

April 17, 2017

To: MTC Executive Committee

From: MTC Committee for Staff Representation

Dear MTC Executive Committee members:

On behalf of the represented employees of the Metropolitan Transportation Commission (MTC), the Committee for Staff Representation (CSR), the exclusively recognized employee organization selected by MTC's non-management, non-confidential staff in accordance with the representation proceedings adopted by the Commission in Resolution 743, would like to provide you with the history of the consolidation discussions between MTC and ABAG management and CSR and the ABAG Chapter of SEIU Local 1021 represented staff, as well as input on the issues addressed by ABAG's SEIU representatives in their letter to the ABAG Administrative and MTC Planning Committees on Friday, March 24, 2017.

### **Background and Timeline**

In June 2014, representatives from CSR, MTC confidential staff and MTC management met and conferred to establish employee benefits and salary adjustments for the period of July 1, 2014 to June 30, 2018. The MOU resulting from that meet and confer process included a provision to initiate and complete a comprehensive review of "MTC's organizational structure, position classification, and performance management and compensation programs to more accurately reflect organizational position needs and job duties" (organization study). This organization study process was expected to begin last fiscal year, but was delayed pending the identification of the organizational changes required for a consolidation of ABAG and MTC staff functions.

Shortly after the ABAG Board and the Commission approved the consolidation of staff functions in May 2016, CSR began working with the ABAG Chapter of SEIU Local 1021 staff on consolidation issues. Former MTC Chair Cortese and ABAG President Pierce created an Employee Relations Group (ERG), comprised of ABAG and MTC staff. The ERG kicked off its work at an initial meeting in June 2016. Over the next few months, the two represented staff groups began working on the specifics of integration with MTC and ABAG management, and with Koff & Associates, the consultant hired to study the parity in positions within each organization and provide an overview of how ABAG's position classifications would fit within MTC's.

In fall 2016, as part of the Koff study, all represented ABAG staff and a select group of 67 MTC staff across several sections completed detailed Position Description Questionnaires (PDQs) outlining work tasks. In December 2016, CSR and SEIU Local 1021 staff met with MTC and ABAG management and Koff to review the study's findings. In that meeting, Koff representatives outlined that MTC's positions functioned at a full grade level above those at ABAG. Given the

detailed analysis and description of tasks and responsibilities of positions within each organization, CSR was satisfied with those initial results.

In January 2017, it was brought to CSR's attention that ABAG represented staff had disagreed with the initial results and had received a second detailed evaluation by Koff, MTC and ABAG management. The evaluation included discussions with many ABAG staff members, and the reevaluation provided them with the ability to discuss their qualifications and work in detail with MTC and ABAG management, including Human Resources representatives from both agencies. The results of this reevaluation changed the grade recommendations for ABAG staff significantly.

CSR requested the same courtesy for MTC staff who were evaluated through the Koff study, however, the request was denied due to time constraints. As a result, management and CSR developed a two-step compromise: 1) a new grade classification (VIIIB) was created to not only address ABAG staff's concerns, but to also provide parity between classifications for both MTC existing staff and ABAG transitioning staff; and 2) a commitment to deliver the delayed organization study by November 30, 2017.

Finally, throughout this process, CSR and ABAG SEIU staff have differed in our approach to communication with our boards and with management. Since mid-2016, ABAG SEIU representatives have been communicating with ABAG's Executive Board in closed session, whereas CSR has been working constructively with MTC and ABAG management in a public manner to facilitate a smooth and transparent consolidation of staff. We have had very limited contact with the Commission on this issue.

### **CSR's Position**

At a previous Joint Committee meeting on February 24, 2017, CSR expressed support for the compromise reached by MTC management and CSR staff with the Staff Consolidation Plan. ABAG staff have continued to make additional requests since then. The major topics of concern are currently the following:

1. **Unfunded liability:** CSR agrees with public comment from the March 24, 2017 Joint Planning Committee meeting that ABAG's unfunded liability be addressed before a full merger of the ABAG and MTC boards takes place. Further, CSR strongly believes that should a full merger occur, resulting in the establishment of a successor agency to MTC and ABAG, all outstanding pension liabilities for both ABAG and MTC should be paid in full, concurrent with the creation of a new successor agency which would hold no pension liabilities from legacy ABAG/MTC staff. A plan needs to be clearly laid out identifying sufficient revenues meeting this funding liability as agreed upon in the contract for services. CSR agrees that this impacts both agencies' financial viability. It is

extremely important to maintain a financially sustainable organization and compromises must be made by all parties to ensure that sustainability.

2. **SEIU Involvement in MTC Organization Study:** CSR feels strongly that it is inappropriate for paid representatives of any employee organization not selected to represent MTC's non-management, non-confidential staff, to participate in the organization study agreed to in the July 2014 MOU between MTC management and CSR (the exclusively recognized employee organization). Throughout the staff consolidation process, CSR has supported SEIU's efforts in representing their members' concerns to the extent that they do not harm existing CSR-represented staff. CSR is both disappointed and concerned by the comments made by SEIU Local 1021 representatives at the ERG meeting on April 11, 2017, expressing their dissatisfaction with these supportive efforts. CSR would consider the inclusion of another employee organization in the development of the agreed upon organization study to be not only divisive, but an act of undue influence in promoting that employee organization, and, therefore, an "unfair labor practice" per the National Labor Relations Board.
3. **Parity:** We have been working for more than six months on a fair and equitable transition of ABAG staff into MTC. MTC management has committed to offering positions to every SEIU represented staff member and to keep those staff financially whole upon transitioning to MTC. The proposed employee transition plan meets these goals and more. According to a the memorandum dated March 17, 2017 to the Special Joint Planning Committee with the ABAG Administrative Committee signed by both MTC Executive Director Steve Heminger and ABAG Acting Executive Director Brad Paul and clarified by statements made by Executive Director Steve Heminger at the March 24, 2017 Joint Committee meeting, roughly two-thirds of ABAG staff will receive a salary increase above 7% (minimum standard to keep staff whole financially) as a result of the consolidation. In addition, to ensure that parity is met in recognition of tenure, CSR has been supportive of many other requests (e.g., vacation and sick time accrual using ABAG time served, additional personal business days, etc.).

**CSR recommends approving the language currently proposed by Commissioner Spering and staff related to the Contact for Services as well as the Staff Transition Plan as presented to the Joint Committee on Friday, March 24 and again at this April 18 MTC Executive Committee meeting as both the language and the proposed transition plan seek to ensure MTC's the financial sustainability, and ultimately, ABAG's financial sustainability.**

Below, CSR outlines our responses to ABAG Chapter of SEIU Local 1021 staff's requests one-by-one, as outlined in a memo to the Joint Committee on Friday, March 24, 2017 and included in your packet today:

## **1. Service Time Parity**

ABAG concern: MTC's promotional system requires, in some cases, that an employee serves a number of years within their classification before they can be considered for a promotion into the next higher classification in addition to any technical, educational, and experience requirements. The Assistant to Associate promotional requirements is one such example. We would like to ensure that each individual's tenure in ABAG's current classification system is applied to these time requirements once ABAG staff is moved into MTC's system.

CSR response: It is CSR's understanding that service time is already being taken into consideration as a part of the Staff Transition Plan and will continue to be considered in future promotional opportunities. In addition, to ensure that parity is met in recognition of tenure, CSR has been supportive of many other requests (e.g., vacation and sick time accrual using ABAG time served, additional personal business days, etc.).

## **2. Top of Class Parity**

ABAG concern: ABAG has a number of individuals that are currently at the top of their classification. Some have been at the top of their classification for many years. These individuals that are at the top of their classification should be considered for assignment into a higher classification at MTC to honor and reflect their career path, abilities, skill sets, and institutional knowledge.

CSR response: CSR disagrees. Transitioning ABAG staff's current classification and years of experience will be considered when placing staff into MTC's classification and grades. As MTC staff also experience similar top-of-range issues, CSR believes that the challenges of the current classification and step system should be addressed in a comprehensive fashion through the organization study. This way, both transitioning and existing staff are offered the same opportunities.

## **3. Level/Step Parity**

ABAG concern: We seek parity in career path as we are assigned levels/steps within classifications at MTC. By this, we are asking that our current position within ABAG's classification system be mirrored at MTC. If an employee is mid-range within a classification system at ABAG, that career path should be recognized by placing that employee midrange in the assigned classification at MTC.

CSR response: CSR strongly disagrees. CSR supports the proposed Staff Transition Plan which establishes a minimum salary increase of 7% for all transitioning ABAG staff. As previously explained on a number of occasions to ABAG transitioning staff, their representatives, and to the Commissioners and Board members, at MTC, steps within a classification are not a proxy for years of service or overall career experience; the steps

represent compensation only. By way of background, when MTC conducts staff recruitment, our business practice is to offer 5% above the applicant's last salary. As a result, CSR feels that the offer described in the staff transition plan exceeds that and should be implemented as is.

#### **4. Senior Parity**

ABAG concern: It is our understanding that there are MTC employees, currently classified as Seniors (IX) who do not manage any employees but are being "grandfathered" into the new MTC Classification as a Principal (IX) class. We believe that current ABAG Seniors who are in this same circumstance need to be treated similarly and be "grandfathered" in as Principals (IX) so that this criterion is not inequitably applied to the two staffs.

CSR response: CSR strongly disagrees. Currently there are a handful of MTC seniors (Grade IX) who do not supervise staff as a result of either vacant subordinate positions or a temporary change of business need resulting from the self-imposed hiring freeze due to this consolidation. Each of these staff are expected to supervise and can be called upon to supervise at any time. Any future Grade IX staff should be held to the same standard; if a transitioning ABAG P4 (senior) staff is going to supervise staff at MTC after consolidation, they should be placed at Grade IX. Otherwise, the P4 staff should be placed into the new Grade VIIIB.

#### **5. Associate Parity**

ABAG concern: In the executive memo from MTC executive staff to the MTC Administrative Committee, dated March 01, 2017 (Agenda Item 3b), a recommendation was made "to evaluate all current MTC associates for consideration into the new Senior (VIIIB) position by July 1, 2017, to make any reclassifications concurrent with the MTC/ABAG staff consolidation." We believe that all current P3 classified ABAG employees should be evaluated for the new Senior (VIIIB) position and that if they meet the requirements for this classification description that they be assigned into the Senior (VIIIB) classification as opposed to the Associate (VIII).

CSR response: Since every ABAG staff member has been reviewed twice during both the original and revised Koff study, CSR feels that this is an unfair request. Approximately 1/3 of CSR-represented staff were evaluated by Koff during their original study, and none were re-evaluated. Therefore, to grant additional consideration for ABAG P3 employees would be an unfair advantage to ABAG staff. Many MTC staff have waited for the organization study to address this issue. We request the same of ABAG transitioning staff.

## **6. Guaranteed Lifetime Retiree Medical Coverage**

ABAG concern: SEIU 1021's contract with ABAG currently guarantees 100% Kaiser Rate medical coverage for ABAG legacy employees when they retire. MTC's retiree medical benefit does not provide this same guarantee. We consider this a significant loss of benefit for our legacy members, and we request that either the guaranteed lifetime retiree medical coverage for the legacy employees be honored by MTC for the legacy ABAG employees or to add this guarantee for all MTC employees.

CSR response: Per the proposed transition plan, all transitioning staff will be offered the same benefits as existing MTC staff. Benefits for staff are a part of the collective bargaining process, therefore the composition of those benefits should be part of the negotiated MOU, and CSR does not support the offer of enhanced benefits to any group of current or transitioning employees, nor are we interested in opening up the current MOU for further renegotiation.

## **7. Participation in MTC Organizational Study**

ABAG concern: As all ABAG employees will become MTC employees in the transition, the MTC Organizational Study will have direct impact on all transitioned ABAG employees, and representatives for ABAG employees must participate in the discussion, meetings, and decisions related to the Organizational Study. Although ABAG staff has been invited, we have been told that we cannot bring our legally designated representation from SEIU 1021. Given that this study will have direct impact on our membership and their conditions of employment, our participation in this organizational study must include our field representative from SEIU 1021.

CSR response: CSR strongly disagrees. CSR negotiated the now delayed organizational study as a part of its Commission-approved MOU in 2014. As was mentioned earlier in the document, the consolidation of the two agencies delayed the study, which was scheduled to be completed in 2016. As a result, the organization study is only now in its initial stages with a completion deadline of November 30, 2017. Initially, CSR invited the transitioning staff to participate on the Organization Study Steering Committee (OSSC) in an effort to foster unity with our future represented staff and include them in a process that will affect them as future MTC staff members. This invitation was made to the ABAG staff members only, and not their paid SEIU representative, as CSR is the exclusively recognized organization for staff representation at MTC and will represent transitioning ABAG staff beginning July 1, 2017. The inclusion of the paid SEIU representative, therefore, is inappropriate and violates National Labor Relations Board principles of fair representation.




### 8. Job Offers for All Represented Employees

ABAG concern: Throughout the staff integration process, it has been stated all represented ABAG employees will be offered equivalent positions at MTC. The current employee transition does not offer a position for one of our represented members. Although it has been explained to us that this member was hired on a temporary basis, the temporary nature of the position was artificially created by the staff merger process and that the work currently being done by Ofelia will need to continue. This individual is a represented member of the Union, in good standing at ABAG, and a valued member of the planning team. We request that this member be included in the list of employees to be transitioned to MTC, especially considering that the recently released MTC Org Chart lists at least two vacancies in the combined planning department.

CSR response: None.

Thank you for your work on these tough issues. CSR appreciates the Executive Committee's thoughtfulness and willingness to engage in fair and equitable solutions for all staff.

### 2017 Committee for Staff Representation Board

  
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