
| NO BREAK | 0630 | |
| | 1 HR | |
| | 0730 | ONE 15 MIN BREAK |
| | 2 HR | |
| | 0830 | |
| | 3 HR | |
| NO BREAK | 0930 | |
| | 4HR | |
| | 1030 | |

5 HOUR SHIFT (APPLICABLE TO ALL SHIFTS)

| | | |
|---|---|---|
| NO BREAK | 1210 | |
| | 1 HR | |
| | 1310 | ONE 15 MIN BREAK |
| | 2 HR | |
| | 1410 | |
| | 3 HR | |
| | 1510 | |
| | 4HR | |
| NO BREAK | 1610 | |
| | 5 HR | |
| | 1710 | |

**206.06 Relief Break Schedule – Applicable to all Part-Time Station Agent Shift Assignments more than seven (7) hours**

- All Part-Time Station Agents will receive two (2) fifteen minute paid breaks (one in the first half of the shift and the second in the last half of the shift).
- All Part-Time Station Agents will receive one (1) thirty (30) minute paid lunch break taken between the beginning of the fourth (4) hour and before the end of the sixth (6) hour.

## Appendix E: Service Credits For Distribution Of Funds To Affected Station Agents

**The following is a list of the Med-Arbiter's Orders Re: Appendix E which fulfills the terms of the Remedial Payment Section 13 of the Stipulated Decision/MOU:**

**Appendix E,** ordered by Barbara Chvany on September 19, 2006

**Appendix E – Revised**, ordered by Barbara Chvany on October 2, 2006

**Appendix E – Supplement One**, ordered by Barbara Chvany on April 19, 2007

**Appendix E – Supplement Two**, ordered by Fred D'Orazio on October 10, 2007

**Appendix E – Supplement Three**, ordered by Fred D'Orazio on November 29, 2007

**Appendix E – Supplement Four**, ordered by Fred D'Orazio on January 28, 2008

**Appendix E – Supplement Five**, ordered by Fred D'Orazio on April 9, 2007

## Appendix F: Implementation Committee Agreements

The Implementation Committee reached agreements on all of the following matters, and relevant portions of those Agreements have been incorporated into the Stipulated Decision/MOU and/or the Labor Agreement.

1. May 22, 2006 Agreement regarding Complaint #1/Grievance #06-030.

2. April 18, 2007 Implementation Committee Resolution Of Portions Of Complaint 1, Complaint 5, And Settlement Agreement For Portions Of Grievance #06-030 And Grievance #06-074.

3. August 7, 2007 Implementation Committee Resolution of Complaint #8, And Settlement Agreement For Grievance #06-121.

4. November 1, 2007 Implementation Committee Resolution Filing and Processing Grievances And Complaints.

5. November 1, 2007 Implementation Committee Resolution Of Complaints #2, 7, 12, 13, And Settlement Agreement For Grievances #06-054, 06-106, 07-047, 07-085 regarding Extra Board Staffing.

6. November 1, 2007 Implementation Committee Resolution Of And Settlement Agreement For Grievance #03-025, Complaint #15/Grievance #07-129, And Meaning Of “Reduced Service Holidays” As Used In Section 3D Of The Stipulated Decision/MOU.

7. November 9, 2007 Implementation Committee Resolution Of And Settlement Agreement For Complaint #14/Grievance #07-099, Regarding Line and Yard Bids.

8. January 8, 2008 Station Agreement Implementation Committee Resolution And Settlement Agreement For Complaint #1/Grievance #06-030, Complaint #2/Grievance #06-054, Complaint #3/Grievance #06-059, Complaint #4/Grievance #06-062, Complaint #6/Grievance #06-082, Complaint #7/Grievance #06-106, Complaint #16/Grievance #07-142, Complaint #19/Grievance #07-182, and Complaints/Grievances Listed As Settled On Exhibit K.

9. October 6, 2008 Implementation Committee Resolution And Stipulated Decision/MOU Regarding Scheduling Analyst, Remanded Grievances 95-014, 95-174, 99-034, 99-094, 02-233, and other grievances 07-108 and 04-014.

STIPULATED DECISION AND MOU 10/09/08 SCHEDULING ANALYST / SENIOR SCHEDULING ANALYST

BART AND ATU, LOCAL 1555

**STIPULATED DECISION/MOU**

**RE: SCHEDULING ANALYST and SENIOR SCHEDULING ANALYST STAFFING**

October 6, 2008

IMPLEMENTATION COMMITTEE STIPULATED DECISION REGARDING

REMANDED SCHEDULING ANALYST GRIEVANCES #95-014, 95-174, 99-034,

99-094 AND 02-233 AND GRIEVANCES #07-101 AND 04-014

The Bay Area Rapid Transit District ("District") and the Amalgamated Transit Union, Local 1555 ("Union") (jointly "the Parties") have agreed to the following Stipulated Decision/MOU:

(1) Scheduling Analyst and Senior (Lead) Scheduling Analyst bargaining unit work is described in Exhibit A attached hereto, and shall be performed by Scheduling Analysts and the Senior (Lead) Scheduling Analyst, respectively. Staffing to perform that work shall consist of a minimum of the following positions for 1,095 days from the date that the following staffing is achieved:

- One (1) Senior (Lead) Scheduling Analyst
- Three (3) Scheduling Analysts;
- Training positions, at the discretion of the District.

(2) The staffing level for Scheduling Analysts may be adjusted 1,095 days after full staffing as defined in paragraph (1) above, has been achieved and provided said adjustment does not result from the transfer of bargaining unit work and that available Scheduling Analyst work continues to be performed by Scheduling Analysts. The staffing level shall include one (1) Senior (lead) Scheduling Analyst and two (2) Scheduling Analyst positions. Nothing in this Agreement circumvents or alters the District's rights to transfer work in the event of an emergency or the de minimus transfer of work. Nothing in this Agreement circumvents the District's

rights in the event of a reduction in force or any other contractual rights to change or modify staffing. Any reduction of Scheduling Analyst positions, other than those that may arise from a reduction in force shall be the result of attrition.

(3) If after full staffing has been achieved and before 1,095 days have elapsed, any of the four (4) positions specified in paragraph (1) above, become permanently vacant, then the District shall act diligently and promptly to immediately fill that vacant position. In order to facilitate the District's ability to fill vacancies and maintain staffing levels, the District will maintain a list of individuals currently eligible to be trained as Scheduling Analysts. If a dispute arises between the District and the Union regarding whether the District is acting diligently and promptly to fill that position, then either party may refer that issue to the Med-Arbiter acting under the Station Agent Staffing and Bidding Stipulated Decision/MOU, who shall have the authority to determine an appropriate remedy including but not limited to whether the number of days specified in paragraph (1) may be adjusted and, if so, for how long.

(4) The District shall use temporary assignments to immediately fill and maintain for at least four (4) months, two (2) Scheduling Analyst positions for training purposes. The District shall post two (2) Scheduling Analyst positions four (4) months following the date of this Agreement and shall fill those positions from among qualified candidates within six (6) months of the date of this Agreement. In the event that these positions are not filled within six (6) months, the Parties agree to meet and confer to discuss methods of obtaining qualified applicants. Absent mutual agreement, the District shall fill those positions within nine (9) months of the date of this Agreement. The District shall use temporary assignments for training purposes until those positions are filled.

(5) The District shall fill the Senior Scheduling Analyst position from among qualified ATU candidates. If there are no qualified ATU candidates the District may seek candidates from full-time District employees. If there are no qualified District employee candidates the District may seek applicants from outside the District.

(6) For purposes of initial staffing under this Agreement, the Parties agree that the minimum qualifications for Senior Scheduling Analyst may be modified to provide that the

applicants are not required to have Scheduling Analyst experience. Thereafter, the experience requirements that may be specified in the job description may be reinstituted.

(7) To assist in the implementation of the terms of this Agreement, John Bolcik ("Bolcik"), currently a Power & Support Controller will serve as a "Transition Coordinator" for the Schedules and Services Division for up to one (1) year.

(8) During this temporary assignment, Bolcik shall continue to be a member of the ATU bargaining unit, shall continue to accumulate seniority as a Power and Support Controller and shall retain reversion rights following completion of the temporary assignment.

(9) Bolcik shall, at any time following three (3) weeks notice, have the right to revert to his position as Power and Support Controller.

(10) Bolcik shall, during this assignment, perform the duties of a Senior Scheduling Analyst, as set forth in the attached Exhibit A, and shall assist, as requested by the District, in development and implementation of the selection process and training for Scheduling Analysts and Senior Scheduling Analysts.

(11) During this temporary assignment, Bolcik shall be paid at a rate equal to the contractually defined ATU-SOSSA position and additionally shall be paid, each pay period, an additional sum equal to 12.2% of his upgraded pay for hours worked under this Agreement. The Parties agree that any and all payments to be made under the terms of this Agreement shall, to the extent possible, be structured to maximize the amount of the payments that are recognized by and subject to PERS.

(12) Any Disputes arising from this decision shall be resolved through the implementation and dispute resolution procedure in the Station Agent Staffing and Bidding Stipulated Decision/MOU, Section 12.

(13) This decision includes Side Letter of Agreement Re: Scheduling Analyst and Senior Scheduling Analyst and Exhibit A and fully and finally resolves the following grievances:

- All Scheduling Analyst grievances remanded in the Station Agent Staffing and Bidding Stipulated Decision/MOU; Section 14(B): Grievance Nos. 95-014, 95-174, 99-034, 99-094, 02-233.
- Grievance No. 07-101 regarding Scheduling Analyst job description.
- Grievance No. 04-014 regarding Senior Budget Clerk.
- It is expressly understood that the following grievances related to the subject matter of this Agreement are expressly excluded from this decision: 05-011, 06-076, 07-080 and 07-148.

(14) Section 11.0 of the Labor Agreement states: "Whenever the words 'Transportation Department' are used in this Agreement, they shall refer to the Transportation Subunit, the employees of which are represented by the Amalgamated Transit Union." The Transportation Subunit shall continue to include the classifications of Scheduling Analyst and Senior Scheduling Analyst. These employees are currently in the Schedule and Service Planning Division of the Operations Planning Department.

(15) This Stipulated Decision/MOU is intended to be consistent with all provisions of the Labor Agreement.

Dated: October 7, 2008

FOR THE UNION: *

Jesse Hunt
President/Business Agent

Dated: October 7, 2008

FOR THE DISTRICT:

Paul Oversier
AGM Operations

Steve Weglarz
Department Manger, Labor Relations

IT IS SO ORDERED

Dated: December 9, 2008

Wilma K. Rader, Arbitrator

*Subject to approval of Side Letter of Agreement Re: Scheduling Analyst and Senior Scheduling Analyst

April 22, 2008

Scheduling Analyst – Final Agreement

EXHIBIT A

Participants in development of Exhibit A:

| | |
|---|---|
| Jesse Hunt | Rudy Crespo |
| Jay Bolcik | Dean Leonard |
| Colleen McCann | Steve Weglarz |
| Tony Pasol | Kathy Gilbert |
| Eryn Yula | Ron McVicker |
| Christine Nicholas | Vicki Nuetzel |
| Vicky Chin | |

**SA** – Responsible for accurately and efficiently developing and implementing train schedules and the work programs (people schedules) that support the BART service.

**SSA** – Acts as the lead person for the SA by assuring accuracy and efficiency and liaisons with Transportation and other departments. Maintains and upgrades individual and departmental skills and processes by review and implementation of new technology and software.

Scheduling Analysts:

1) Develop schedules (bid process) for all Foreworkers, T/Os, Clerks, S/As, Com Specs, P/S, EDS & Scheduling Analyst (Scheduling Analysts would administer all ATU classifications) and archive all.

    a) Maintain all Seniority Lists for all classifications.

    b) Track all status changes (i.e. for attrition projections, reversion purposes, disability/HIPAA).

    c) Receive and tract paperwork/Disability and RTW status/4 p.m. meeting (CBA Section 24.1).

    d) Develop work program/review and optimize existing work program (for OCC, provide administrative support as necessary).

    e) Create operational staff schedules (jobs that cover work desired/satisfies CBA) to ensure full staffing of vehicles

and stations, yards, towers and TMs (ATU positions), for revenue service and all other ATU classifications. Ongoing review and modification/refining on a continuous basis/pending final management approval and CBA & MOU compliance.

f) Create bid documents for review and pre-posting with distribution in compliance with CBA pre-posting timetable.

g) Prepares for and attends requested pre-postings as determined by manager.

h) Input corrections and agreed-to changes into bid document for posting and distribution.

i) Produce and distribute final bid documents for bidding purposes, including copies for all personnel (all detailed steps to be outlined in the SPM).

j) Prepare and mail bid notification per Section S24.2.

k) Prepare all related vacation/Recertification/ (AATC/A2/B2) documents to be included in bid packet.

l) Develop Extra Board allocations and adjust as necessary.

m) Actively monitor and review the bidding process and be available as a resource to help resolve situations as they arise.

n) Input daily bid results/produce completed bid documents for publishing.

o) Create BAP-ready file for uploading, then review resulting output/verify results.

p) Develop Vacation Sign-Up schedule/hours history report/accrual ratings.

q) Maintain current Recertification schedule and project future recertification requirements (e.g. pathlore) – for training tracking and planning – for CPUC compliance reporting.

2) Vacation Week administration for all ATU with exception of FW handled by Admin FW/OCC.

a) Make projections and recommendations re: vacation slots per classification for management determination.

b) Administer 40-hour vacation slots with weekly notification.

c) Review available vacation hours and notification to management of deficient hours.

3) Under management direction, work with proposed service level to develop proposed train schedules for management and board review and feedback. (Schedule for Planning purposes versus Schedule for Operational purposes. Scheduling Analyst might also be used for Planning purposes.)

a) Create ICS formatted schedule for production.

b) Maintain active train dispatch schedule to conform to current SCRAM.

c) Develop, maintain and distribute TM logs to reflect the Train dispatch schedule and efficiently staff set schedule.

4) Compile and distribute monthly Calendar of Events with projected attendance and estimated service levels.

5) Develop monthly Car Hour Forecast and distribute to appropriate departments.

6) Develop Weekly Weekend Memo of Special Events and Service Levels – include concise length (e.g. info via email, phone, faxes, newspaper, line reports, and other technology).

7) Review and analyze the Train Loading reports (Eyeball report) and other field reports on a regular basis. Relay observations to SSA. Regularly review and analyze the train loading data and use field reports to make SCRAM change proposals.

8) Distribute birthday lists.

9) Holiday bid support.

a) Holiday bid times and line/yard seniority list.

b) Cheat sheet for Station Agent Stewards.

c) Gather the P/T proxies and late volunteer work requests (see MOU 15-4).

d) Provide administrative support for Station Agent bid finalization.

10) Produce documents for P/T T/O and S/A system bids, and create associated uploads.

a) Gather the P/T S/A proxies.

b) Conduct the P/T S/A bid with the Steward.

11) Administer employee status changes (e.g., promotions, reversions, return-to-work, terminations, deaths). For example, promotions to FT duties may include items below:

a) Evaluate extra board distribution options.

b) Duplicate appropriate disability slots.

c) Create bid documents.

d) Transfer seniority from PT to FT roster.

e) Notify HR and line/yard of status changes.

f) Notify line/yard of change in board (for shake-up purposes).

g) Create associated schedule uploads.

12) Parse Line and Yard Seniority Lists.

13) Analyze train performance to determine train dwell and run time adherence parameters.

14) Conduct additional visual passenger counts in field and verify with computer generated train loads (e.g. PFM).

15) Compile and maintain Train Performance Report (e.g., timetable data).

16) Archive files: e.g., bids, seniority, status changes, transaction histories, etc.

17) Engrave nametags for FW and Station Agents.

18) Provide line support for Extra Board Shake-ups, RTW, reversions, etc.

19) Assist other Departments as required.

20) Post and update ATU Grievance data.

21) Compare track allocation to weekly service requirements.

22) Create schedule spreadsheet for Crew Office overtime and extra board program (Demitrius program).

23) Develop, utilize and maintain Schedule Department programs as directed by management (e.g., SAGE, TT data, etc.).

24) Utilize and maintain production files and data used for input to shared computer programs related to scheduling (e.g., SCHED, Hastus, BAP, Opcom, Trapeze, etc.).

25) Administrative support and tracking for the issuance, maintenance and replacement of radios and other equipment for Transportation Department employees.

26) Administrative support and tracking for the issuance and delivery of Initial and Replacement uniforms for Transportation Department employees.

27) Duties previously performed by the Senior Budget Clerk, including e.g., duties listed on District's 4/14/08 summary and District's job description.

<u>(LEAD) SSA</u>

1. Quality control for content, compliance, efficiently, accuracy and format.

2. Update and maintain the Scheduling Procedures Manual (SPM).

3. Audit BAP results (upload verification)

4. Develop and administer Scheduling Analysts' training materials and program.

5. Coordinate Recertification and Ride Check results for compliance and reporting to CPUC, NTD, etc., Safety and act as liaison.

6. Produce annual ATU bid schedule guide for system, yard, line, and holiday bids. Distribute to field after approval by management.

7. Assist in maintaining schedule processor (e.g., FCE) with department manager to produce public timetables and Train Arrival for SAT.

8. Monitor compliance with all CBA/MOUs staffing requirements.

9. Train Scheduling Analysts.

10. Make attrition, staffing, and vacation projections.

11. Primary liaison to other departments and personnel.

12. Audit complete bid document.

13. Review documents produced by Scheduling Analyst including:

    a) Monthly Calendar of Events

    b) Weekly Weekend Memo

c) Monthly Car Hour Forecast

d) Train Loading reports recommendations

14. Coordinate, delegate and assign tasks within Scheduling, complying with Section S17.0.

15. Responsible for version control and data management – upload schedule changes necessary to correct or reflect schedule correction and update control documents as required.

16. Compile and maintain train performance daily report (TT data report).

17. Evaluate Schedule Analyst of Train Loading reports and other field reports, and makes recommendations to Management.

18. Perform theoretical studies for projected expansion (e.g., SPEC, Service planning studies, SRTP).

19. Serve as liaison for Management and ATU for any status changes.

BART AND ATU, LOCAL 1555

**STIPULATED DECISION/MEMORANDUM OF UNDERSTANDING**

**RE: TRANSPORTATION ADMINISTRATION SPECIALIST, SENIOR TRANSPORTATION CLERK, TRANSPORTATION CLERK, AND LOST AND FOUND CLERK STAFFING**

December 19, 2008

The Bay Area Rapid Transit District ("District") and the Amalgamated Transit Union, Local 1555 ("Union") (jointly "the Parties") have agreed to the following Stipulated Decision/Memorandum of Understanding:

(1) Pursuant to Section §12.0(B) of the Collective Bargaining Agreement ("Labor Agreement") between the Union and the District, there are, among others, classifications for Senior Transportation Clerks (Clerk IV), Transportation Clerks (Clerk III) and Lost and Found Clerks. The Parties agree that these positions shall be consolidated into one classification designated Transportation Administration Specialist. All Transportation Administration Specialists shall perform the work of Senior Transportation Clerks, Transportation Clerks, and Lost and Found Clerks, and the functionally equivalent work of these classifications.

(2) All Senior Transportation Clerks, Transportation Clerks and Lost and Found Clerks shall, effective December 21, 2008, be upgraded and grandfathered into permanent Transportation Administration Specialist positions, with no probationary period, and be paid the Senior Transportation Clerk rate of pay.

(3) Subject to the provisions set forth herein, three (3) Transportation Administration Specialist positions shall be designated lead positions. In addition to performing all duties required of the Transportation Administration Specialists, the lead positions shall provide working leadership, review of the work of the Transportation Administration Specialists and shall administer the extra board and overtime for all Transportation Administration Specialists. All Lead positions/shifts shall be in the Crew Office, and shall be

designated and posted for bid. The lead positions shall be paid the lead worker premium as set forth in Section §28.8 of the Labor Agreement. Said premium will be paid for the entire designated and bid shift even if there are no other Transportation Administration Specialists to lead and/or the District has designated overlapping lead shifts.

Current Senior Transportation Clerks shall have priority in bidding the lead positions and the current Lost and Found Clerk shall have priority in bidding the Lost and Found position. If a Senior Transportation Clerk does not bid a lead position or attrits, the number of lead positions may, at the discretion of the District, be reduced to two (2) in subsequent bids. There will be a minimum of at least two (2) lead positions provided that the requirement for 24/7 Crew Office staffing as set forth in Section §15.9 remains unchanged.

(4) There shall be a total of at least seventeen (17) Transportation Administration Specialists as follows: six (6) in the Crew Office which shall, pursuant to Section §15.9 of the Labor Agreement, remain staffed 24 hours/day, 7 days a week; one in each yard and TM zone for a total of seven (7); one in Lost and Found; and three (3) Extra Board.

(5) Staffing shall remain at the level described in Section 4 until ninety (90) days following ratification of a Collective Bargaining Agreement between the Union and the District. The Med-Arbiter, with input from the parties, has the authority to order that the minimum staffing level remain in effect for additional periods of time, to order the parties to engage in appropriate dispute resolution processes including but not limited to mediation and/or arbitration, and/or to issue other orders she deems appropriate, (a) at the request of either party if the Med-Arbiter concludes that such order(s) will effectuate timely resolution of staffing level issues, or (b) at the parties' mutual request. Nothing in this Agreement circumvents or alters the District's right to transfer work in the event of an emergency or the de minimus transfer of work. The Parties preserve their contractual rights regarding changes or modifications to staffing.

(6) All Transportation Administration Specialists bidding on the extra board (night or day) must be Crew Office qualified. All shift vacancies shall be filled by the Extra Board, if available. The Extra Board will be utilized to fill vacancies in the priority order listed below:

1. Crew Office
2. Yard/Line Transportation Offices
3. Training Center
4. Lost and Found Center

In the event the Extra Board is exhausted, the District will fill the vacancy with overtime, offering this opportunity to the Transportation Administration Specialist(s) on the RDO overtime list in accordance with Section §S28.4. Transportation Administration Specialists working a lead position while on the Extra Board or overtime shall receive the lead worker premium.

(7) All Transportation Clerks, Senior Transportation Clerks and Lost and Found Clerks shall be trained and qualified to perform all job functions, duties and responsibilities of the Transportation Administration Specialists, including all job functions, duties and responsibilities of the Senior Transportation Clerks, the Transportation Clerks and the Lost and Found Clerks.

(8) A current Senior Transportation Clerk shall be upgraded to a temporary EDS and shall conduct the necessary Senior Transportation Clerk training. A current Transportation Clerk shall be upgraded to a temporary EDS and shall conduct the necessary Transportation Clerk training. The current Lost and Found Clerk shall be upgraded to a temporary EDS and shall conduct the necessary Lost and Found Clerk training.

(9) Training shall continue until all Transportation Clerks, Senior Transportation Clerks and Lost and Found Clerks receive certification that they have achieved the necessary training level.

(10) All Transportation Clerks, Senior Transportation Clerks and Lost and Found Clerks shall also be trained and certified or recertified, if required, to work in the Crew Office pursuant to Section §15.13 of the Labor Agreement, by a current Transportation Clerk who is upgraded to a temporary EDS.

(11) The District shall immediately, following execution of this Agreement, seek and select temporary EDSs and training shall commence no later than ten (10) days following selection of the temporary EDSs and shall continue until each Transportation Administration Specialist has been fully

trained, qualified and certified to perform all job functions, duties and responsibilities of the Transportation Administration Specialist position. After all Transportation Administration Specialists have been fully trained, qualified and certified, future temporary EDSs for Transportation Administration Specialist training, if required, shall be selected from among that classification, consistent with Section §21.0 of the Labor Agreement.

(12) All questions pertaining to the application of seniority among the Transportation Administration Specialists shall be resolved by the Union.

(13) The Parties have developed a mutually agreed upon bid configuration for the bid effective January 2009, attached as Exhibit A. Because the Parties have mutually agreed upon the January 2009 bid configuration, the Union will not file a complaint/grievance regarding the January 2009 bid configuration. The Parties agree to work with one another toward development of the bid configurations for the bids effective June 2009 and September 2009. Upon mutual agreement regarding each bid configuration, no grievance or complaint regarding that bid configuration will be filed. The Parties retain their rights in the event that an agreement cannot be reached.

(14) This Agreement is intended to be consistent with the Clerks Stipulated Decision/MOU and shall not circumvent or alter any terms or provisions of that Agreement. Transportation Administration Specialists shall perform all “work which has been historically and traditionally performed” by the Transportation Clerk, Senior Transportation Clerk, and Lost and Found Clerk job classifications, “consistent with the current Labor Agreement, so long as such work, or its functional equivalent continues to exist.” References to “Senior Transportation Clerk,” “Transportation Clerk,” “Clerk” and “Clerical” in the Clerks Stipulated Decision/MOU shall refer to the “Transportation Administration Specialists” upon execution of this Agreement.

(15) The Parties agree to work together to create a job description for the Transportation Administration Specialist consistent with this Agreement. The parties agree to evaluate the work which Transportation Administration Specialists could potentially perform and agree to continue to evaluate and consider other potential job functions that may assist in the

orderly and efficient administration of work. To the extent that additional functions are determined to be appropriate by the Parties, the Parties shall jointly modify the job description to reflect any modified job duties.

(16) This decision includes Side Letter of Agreement (09-01) Re: Transportation Administration Specialist, Senior Transportation Clerk, Transportation Clerk and Lost and Found Clerk Classifications and constitutes a full and final resolution of the following:

- Complaint Nos.: 22 and 23 submitted to the Implementation committee Regarding Crew Office Extra Board Staffing;
- Grievance Nos.: 08-139, 08-132, 08-195, 08-196 and 08-197

The Parties expressly preserve their rights with respect to those outstanding complaints and grievances not specifically resolved herein, including but not limited to those regarding the bargaining unit work for Transportation Clerks, Senior Transportation Clerks, Lost and Found Clerks, Senior Transportation Clerk – Training, and those which are the subject of the pending arbitration before Barbara Chvany. The Parties also preserve their rights related to the work performed and which can, in the future, be performed by the Transportation Administration Specialist positions.

(17) This Stipulated Decision/MOU is intended to be consistent with all provisions of the Labor Agreement, and the Parties preserve their contractual rights.

(18) Any disputes arising from this decision shall be resolved through the implementation and dispute resolution procedure in the Clerks Stipulated Decision/MOU.

Dated: 12/19/08

Dated: 12/19/08

FOR THE UNION: *

FOR THE DISTRICT:

Jesse Hunt Date

President

ATU Local 1555

Rudy Crespo Date

Chief Transportation Officer

Steve Weglarz Date

Department Manger, Labor Relations

IT IS SO ORDERED

Dated: 04/14/09

Luella Nelson, Arbitrator

*Subject to approval of Side Letter of Agreement Re: Transportation Administrative Specialists, Senior Transportation Clerk, Transportation Clerk, and Lost and Found Clerk

ATU/MOU-01-10 RESOLUTION OF USE OF VIDEOTAPES FOR DISCIPLINE ARBITRATION

**MEMORANDUM OF UNDERSTANDING: ATU/MOU-01-10**

Resolution of Use of Videotapes for Discipline Arbitration

Jesse Hunt
President/Business Agent
Amalgamated Transit Union, Local 1555
132 Ninth Street, Suite 100
Oakland, CA 94607-4799

Subject: Resolution of Arbitration #955-09 – Use of Videotapes in Discipline

(Grievance Numbers 07-122 & 09-001)

Dear Mr. Hunt:

This Agreement is entered into between San Francisco Bay Area Rapid Transit District ("District") and ATU Local 1555 ("ATU") solely with respect to the use of BART video recordings obtained from station and/or platform and/or rail car cameras as evidence in disciplinary actions initiated by the District against ATU members.

The District and ATU agree:

1. The video cameras in BART stations, on station platforms, and in rail cars are installed for security, patron safety and/or protection of equipment and facilities. The District agrees that they shall not be used for employee surveillance or monitoring.

2. District Transportation management personnel may review BART station, platform and/or rail car video for the purpose of investigation of employees following a train collision, train derailment, customer complaint regarding physical assault or dragging or other customer complaint, theft or willful property damage, personal-injury claims or employee complaints of injurious physical assaults which it has determined may lead to employee discipline. In the event of any such investigation the District shall request, in writing, a copy of available video recordings indicating the specific locations and dates of the video being requested. The District shall provide the Union with a copy of the video request and a copy of the complaint or claim being investigated. The Union shall receive copies of any recordings that are provided in response to that request.

3. Following receipt of any request for video to be used for the purpose of investigation the Union may request additional video for review. The Union request shall specify in writing the specific locations and dates of the video being requested. The District shall receive copies of any such request and copies of any recordings that are provided in response to that request.

4. The parties hereto acknowledge that the placement of cameras and the video taping within the District is not uniform and that some requested potential recordings may be unavailable. The District agrees to maintain an inventory of all video cameras and, no later than January 31 of each year, BART will provide to ATU 1555's President a copy of that inventory which shall specify video cameras located at all stations, platforms, yards and rail cars which specifies the location of each camera, the camera number, the camera ID and the functionality (i.e., PTZ), and the minimum length of recording capability. The inventory will be treated as confidential and may not be disseminated or disclosed except by express written consent by the District. Other than the yearly inventory, the District has no obligation to advise the Union of additions, deletions or changes to cameras made after the date that the list is provided to ATU 1555's President.

5. In the event that the District files disciplinary charges against an ATU member, the Parties agree that video evidence shall not be admissible in any disciplinary proceeding except for the following:

   a. Disciplinary actions that arise as a result of a train collision, train derailment and/or a passenger or employee complaint involving injurious physical assault and/or incidents involving the dragging of a passenger;

   b. Disciplinary actions involving allegations or theft or willful property damage.

6. If BART seeks to use a video recording in a disciplinary action, it must provide notice five (5) days before the hearing date of the intent to use the video. The Union shall designate any video that the Union may offer as rebuttal or in defense of the charges no later than two (2) days before the hearing. In the event that either party seeks to use a video recording in an arbitration arising from a disciplinary action then the District or the Union must provide notice no later than five (5) days before

the date of the arbitration of the intent to use the video recording.

7. The admissibility of any video that may be tendered under the above conditions shall be subject to proper authentication. Each party expressly reserves any and all rights to proffer and object to any such evidence or to make available arguments related to the weight to be afforded such evidence.

8. If either party fails to adhere to the procedures set forth herein, the proffered video recording is inadmissible. No video recording may be used as a substitute for live witness testimony, nor may such recording circumvent the contractual rule relating to hearing procedures as specified in Section S39.3 of the CBA.

9. The District may not base a disciplinary action solely on video recordings. Said recordings, if potentially admissible under the conditions set forth herein, are still subject to any and all objections available to either party regarding admissibility other than objections predicated upon the alleged agreement which is the subject matter of this dispute and any related argument that video recordings have not previously been used in disciplinary hearings.

10. Nothing in this Agreement is intended to nor may it be construed as governing any use of video surveillance and/or video recording by BART police in any criminal investigation and/or prosecution.

Please indicate your concurrence by signing below.

| CONCUR FOR THE DISTRICT: | CONCUR FOR THE UNION: |
|---|---|
| Rudy Crespo Date<br>Chief Transportation Officer | Jesse Hunt Date<br>President, ATU Local 1555 |
| Maria Robinson Date<br>Acting Labor Relations Manager | |

Cc: ACTOs/G. Connely/V. Nuetzel/L. Far

## MEMORANDUM OF UNDERSTANDING: ATU/MOU-02-10

### STIPULATED DECISION OF LUELLA NELSON, MED-ARBITER, AND MEMORANDUM OF UNDERSTANDING BETWEEN THE PARTIES CONCERNING DISPUTES ARISIN FROM BAP IMPLEMENTATION AND ALL ISSUES LISTED

This dispute arises under the Labor Agreement between Amalgamated Transit Union, Local 1555 ("the Union") and the San Francisco Bay Area Rapid Transit District ("the District"). Pursuant to the Clerical Extra Board SD/MOU ("Clerks MOU") of the Labor Agreement, the parties entered into mediation regarding the transfer of Transportation Administration Specialist ("TAS") work to the Time Administration and Accounting Division ("TAAD"). During the course of mediation the parties agreed to attempt to incorporate all remaining complaints filed under the Clerks MOU and all related grievances. In the interests of mutual cooperation and understanding, and in consideration of the resolution of the remaining 13 Clerical Complaints and 25 grievances, the parties agree to the following terms of this Stipulated Decision and forego arbitrating the issues currently before Arbitrator Luella Nelson. This Stipulated Decision shall be included in the parties' Labor Agreement as a Memorandum of Understanding. Contract changes referenced within are for reference only and are subject to ratification of ATU/SL-01-10.

1. Within 30 days of signing, access to and responsibility for entering functionally equivalent transportation related data entries, including but not limited to those listed in Attachment A, shall be returned to the TAS classification. ATU Foreworkers will remain responsible for resolving missing punches in and out, no punch, and double in or out punches; approving all time; and for the entry of missed lunches and breaks, extensions and early starts. If other data entries not listed in Attachment A are identified by either party, the parties will meet to discuss where to place the work. If the parties are unable to reach agreement, the issue will go before the Med-Arbiter in accordance with item #9 of the Clerks MOU at the scheduled Status Conference for determined.

2. An ATU-Time and Labor Administration Analyst position shall be created in TAAD, represented by ATU, for the purpose of conducting ATU related work in TAAD. This will not preclude that position from performing other duties as assigned to TAAD or other TAAD positions from doing ATU duties when the work load requires. Primary responsibility for ATU related duties remains with the ATU-Time and Labor Administration Analyst and

performance of those duties by non-ATU positions within TAAD will be the exception and not the rule.

A12.0 and S18.0 of the Labor Agreement will be modified to substitute the new ATU Time and Labor Administration Analyst classification for the OSSA classification. Section S47.0 of the Labor Agreement will be modified to reflect the pay rate and position progression of the ATU Time and Labor Administration Analyst in place of the OSSA pay rate and position progression, as indicated in Attachment B.

The District will provide to the Union a working draft of a job description for this position within 15 days from signing of this agreement. The final job description will be agreed upon within 30 days from signing of this agreement. The position shall be posted internally upon Board Approval and filled as soon as possible, but not later than 45 days after Board Approval. If an external recruitment is necessary, time for filling shall be extended an additional 30 days. Employment in an ATU TAS position shall satisfy Minimum Qualifications for experience and education described on the District's job position for ATU-Time and Labor Administration Analyst positions on a one for one basis. Priority consideration shall be given to ATU candidates who apply and qualify for the ATU-Time Administration and Labor Analyst position. If there are no ATU applicants or no qualified ATU applicants, the District may then consider other in-house applicants or outside applicants.

3. The District will provide to the Union a working draft of an updated job description to reflect addition duties for the Senior Transportation Training clerk position, within 15 days from signing of this agreement. The final job description will be agreed upon within 30 days from signing of this agreement. This position will be posted and filled within 90 days of the agreement on the job description. All duties as listed in attachment C will be performed by this classification.

4. The Senior Secretary position pay rate and progression in Section S47.0 shall be modified to equal the Transportation Administration Specialist position.

5. There shall be three "lead" positions designated on the TAS bid in the Crew Office until the bid cycle ending in January of 2013. The parties will meet to discuss the continued need for the third "lead" position in September 2012. If the parties are unable to agree to the continued need the matter shall be submitted to the TAS Med-Arbiter in accordance with item #9 of the Clerks MOU for determination.

6. Former clerks covered by Clerical Complaint #15 shall be placed in seniority order at the top of the eligibility pool for TAS positions. After offer

and acceptance they shall be returned, without loss of seniority, to the TAS classification. Additionally, for the initial posting under item #3, their experience shall include years of service as if they had not left the TAS classification for qualifying as Senior Transportation Training Clerk. Any former clerk who is offered and declines a position will be removed from the *TAS* eligibility pool. The Union shall supply a list of former clerks. See Attachment D.

7. When a Train Operator has less than 15 minutes remaining on their assigned shift, provided they have checked out with the Foreworker and they are no longer needed to perform their assigned duties, they may swipe out with no loss of pay.

8. ATU members will use the Time Collection Device ("TCD") only for swiping the beginning and end of shift. The parties will meet and agree on any additional uses of the TCD and negotiate any impacts to working conditions. If the parties are unable to agree, the issue will go before the TAS Med-Arbiter, who will determine if there is a legitimate business need for the additional uses.

9. Training for ATU classifications, other than single-incumbent positions, shall be done by an Employee Development Specialist ("EDS") from the same classification regarding that classification's work. Specialized training that is not related to the day to day functions is excluded.

10. The District will pay a financial settlement to the affected members in the amount of $450,000. Payment shall be made within 60 days of receipt of the list of names and amounts as provided to the District by the Union. Affected members shall include members of the ATU bargaining unit employed during the implementation of BAP, July 31, 2006 to present. This settlement shall resolve the remedial payment and issues in the following complaints/grievances: See Attachment E.

11. This agreement does not necessitate an increase in the current TAS staffing.

12. This SD/MOU in intended to be consistent with all provisions of the Labor Agreement, including but not limited to the Clerks MOU and the TAS SD/MOU, and the Parties preserve their contractual rights.

13. Any disputes arising out of the implementation of any of these provisions of this agreement will be addressed using the dispute resolution process as outlined in item #9 of the Clerks MOU under the continuing jurisdiction of the Med-Arbiter. The parties mutually prefer a resolution at the Med/Arb step of the dispute resolution process.

Concur For The District:

Rudy Crespo Date

Chief Transportation Officer

Rudolph C. Medina Date

Department Manager, Labor Relations

Concur For The Union:

Jesse Hunt Date

President/Business Agent

It is so ordered.

Luella Nelson Date

Mediator/Arbiter

## ATTACHMENT A

### Duties Being Returned to TAS

Access to and responsibility for entering Transportation related data entries shall be returned to the TAS classification. Exception is granted for the entry of:

- All time approval
- Missed lunches
- Missed breaks
- Early starts
- Extensions
- Missing In/Out punches
- Missing punches
- Double punches for In/Out

Which will be handled by the Foreworkers.

Work returned will include but not limited to the following:

- Entering same day absences through use of TRC's
- Entering future day absences through use of TRC's
- Pre-Planned absences
- Overtime
- Input Shift exchanges
- Extra-Board daily mark-up
- Extra-Board shake up results
- Holiday schedules
- Floater election
- Review bid schedules
- Tardy step tracking and inputting
- Leave balance tracking
- Payroll Inquiries and entering adjustments
- Review audit reports, correct and follow-up with respective F/S/M
- Check distribution list
- Final hours calculations
- Re-cert Time and scheduling adjustments
- Entry of Workers Comp pay for Holidays
- Audit End of Shift for S/A's and T/O's
- Weekly assignments – Hold downs
- Upload TMA schedules
- Clearing exceptions
- Absence Calendar review

## ATTACHMENT B

Salary Rates – ATU

| | Hourly Rates | | | | |
|---|---|---|---|---|---|
| **Grade Description** | **7/1/2009** | **7/1/2010** | **7/1/2011** | **7/1/2012** | **6/30/2013** |
| Time and Labor Admin. Analyst (ATU), Hire Rate | N/A | 33.4645 | 33.4645 | 33.4645 | +.4 COLA |
| Time and Labor Admin. Analyst (ATU), 2nd Year | N/A | 34.4488 | 34.4488 | 34.4488 | +.4 COLA |
| Time and Labor Admin. Analyst (ATU), 3rd Year | N/A | 35.4330 | 35.4330 | 35.4330 | +.4 COLA |
| Time and Labor Admin. Analyst (ATU), Top Rate | N/A | 39.3700 | 39.3700 | 39.3700 | +.4 COLA |

## ATTACHMENT C

### Senior Transportation Training Clerk (STTC) Duties

The Senior Transportation Training Clerk shall provide comprehensive administration and/or technical support of the Operations Training and Development Division including, but not limited to the following job duties:

- Parking permit administration
- Schedule “Return to Work” training
- Research and resolve payroll problems (Employee Development Specialists and Students)
- Process payroll problem paperwork
- Create graduation certificates (certification and re-certification)
- Create specialized reports
- Create courses/classes in Pathlore
- Track training using Pathlore
- Request facilities maintenance as necessary
- Time-keeping duties for Employee Development Specialists and students
- Collect and file training records
- Record Capital Project hours
- Produce “termination from Training” letters
- Scheduling (e.g. Employee Development Specialists, training rooms, conference rooms, etc.)
- Process class attendance rosters
- Copier maintenance including toner and paper supplies
- Distribute paychecks/paystubs to Transportation personnel
- Inventory and order supplies
- Administrative support for Foreworkers Implementation Committee and Foreworker Status Conference

Assist in the:

- Preparation and tracking of purchase requisitions, invoices for payment; Go Card purchases, check requests
- Reconciliation of accounts
- Purchasing through outside vendors

Performs

- Other duties as assigned

## ATTACHMENT D

## Names to be Added to Top of Eligibility Pool for Hiring

| NAME | EMP ID# |
|---|---|
| 1. Davalos, Julia | 58140 |
| 2. Gamab, Rebecca | 58316 |
| 3. Lopez, Carolina | 58467 |
| 4. LaGrone-Philips, Renata | 58473 |
| 5. Reboredo, Rhea | 60030 |
| 6. Broady, Lorita | 60196 |

## ATTACHMENT E

GRIEVANCES AND COMPLAINTS TO BE REMEDIED BY MOU

| Ref # | Grievance # | Dispute Resolved |
|---|---|---|
| 1 | 90-111 | Increase secretarial workload due to 14 new Operations Supervisors |
| 2 | 98-130 | |
| 3 | 00-059 | |
| 4 | 00-075 | |
| 5 | 05-011 | |
| 6 | 05-118 | |
| 7 | 05-122–Clerk Complaint #4 | |
| 8 | 06-041 | |
| 9 | 06-056 Clerk Complaint #5 | |
| 10 | 06-063 | |
| 11 | 06-076-Clerk Complaint #8 | |
| 12 | 06-077 | |
| 13 | 06-078 | |
| 14 | 06-080-Clerk Complaint #6 | |
| 15 | 06-099 | |
| 16 | 06-117 | |
| 17 | 06-144-Clerk Complaint #11 | |
| 18 | 07-012 | |
| 19 | 07-063-Clerk Complaint #12 | |
| 20 | 07-251 | |
| 21 | 07-265-Clerk Complaint #17 | |
| 22 | 08-004 | |
| 23 | 08-041-Clerk Complaint #15 | |
| 24 | 08-059-Clerk Complaint #19 | |
| 25 | 08-086-Clerk Complaint #16 | |

## ATTACHMENT E

GRIEVANCES AND COMPLAINTS TO BE REMEDIED BY MOU

| Ref # | Complaint # | Dispute Resolved |
|---|---|---|
| 26 | 2 | No FW EDS for BAP training of FWs |
| 27 | 4 | Master Grievance –Pre-BAP – pointed out 17 potential contractual concerns / issues |
| 28 | 5 | Master Grievance Pre-BAP with additional 4 issues, and reiteration of 3 issues raised in Complaint 4 |
| 29 | 6 | Master Grievance after BAP go-live itemizing 22 issues/violations |
| 30 | 8 | SOSSA job elimination – work moved to TAAD and others |
| 31 | 10 | Failure to maintain staffing per Clerical SD/MOU |
| 32 | 11 | Recertification schedules and time entered by FWs instead of clerks |
| 33 | 12 | Tardy Step Tracking removed from Crew Office |
| 34 | 15 | Failure to maintain staffing level due to implied job elimination |
| 35 | 16 | Tardy Step Tracking instruction to FWs w/o FW EDS |
| 36 | 17 | Failure to maintain staffing per Clerical SD/MOU |
| 37 | 19 | Failure to maintain staffing per Clerical SD/MOU |
| 38 | 21 | Lack of a hiring eligibility list per Clerical SD/MOU |

**Resolution of Disputes Arising from Implementation of ATU MOU-02-10**

On or about September 2, 2010 the San Francisco Bay Area Rapid Transit District (District) and Amalgamated Transit Union, Division 1555 ("ATU") entered into a Memorandum of Understanding between the Parties Concerning Disputes Arising from Implementation of all Issues Listed ("MOU");

Since the execution of the MOU a number of complaints and grievances have been filed and disputes have arisen between the Parties regarding the implementation of the MOU and TAS work related to time reporting and time auditing;

The parties now seek to resolve any and all disputes arising from the delayed and partial implementation of the MOU.

NOW THEREFORE, the Parties agree as follows:

1. For purposes of this MOU, the parties define the term "audit" to mean the reports and/or queries utilized to verify that employee time is accurately recorded. The parties agree that TAS shall run and perform audits of Transportation Department AFSCME and/or Non-Represented employees. The audits of all time entries in a pay period shall be performed once in each payroll period, on the day before the close of payroll. The audit of AFSCME and/or Non-Represented employees shall be limited to missing time (which for Non-Represented employees includes vacations and other types of time that are handled as "exceptions" for ATU-represented employees).

2. If an audit reveals missing time for Transportation Department AFSCME or Non-represented employees, the TAS shall advise the employee and his or her supervisor of the missing entry(s). The employee shall be solely responsible for all time of his or her time entries.

3. All non ATU personnel in the Transportation Departments that currently enter their own time will continue to do so. The Supervisors of Transportation Department AFSCME or Non-Represented employees will no longer be permitted to record or alter the time but will be limited to approval of time only.

4. The District shall modify the system to include a system alert which tracks and records if anyone other than the AFSCME or Non-Represented Transportation Department employee enters his or her time. The District shall provide a report to the union if requested, but no more frequently than once a month, indicating when or if anyone other than the Transportation Department AFSCME-represented or Non-Represented employee have

entered time for any Transportation Department AFSCME or non-represented employee.

5. TAS shall perform audits (i.e. run such reports and/or queries as needed to determine whether or not time is accurately recorded and to identify discrepancies) for all ATU employees and are responsible for all investigation, related entries and adjustments, including contact with F/S/M and other Transportation Department employees to address any discrepancies discovered by an audit report for ATU employees whether the audit report was run by TAS or any other District employee(s).

6. If audits, as are routinely performed by TAAD, reveal discrepancies in the time entered for any employees in the Transportation Department, TAAD shall immediately advise the TAS Supervisor of such discrepancies. It is agreed and understood that TAS are responsible for researching all such discrepancies and for entering the corrections for those that relate to ATU members' time. With respect to discrepancies discovered in AFSCME and Non-Represented employees' time, the TAS will notify those employees of the discrepancy so that they may correct them directly. If, for any reason, research is needed to address or research an issued related to any time entries, or a discrepancy is discovered by way of an audit run by any District employee, TAS will do that research.

7. TAS are and shall be responsible for all data entry work, for ATU employees' use of military leave, industrial leave, birthday holidays (including the allocation of floating holidays in lieu of the actual birthday), administrative leave and grievance pay (when resolution is reached at the informal level). ATU expressly agrees and confirms that it is not aware of any other data entry work that should have been but has not been returned to the TAS. If, subsequent to the date of this Agreement, ATU identifies additional data entry which it contends is the responsibility of the TAS, but which has not been returned to the TAS within 15 working days of the date of the execution of this agreement, ATU shall advise the District of such entries and provide documentation in support of its contention. In such instances, pursuant to the dispute resolution process as outlines in item #9 of the Clerks MOU under the continuing jurisdiction of the Med-Arbiter, the parties agree that they will seek an expedited ruling from the Med-Arbiter with respect to the issue of whether the work is the responsibility of the TAS and must be returned. With respect to such claims, the Union agrees that it will seek only the prompt return of the work and will not be entitled to penalties, make whole or other compensatory relief. In contrast, with respect to those claims that allege a violation of this agreement, or the underlying MOU, that occurs after the date that this agreement is signed, the Union may seek penalties and/or other remedies pursuant to the terms of paragraph 9, below.

8. Within 15 working days of the last signature on this agreement, Labor Relations Department shall provide a memo to TAAD, Payroll, Human Resources and Labor Relations regarding the terms of this agreement and that Transportation Department shall send a memo to all transportation employees indicating that all inquiries regarding ATU employee's time must be directed to the TAS, and that if any question or issue comes to the attention of TAAD or Payroll, that TAAD or Payroll should direct the question or issue to the TAS for resolution. The memos will also advise AFSCME members and Non-Represented employees in Transportation Department that a TAS may contact them regarding any missing time and that they must enter their own time directly and correct any errors discovered.

9. In resolution to all outstanding grievances and complaints, the District agrees to a one-time payment to ATU of twelve thousand dollars ($12,000.00). Said payments shall be in full and final settlement of any and all claims for penalties or "make whole remedy" in any currently pending complaint or grievance related to TAS data entries and/or audits and constitutes full and final settlement of Complaints 29, 37, 46, 47, 55 and 64, all of which shall be withdrawn from arbitration with prejudice upon implementation of this Agreement, including distribution of the memo described in paragraph 8 above. ATU expressly agrees that with the exception of claims or grievances related to the entry of time by individuals not authorized to perform such entry after the date of this agreement, no penalties or payments shall be made to the TAS associated with the return of work including time entries and/or audits to the TAS.

Dated: May 8, 2012

| San Francisco Bay Area Rapid Transit District: | ATU, Division 1555: |
|---|---|
| By: | By: |
| Rudolph C. Medina Date<br>Department Manager,<br>Labor Relations | Antonette Bryant Date<br>President |
| Paul Liston Date<br>Assistant Chief Transportation Officer | Nicole Mc Camish Date<br>TAS Executive Board Officer |

Luella Nelson Date

Mediator/Arbiter

**TAS SETTLEMENT**

PAYOUT SHEET

5/18/12

| NAME | ID# | AMOUNT |
|---|---|---|
| COLLEEN WILLIAMS | 56707 | 705.88 |
| SUSAN ATHEY | 57771 | 705.88 |
| CARMEN BOND | 57205 | 705.88 |
| GORDON ROBINSON | 56503 | 705.88 |
| EVELYN SHARP | 50576 | 705.88 |
| MARIE HAFFNER | 60668 | 705.88 |
| ROSE RODRIGUEZ | 60148 | 705.88 |
| JUDITH JOHNSON | 57653 | 705.88 |
| CYNTHIA BERONILLA | 60030 | 705.88 |
| ULISES SANCHEZ | 58317 | 705.88 |
| TIFFANY OKORO | 57487 | 705.88 |
| MABEL YOUNG | 60147 | 705.88 |
| NICOLE MCCAMISH | 57630 | 705.88 |
| THERESA LAURENA | 57303 | 705.88 |
| STEPHANIE BROWN | 60607 | 705.88 |
| JOE ROSE | 57585 | 705.88 |
| DEMETRIUS REESE | 56134 | 705.88 |

ATU SL-14-01 PROGRAM FOR DEDICATED OPERATORS FOR SPECIAL TESTING PROJECTS

November 5, 2014

**SIDE LETTER OF AGREEMENT ATU SL #14-01**

**Program for Dedicated Operators for Special Testing Projects**

This letter shall constitute a Side Letter of Agreement which has been reached by the District and Amalgamated Transit Union Local 1555 regarding Dedicated Operators for Special Testing Projects. The parties recognize that the District may, on occasion, have special testing projects ("Projects") (such as new/rehab rail car and extensions testing) for which they prefer dedicated operators with shifts and locations determined by the particular project. The following program shall be utilized for each separate Project.

This District may implement this program with notice to the Union. The notice shall be provided concurrent with the copy of the proposed system bid. The Notice shall include the name of the Project, the general scope of the work to be performed, the estimated duration, the estimated number of Operators required, the number of "Qualified Back-Up" Operators to be maintained and the designated Administrative Manager.

The parties agree that the program, as it relates to Train Operator assignments, shall be as follows:

1. Commencing with the regularly scheduled Train Operator bid prior to the implementation of a Project and continuing until completion of that Project, full time Train Operators may, in addition to their regular bid, bid for any designated Project during all sign-ups.

2. Assignments to the Project will be made exclusively from those who bid for the Project, based on seniority and the number of Train Operators required for the Project at the time. Train Operators currently in the Project shall not be "bumped" from the project by higher seniority Train Operators who bid for the Project on succeeding bids.

3. Train Operators who bid for but are not immediately assigned to a Project shall be placed on a back-up eligibility list and thereafter assigned, by seniority, as required by the Project and/or when a previously assigned Train Operator must be replaced. A Train Operator who is later assigned to a Project due to project requirements or as a replacement, who has more seniority than other Train Operators already in the project will not "bump" junior Train Operators from shifts they already fill until and unless a bid occurs within the project.

Train Operators who bid a Project who refuse any assignment will be removed from that Project.

4. Train Operators, once assigned to a Project, shall pick their shift based on seniority at the time of the next sign-up. Shift sign-ups for the Project will be held concurrent with contractually required system and yard sign-ups, and as required by project staffing. The shifts shall be "as required" by the Project. Shift starting times and locations may be flexible. The Project work week shall consist of five (5) consecutive shifts of eight (8) consecutive hours of work within a seven (7) day period with Saturday and Sunday off. Train Operators shall be paid applicable shift premiums during a Project assignment.

   Train Operators assigned to and who work on a Project shall receive ten percent (10%) per hour additional to his/her applicable rate of pay for such time worked on the project.

5. Train Operators who have been assigned to a Project but desire to return to their regular bid shift may do so with five (5) working days' notice, in writing of such desire. Such notice is to be received by the Project Supervisor no later than the Monday prior to the Monday they desire to return to their regular bid shift. A copy shall be forwarded to ATU 1555 by the Project Supervisor.

6. While assigned to a Project, Train Operators may be returned to their regular bid shifts if there is no testing work to be done and they have been given sufficient rest prior to such return. They may choose to maintain their project RDOs for that week or, at their option, be paid sixth ($6^{th}$) and/or seventh ($7^{th}$) day pay, if applicable. They will be guaranteed forty (40) hours for the week. They may be returned to duty with the Project after they have been provided two (2) working days' notice by the designated Project Supervisor.

7. Train Operators assigned to the Program are expected to maintain a proficiency and attendance level that will not adversely impact the Project. Train Operators must be proficient in trouble-shooting train problems and completing records and logs concerning the testing. Project Train Operators shall, in addition to calling the Crew Office when reporting their absences, call the project supervisor and provide an estimated return date. If performance and/or attendance falls below the standards expected, a joint management/Union meeting shall be held before a decision to remove or retain the Train Operators in the project is made by the Administrative Manager. If a Train Operator does not continue to meet testing project standards, that operator may be returned to his/her regular bid shift by the Administrative Manager after giving him/her five (5) working days' notice.

8. Train Operator(s) leaving a Project shall be replaced by the next most senior operator(s) on the back-up eligibility list.

9. If the day's testing is complete or the Transportation Department does not require any Operators for that day, Train Operators on a Project scheduled to work at the Hayward Test Track may be assigned to Hayward Yard train operations, in the same manner as the Test Track operator, i.e., not to be used for mainline service unless all other alternatives have been exhausted. Such assignment shall not be used to circumvent any vacancy filling procedures which would be otherwise required. The parties may mutually agree to other alternate assignments as appropriate for other Projects.

10. Overtime:

    A. Train Operators may apply for overtime not involving the Project through their home yard.

    B. Train Operators assigned to the Project, "Qualified back-up List" Train Operators and other Train Operators qualified in the Project desiring to work overtime in the Project shall call their home yard TAS no later than 1300 hours on Wednesday. The home yard TAS shall forward the overtime request forms and the requestor's cumulative RDO overtime hours to the Crew Office who shall integrate the requests into separate lists for each day of the following week. Copies of the integrated lists shall be posted in each report location by 1300 hours on Thursday. The overtime list shall become effective 0001 hours on the succeeding Friday and terminate 2400 hours each Thursday.

    C. Project RDO (Regular Day Off) overtime lists shall be maintained by the Crew Office.

    D. The overtime lists shall be prepared in the follow sequence:

        1. Operators assigned to the Project, by seniority and total accumulated RDO hours worked.

        2. Operators on the "Qualified Back-Up List," by seniority and total accumulated RDO hours worked.

        3. Other operators not in the Program or on the "Qualified Back-Up List" but who are qualified for the Project, by seniority and accumulated RDO hours worked. (This provision is not applicable to those Train Operators removed pursuance to Paragraph 7.)

    E. Procedures for filling one day vacancies and/or overtime in excess of four (4) hours in this Program are as follows:

1. Project RDO overtime using the Project RDO overtime list.
2. Voluntary shift extension in seniority order.
3. Voluntary early call-in in seniority order.
4. Polling, in seniority order, qualified Train Operators not on an RDO. The Train Operator and his/her immediate supervisor must agree and the eleven (11) hour required rest must be observed. Train Operators shall be "made whole" if the eleven (11) hours rest period and/or the twelve (12) hours work rule would be exceeded. Train Operators shall not be allowed to work more than twelve (12) hours.
5. Inverse seniority assignment of operators currently in the project.
6. Incidental overtime (overtime of 4 hours or less) will be filled first by voluntary shift extensions, then early starts, and lastly by inverse seniority order assignment if necessary.

F. Procedures for filling holiday overtime in this program shall be as follows:

1. All Train Operators currently qualified in a Project may submit a proxy bid for holiday work in the project in addition to a holiday bid in their home yard. Proxies for holiday work in the Project must be submitted to their home yard TAS prior to 1300 on the Wednesday prior to the normally scheduled holiday bid. The TAS will forward proxies to the Crew Office for compilation.
2. Train Operators currently assigned to the Project shall be polled for their choice of Project holiday work in seniority order.
3. Holiday work not selected by Train Operators assigned to the Project shall be awarded to project Train Operators on the "Qualified Back-Up List" in seniority order.
4. In the event all holiday work in the project is not filled pursuant to paragraph 10.F 1, 2, and 3 above, the Train Operators currently assigned to the Program shall be assigned in inverse seniority order.
5. Holiday shifts for each Project shall be posted in each bid location currently with the normal holiday bid posting.
6. All Project holiday bid results shall be posted on the Wednesday prior to home yard holiday bid results.

G. BART shall maintain a "Qualified Back-Up List" of a designated number of qualified Train Operators for each Project.

H. At no time shall Train Operators accept overtime outside of the testing project that will make them ineligible to work their scheduled shift in the testing program.

11. When applicable, Train Operators in a Project shall be offered assignment to the Training Division to train other Train Operators to operate on the extension, the new equipment and/or revenue-ready rail cars. In such cases, Train Operators shall be temporary Employee Development Specialists (EDS) and be paid at the applicable EDS rate but shall not receive the Project (additional 10%) pay. This temporary assignment shall be for no more than six (6) consecutive months. In the event there is still a requirement for training and no qualified Train Operators are available, the District and the Union will meet and mutually agree to a resolution which will not interfere with completion of the training. A meeting between the District and the Union shall be held five months after the commencement of training to evaluate the need for continued training. Selection for this temporary training position shall be by special posting and only those applicants who are qualified by virtue of their present and/or prior qualification in the project shall be considered. Final selection shall be made by the designated administrative manager. This provision shall not circumvent the regular 'Train the Trainer' practice for permanent EDSs.

12. Train Operators, when initially assigned to a Project, shall be given the opportunity to take Saturday and Sunday off immediately prior to reporting for the Project assignment or, at their option, be paid sixth ($6^{th}$) and/or seventh ($7^{th}$) day pay, if applicable.

13. Administrative matters for each project shall be handled by the Administrative Manager.

The parties agree that this Side Letter of Agreement shall be valid until June 30, 2017.

**Tentative Agreement**

It is expressly agreed and understood that this side letter and the provisions contained therein is subject to ratification by ATU Division 1555 members and by the BART Board of Directors and shall have become operative only upon ratifications by both.

| | |
|---|---|
| _____12/2/14 | _____12/2/14 |
| For the District | For the Union |
| Carol Isen for Ericka Mitchell | Chris Finn |

ATU/MOU RE SL-14-01 CLARIFICATION OF SIDE LETTER 14-01

September 6, 2017

**MEMORANDUM OF UNDERSTANDING BETWEEN SAN FRANCISCO BAY AREA RAPID TRANSIT DISTRICT AND THE AMALGAMATED TRANSIT WORKERS UNION, LOCAL 1555 ("ATU")**

**Program for Dedicated Operators Testing Fleet of the Future Cars on Mainline and During Revenue Service**

Pursuant to the parties' collective bargaining agreement that resulted in an Agreement, whose term is 1 July 2013 through 30 June 2017, and by the contract extension agreement, 1 July 2017 through 30 June 2021, the parties acknowledge the clarification to Side Letter #14-01, "Program for Dedicated Operators for Special Testing Projects," as follows:

This letter shall constitute a Memorandum of Understanding (MOU) which has been reached by the District and ATU regarding the use of Dedicated Test Track Train Operators ("TTOs") working at the Hayward Test Track, currently doing testing of the Fleet of the Future ("FOTF") cars.

The Parties agree that the program, as it relates to the TTOs, shall be as follows:

Only those TTOs certified to operate FOTF cars shall be assigned to operate FOTF cars running in Mainline and during Revenue Service.

TTOs will continue receiving the 10% premium they currently receive for testing the FOTF cars, per Side Letter #14-01. All other terms and conditions of their current assignments will remain unchanged from what was agreed to in BART-ATU Side Letter #14-01, except where the language is expressly contradicted by this MOU, including but not limited to, the provision allowing TTOs to work on mainline to operate legacy trains.

Agreed to by the parties:

| | |
|---|---|
| _____ 9/6/17 | _____ 9/6/17 |
| Roy Aguilera Date | Gena Alexander Date |
| Chief Transportation Officer, BART | President, ATU Local 1555 |

**TENTATIVE AGREEMENT FOR**

**SIDE LETTER OF AGREEMENT**

**ATU/SL 02-18**

**RE: WARM SPRINGS AND BERRYESSA STATIONS**

Upon signing by the parties, this letter shall constitute a Tentative Agreement for a Side Letter of Agreement between the San Francisco Bay Area Rapid Transit District ("District") and the Amalgamated Transit Union ("ATU") Local 1555 concerning the opening of new facilities at Warm Springs Station and Berryessa Station. The District and ATU mutually agree that:

1. Warm Springs is designated as a TM (Terminal) Zone. It is currently staffed with two Foreworker positions as follows:

   Job F2H060-M-F 0500-1300 and Job F2H061 -M-F 1300-2100.

   The Foreworker staffing at Warm Springs will be temporary and may be moved depending on the operations plan for Berryessa Station, which is unknown at this time. As long as Fremont continues to be an end-of-the line station for train services, staffing at Fremont Station will not be reduced as a result of the Warm Springs opening. The end-of-the-line station will continue to have Foreworker staffing for all hours of two-line operations.

2. Effective upon opening, Berryessa will be designated as an extension Report Location with Hayward as the home yard. As long as Berryessa continues to be a Report Location, Berryessa will meet the staffing requirements for a Report Location, including Foreworkers and Transportation Administration Specialist(s) in accordance with the Labor Agreement and current practice at other extension Report Locations.

3. Foreworker staffing will be maintained at Warm Springs and Fremont stations as long as they continue to be the end of line for train operations.

4. The District shall adjust the Station Agent Extra Board segments on the A/L/S-Line to include three (3) segments as follows: 1) Lake Merritt Station through San Leandro Station; 2) Bay Fair Station through Dublin/Pleasanton Station; and 3) Hayward through Berryessa Station.

5. The District shall provide adequate rest and break facilities at Warm Springs that comply with the Labor Agreement requirements, including but not limited to, separate such facilities for Train Operators and for Station Agents.

6. The District shall provide adequate rest and break facilities at Berryessa that comply with the Labor Agreement requirements for a Report Location, including but not limited to, separate such facilities for Train Operators and for Station Agents.

7. Further, the District and ATU agree that Warm Springs and Berryessa shall be recognized lunch and/or break locations for Train Operators if the District provides and maintains a separate break facility for Train Operators equipped with the required amenities, as set forth in Section S14.1 0.

8. The parties agree that upon the opening of Berryessa Station as a report location, Train Operators will be allowed to select a location at any of their home yard report locations for the purpose of signing up for regular day off (RDO) overtime, in the same manner as the AM/PM preference is allowed.

9. As a result of this Agreement, the Labor Agreement shall be amended as follows:

   (a) Section S14.1 H.1. shall be modified by adding to the list of break locations "Warm Springs, and Berryessa."

   (b) Section S14.1. H.2 shall be modified as follows "Train Operators enroute to their scheduled destinations who are turned back past the Oakland Wye or, who have not passed the Oakland Wye but are turned back prior to their scheduled destination and have been operating the train for more than seventy (70) minutes shall be entitled to compensation for a ten (10) minute break at the applicable overtime rate, in addition to hours worked."

   (c) Section S14.1 I.1. shall be modified by adding to the list of break locations "Warm Springs, and Berryessa."

   (d) Section S14.1 I.4. shall be modified by adding to the list of break locations "Warm Springs, and Berryessa."

   (e) Section S14.2. I. shall be modified by adding the S-Line to the Hayward Yard home yard list, and the second paragraph shall be modified as follows, "New extension report locations will be included with the appropriate home yard on the shift bids. Castro Valley, West Dublin, East Dublin, and Berryessa will be included with Hayward home yard. North Concord, West Pittsburg/Baypoint and East Pittsburg will be included with Concord home yard. Millbrae and SFIA report locations shall have Daly City as their home yard."

   (f) Section S14.3 E.I. shall be modified by adding to the list of break locations "Warm Springs, and Berryessa."

   (g) Section S14.3. E.2 shall be modified as follows "Train Operators enroute to their scheduled destinations who are turned back past the Oakland Wye or, who have not passed the Oakland Wye but are turned back prior to their scheduled destination and have been operating the train for more than seventy (70) minutes shall be entitled to compensation for a ten (10) minute break at the applicable overtime rate, in addition to hours worked."

(h) Section S14.3 F.1. shall be modified by adding to the list of break locations "Warm Springs, and Berryessa."

(i) Section S14.3 F.4. shall be modified by adding to the list of break locations "Warm Springs, and Berryessa."

(j) Section S23.0 shall be modified by deleting the sentence "For Station Agents, the A/L-Line will include extra board report locations in two (2) segments: 1) Hayward Station through Fremont Station and the L-Line and 2) Lake Merritt Station through Bay Fair Station." and replacing it with the sentence "For Station Agents, the A/L/S-Line will include extra board report locations in three (3) segments: 1 )" Lake Merritt Station through San Leandro Station; 2) Bay Fair Station through Dublin Pleasanton Station ;and 3) Hayward Station through Berryessa Station.

10. Within six (6) months of the opening of the Berryessa Station, the District agrees to provide wireless internet access (Wi Fi) in the Train Operator break rooms at the following Train Operator break locations: Hayward Yard, Richmond Yard, Concord Yard, Daly City Yard, Daly City TM Zone, Millbrae TM Zone, SFIA TM Zone, Fremont TM Zone, Dublin/Pleasanton TM Zone, Pittsburg/Bay Point TM Zone, Warm Springs/South Fremont TM Zone, and Berryessa TM Zone (upon opening). The Parties agree that any disruption or alleged deficiency in this Wi Fi service is not grievable and may not constitute the basis for any penalty including, but not limited to, missed lunch or breaks.

Upon ratification, this Side Letter of Agreement shall be deemed part of the Labor Agreement between the District and ATU Local 1555:

FOR THE DISTRICT

_____ 6/19/18
Martin Gran Date
Chief Labor Relations Officer

_____ 6/19/18
Roy Aguilera Date
Chief Transportation Officer

FOR THE UNION

_____ 6/20/18
Gena Alexander, Date
President/Business Agent

APPROVED AS TO FORM:

_____ 6/20/18
Office of the General Counsel Date
By Victoria R. Nuetzel

July 31, 2018

**MEMORANDUM OF UNDERSTANDING BETWEEN SAN FRANCISCO BAY AREA RAPID TRANSIT DISTRICT AND THE AMALGAMATED TRANSIT WORKERS UNION, LOCAL 1555 ("ATU")**

**Joint Evaluation Committee Clarifications**

Upon signing, this letter shall constitute a Memorandum of Understanding (MOU) which has been reached by the District and ATU regarding Section S33.0, Joint Evaluation Committee, of the parties' collective bargaining agreement (CBA). The parties acknowledge the clarification to Section S33.0 Joint Evaluation Committee (JEC), as follows:

1. When an emergency or unscheduled JEC needs to convene to evaluate a probationary Foreworker, the probationary Foreworker shall be notified at least two (2) working days in advance of the date of the JEC.
2. The District shall provide the probationary Foreworker with all materials the District intends to provide to the JEC regarding the probationary Foreworker's performance at least two (2) working days in advance of the JEC.
3. The probationary Foreworker shall be permitted time to address the JEC in person, with a Union Representative present, prior to the JEC making its recommendation to the District.
4. Emergency and unscheduled JECs shall otherwise be treated as other JEC's, in accordance with Section S33.0 of the CBA.

Agreed to by the parties:

| | |
|---|---|
| _____7/31/18 | _____ 7/31/18 |
| Roy Aguilera Date | Gena Alexander Date |
| Chief Transportation Officer, BART | President, ATU Local 1555 |

ATU/MOU-19-01 SHIFT DIFFERENTIAL AND NEW BREAK LOCATIONS

## MEMORANDUM OF UNDERSTANDING BETWEEN SAN FRANCISCO BAY AREA RAPID TRANSIT DISTRICT AND AMALGAMATED TRANSIT UNION LOCAL 1555

## RE: SHIFT DIFFERENTIAL AND NEW BREAK LOCATIONS

This Memorandum of Understanding is entered into between the San Francisco Bay Area Rapid Transit District ("District") and the Amalgamated Transit Union ("ATU") Local 1555 regarding the payment of Shift differential resulting from service changes to accommodate contractual work to be performed in the trans-bay tube and lunch and break locations and to memorialize the parties' understanding regarding the interpretation of Sections S28.5 and S44.7 relating to shift differential and Sections 14.1 H and I and S14.3 E and F regarding Breaks and Lunch Breaks of the Collective Bargaining Agreement ("CBA") between the parties.

The intention of this MOU is to clarify the right of employees who bid for shifts affected by temporary changes in the District's hours of operations arising from the current retrofit project in the trans-bay tube and to clarify those locations where Train Operators may be assigned to take breaks and lunch breaks.

This MOU is intended solely to clarify Section 14.1 H and I, S14.3 E and F (relating to Breaks and Lunch Breaks), and to explain the operation of Sections S28.5 and S44.7 relating to shift differential under the circumstances discussed herein. This MOU is not intended to and shall not be construed as altering any current CBA language or any other MOU between the Parties.

The Parties agree:

1. Those hard-bidded shifts (i.e., excluding extra board) designated on the attached spreadsheet, which qualified for Graveyard Shift Differential on the September 2018 bid, shall continue to qualify for the Graveyard Shift Differential for the duration of the BART Earthquake Safety Program, Transbay Tube Internal Retrofit Project ("TBT Retrofit Project"), even if the shift times are modified as a result of the TBT Retrofit Project.

2. Bus service provided to and from BART stations during the TBT Retrofit Project will be provided by various bus agencies. On a non-precedent setting basis, should the District determine there be a need for crowd control and customer service support related to the non-holiday weekday delayed opening arising from the TBT Retrofit Project, station agents and Foreworkers will be given priority for such assignments.

3. The District shall provide and maintain a separate break facility for Train Operators equipped with the required amenities as set forth in Section S14.1 O of the Labor Agreement. These stations shall be recognized

break locations as follows:

a. **24th Street Mission Station** – Effective immediately, the Parties acknowledge that 24th Street Mission Station is a recognized permanent break location for Train Operators.

b. **Pleasant Hill Station** – Effective immediately, the Parties acknowledge that Pleasant Hill Station is a recognized break location for Train Operators on a temporary basis, through the end of the current contract term, which expires on June 30, 2021.

c. **MacArthur Station** – Upon installation of a temporary break room facility that ATU acknowledges complies with all relevant provisions of the Labor Agreement, the Parties acknowledge that MacArthur Station will be a recognized break location for Train Operators on a temporary basis, through Phase 1 of the "34.5 kV Cable Replacement for M-Line between MBP-MTW Substations" project and the "K-Line Interlocking Replacement" project, or until a permanent break room is constructed, whichever occurs first. If the new break facility cannot be accessed within the two (2) minute grace period, prior to opening, the District will meet with the Union to determine an alternative grace period for MacArthur Station only.

   Upon construction of a permanent break room facility that ATU acknowledges complies with all relevant provisions of the Labor Agreement, the Parties acknowledge that MacArthur Station will be a recognized permanent break location for Train Operators.

d. **Bay Fair Station** – Upon installation of a temporary break room facility or construction of a permanent break room facility that ATU acknowledges complies with all relevant provisions of the Labor Agreement, the Parties acknowledge that Bay Fair Station will be a recognized break location for Train Operators. A temporary break room facility may only be used pending completion of construction of a permanent break room facility. If the new break facility cannot be accessed within the two (2) minute grace period, prior to opening, the District will meet with the Union to determine an alternative grace period for Bay Fair Station only.

4. This agreement is non-precedential and may not be used as evidence in any proceeding not directly related to this MOU.

FOR THE DISTRICT

_____ 1/18/19
Martin Gran Date
Chief Labor Relations Officer

_____1/18/19
Roy Aguilera Date
Chief Transportation Officer

FOR THE UNION

_____1/18/19
Gena Alexander Date
President/Business Agent

**ATU/MOU 21-01**

**MEMORANDUM OF UNDERSTANDING BETWEEN THE SAN FRANCISCO BAY AREA RAPID TRANSIT DISTRICT (“DISTRICT”) AND THE AMALGAMATED TRANSIT WORKERS UNION, LOCAL 1555 (“ATU”)**

**RE: DMU Engineers Absence Reporting**

This Memorandum of Understanding is entered into between the San Francisco Bay Area Rapid Transit District (“District”) and the Amalgamated Transit Union (“ATU”) Local 1555 in clarification of the process in which DMU Engineers call in sick and to memorialize the parties' understanding regarding the interpretation of Section S14.11(F) and S19.13 of the Collective Bargaining Agreement (“CBA”) between the parties relating to DMU Engineer absence reporting.

For Section S14.11(F) and for Section S19.13, regarding DMU Engineers notifying Foreworkers assigned to the eMF TM Zone of Engineer absences (e.g., sick calls), such notification may occur through indirect means (e.g., a DMU Engineer calling the crew office who notifies the Foreworker).

| | |
|---|---|
| _____ 8/30/21 | _____ 8/30/21 |
| For the District Date | For the Union Date |
| Shana Dines | Jesse Hunt |
| Director of Labor Relations | President/Business Agent |
| Bay Area Rapid Transit District | ATU Local 1555 |

## ATU/MOU 21-02

## MEMORANDUM OF UNDERSTANDING BETWEEN THE SAN FRANCISCO BAY AREA RAPID TRANSIT DISTRICT AND THE AMALGAMATED TRANSIT UNION LOCAL 1555

## RE: TEMPORARY UPGRADE

This Memorandum of Understanding is entered into between the San Francisco Bay Area Rapid Transit District (District) and the Amalgamated Transit Union Local 1555 (ATU) in clarification of the conditions under which an employee covered by the terms of the Collective Bargaining Agreement (CBA) between the parties may be assigned in writing to a temporary upgrade and receive temporary upgrade pay.

Whenever an employee is temporarily assigned to perform duties of a higher classification, the employee shall be paid consistent with the Temporary Instructor's Employee Development Specialist's pay in Section S21.3, which is the difference between their current step rate and the same pay step of the position they're upgraded into, as specified in the base wage schedule at Section S47.1, while assigned to such duties. No reduction in pay shall occur because of any temporary assignment.

| FOR THE DISTRICT | FOR THE UNION |
|---|---|
| 5/27/21 | 5/27/21 |
| Shana Dines Date | Jesse Hunt Date |
| Director of Labor Relations | President/Business Agent |
| Bay Area Rapid Transit District | ATU Local 1555 |

**SIDE LETTER OF AGREEMENT**

**SL GEN 23-01**

RE: Benefits Funding

This Side Letter of Agreement ("Side Letter") is entered into among the San Francisco Bay Area Rapid Transit District ("District"), the Amalgamated Transit Union, Local 1555 (“ATU”) and Service International Employees Union, Local 1021 (hereinafter jointly referred to as "Parties") regarding changes to the dental and vision plan coverage provided pursuant to the Parties' Collective Bargaining Agreements ("Agreements") and to modify the Agreements to reflect such changes.

WHEREAS, the Parties negotiated changes to the dental benefits provided to employees after the end of the dental family bank in 2021; and

WHEREAS, the Parties included the option of expanding vision benefits along with the changes to the dental plan; and

WHEREAS, the Parties agreed to include changes to those benefits in the negotiations as part of a side letter to the Agreement.

NOW THEREFORE the Parties agree:

1. Section 5.3 of the Agreement shall be modified as follows:

**5.3 DENTAL PLAN**

Present coverage for preventative care, restorative care, prosthodontics care and orthodontic care will continue. Coverage will be as follows:

A. **Preventative Care:** Insurance will pay one hundred percent (100%) of Usual and Customary charges.

B. **Restorative Care:** Insurance will pay ninety percent (90%) of the Usual and Customary charges, with the employee paying the balance.

C. **Prosthodontics:** Insurance will pay ninety percent (90%) of the Usual and Customary charges, with the employee paying the balance.

D. **Orthodontics:** Insurance will pay seventy five percent (75%) of the Usual and Customary charges, with the employee paying the balance.

Maximum benefit payable for a combination of restorative and prosthodontic care is two thousand **five hundred** dollars ($2,**5**00) for each calendar year **in addition to preventative care which is fully covered**. **Covered individuals will be allowed to roll over unused funds from the previous plan year into a roll-over account**

**holding up to two thousand five hundred dollars ($2,500) for five (5) years.** Maximum benefit payable for orthodontic care is three thousand five hundred dollars ($3,500) lifetime maximum with fifty dollars ($50) deductible for employees and dependents.

Retirees shall have the option to purchase the same dental coverage as listed in this Section at no cost to the District.

*** Minute Clarification**

Employees shall have the option to purchase, at their own expense, an enhanced dental plan. Benefits and premiums shall be established by the District annually based on plan experience. Premiums for this benefit will be paid through payroll deduction.

2. Pursuant to Section 5.1 of the Agreement, the Parties mutually agree that starting January 1, 2024, the VSP Vision Care insurance program currently provided by the District will be updated to include the following additions to the base vision plan:

   a. Increasing the frame allowance in the basic plan from one hundred and fifteen dollars ($115) to two hundred and fifty dollars ($250);
   b. Provide Fitting/Evaluation of Contact Lenses with no more than a sixty-dollar ($60) co-pay;
   c. Light Care is fully covered;
   d. Anti-Reflective Coating is fully covered with a twenty-five-dollar ($25) co-pay;
   e. UV Coating is fully covered;
   f. Polycarbonate Lenses are fully covered; and
   g. Custom and Premium progressive lenses are fully covered with a twenty-five-dollar ($25) co-pay.

3. Section 5.1 of the Agreement shall be modified as follows:

   5.1 GROUP INSURANCE & DISTRICT SELF-FUNDED PLANS-GENERAL*

   ...

   Employees who are on non-job-related disability for two (2) continuous years or longer shall not be eligible for District-paid medical benefit plans while on such leave. The definition of a dependent for purposes of District-paid medical benefit plans shall be as follows:

A. The covered employee's legally wedded spouse or domestic partner per Board Resolutions 4455 and 4757 and BART and health plan eligibility guidelines.

B. The unmarried, a) natural born child, b) legally adopted child, c) step child, or d) child of the employee or the employee's domestic partner for whom the covered employee or employee's domestic partner became the legal guardian before age 19, who is under age 19 and dependent on the covered employee for their principal support and maintenance. This also includes any such child as listed above who is under age 23 (or under age 24 in accordance with the individual health plan).

   This also includes any such child as listed above who is incapable of sustaining employment by reason of mental retardation or physical handicap, if such was incurred prior to age 19 (or prior to age 23, or prior to age 24 in accordance with the individual health plan), provided the child resides in the covered employee's household or a custodial facility.

C. Any unmarried child (including the eligible child of an employee's domestic partner) under age 19 (or prior to age 23, or prior to age 24 in accordance with the individual health plan) for whom the covered employee is mandated by court decree to provide health benefits.

   Proof of dependency and/or incapacity must be furnished annually during the period specified by BART.

4. The Parties agree that final approval of this Side Letter is subject to ratification by both ATU and SEIU membership as well as the BART Board of Directors.

5. In consideration of the dental and vision plan updates, all pending and future grievances related to the loss of the family bank benefit in Section 5.3 of the Agreement are resolved.

Date: 10/20/23

| FOR THE DISTRICT | FOR THE UNION |
|---|---|
| _____ | _____ |
| Robert M. Powers | Jesse Hunt |
| General Manager | President |
| Bay Area Rapid Transit District | ATU, Local 1555 |

| | |
|---|---|
| _____ | _____ |
| David Coleman | John Arantes |
| Director of Labor Relations | President, BART Chapter |
| Bay Area Rapid Transit District | SEIU, Local 1021 |

APPROVED AS TO FORM

| | |
|---|---|
| _____ | _____ |
| Amelia Sandoval-Smith | Olivia Rocha |
| Office of the General Counsel | President, BART Prof. Chapter |
| | SEIU, Local 1021 |

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