

May 24, 2017

Jake Mackenzie
Chair, Metropolitan Transportation Commission (MTC)
375 Beale Street, Suite 800
San Francisco, CA 94105

Julie Pierce
President, Association of Bay Area Governments (ABAG)
375 Beale Street, Suite 700
San Francisco, CA 94105

Re: Letter Agreement Between MTC and Service Employees International Union, Local 1021 (SEIU Local 1021)

Dear Chair Mackenzie and President Pierce:

This Letter Agreement addresses a number of issues that have arisen regarding the proposed employment by MTC of employees who are currently employed by ABAG, where they perform planning and related business functions. SEIU Local 1021 serves as the exclusive labor representative for all these employees during their employment with ABAG, except for management employees, who are unrepresented. These employees are tentatively scheduled to receive offers of employment from MTC so that their employment with MTC could begin effective July 1, 2017.

Labor Representation of Transitioning ABAG Employees

A key question in the transition is whether SEIU Local 1021 continues to serve as the exclusive labor representative for the transitioning ABAG employees once they become employees of MTC. SEIU Local 1021 believes that it should continue to represent these employees and has asked MTC to “voluntarily recognize” SEIU Local 1021 as “the exclusive representative of employees employed” by ABAG and “who have accepted offers of employment with MTC.”

MTC management’s position is that MTC cannot at this point legally recognize SEIU Local 1021 as the exclusive representative of these employees because the positions that these employees will be filling at MTC are already exclusively represented by the Committee for Staff Representation (“CSR”). MTC has recognized CSR as the exclusive representative of all non-managerial MTC staff since 1979, pursuant to MTC’s Employer-Employee Organization Relations Resolution (“EEOR”), which MTC adopted in the form of Resolution No. 743. Article II of the EEOR lays out the rules for the recognition of exclusive bargaining representation and procedures for modification of previously recognized bargaining units. MTC’s management position is that Article II, Section 10 of the EEOR identifies a “window” period during which SEIU Local 21 can seek to modify MTC’s recognition of CSR as the exclusive representative of the

employees in question; and that, under Article II, Section 8, that window beginning January 1, 2018, as MTC's Memorandum of Understanding with CSR ends on June 30, 2018.

MTC management and SEIU Local 1021 agree to disagree on the issue of labor representation and hereby agree that the issue of labor representation of the transitioning ABAG employees will ultimately be addressed through the ongoing MTC EEOR process and/or by the state agency responsible for the adjudication of such matters, the California Public Employment Relations Board (PERB). The parties hereby agree to abide by and follow whatever final decision is ultimately made by PERB, through the final appellate process.

Until such time that PERB decides the issue of labor representation of the transitioning ABAG employees, MTC's interaction with SEIU Local 1021 will be governed by the principle of neutrality. As required by Section 3506.5(d) of the California Government Code and PERB Regulation 32603(d), MTC shall not interfere with efforts to organize employees by any employee labor organization.

MTC and SEIU Local 1021 hereby agree to retain David Campos, Deputy County Executive for the County of Santa Clara, to mediate issues relating to such neutrality.

Outstanding Employment Issues for Transitioning ABAG Employees

In a memorandum dated April 20, 2017, which is addressed to ABAG's Executive Board, SEIU Local 1021 identifies a number of outstanding employment issues (relating to the transitioning ABAG employees) that MTC must address. MTC management and SEIU Local 1021 hereby agree to resolve those outstanding issues as follows:

1. Parity, Fairness, and Equity Issues:

- a. Issue: Require that MTC offer ABAG employees positions at MTC that are equivalent classifications and step/grades and acknowledges each employee's years of service and performance at ABAG.

Resolution: MTC shall adjust recommended step offers (within the same classification) to ensure that MTC step offers are more in line with ABAG steps in relation to one another, provided that no one receives more than a 15 % raise as a result of this step adjustment (staff may receive more than 15 % to get to the recommended classification). This will not map the top of ABAG class with the top of MTC class, but will ensure that merit and tenure steps at ABAG are recognized relative to one another.

- b. Issue: Require that all current ABAG Seniors (P4) be "grandfathered" as MTC Principals (IX) so that this criterion is equitably applied.

Resolution: Make revisions to MTC's supervisory structure to better align with original recruitment and expectation of MTC seniors to supervise; formally assign staff members to be supervised by the 3 MTC seniors that current don't supervise.

- c. Issue: Require that the current ABAG Associate class (P3) be evaluated using the new MTC classification system for reclassification in the new MTC Senior class (VIIIb) by July 1, 2017, along with the current MTC Associates under the proposed Organization Study.

Resolution: MTC agrees to evaluate the current ABAG class (P3) that are transitioning to MTC as Associates (VIIIa) for eligibility to be reclassified to MTC Seniors (VIIIb) by December 31, 2017.

- d. Issue: A number of ABAG employees have been at the top of their current ABAG classification for more than one year without adequate opportunity for reclassification.

Resolution: To address the two career ladder classifications with years of service eligibility requirements (Assistant Grade VII to Associate Grade VIIIa and Associate Grade VIIIa to Senior VIIIb), the eligibility for reclassification consideration of staff transitioning will be as follows:

- For those transitioning as Assistant Grade VII, eligibility consideration for Associate Grade VIIIa will be after 1 year if ABAG tenure is greater than or equal to 2 years; and
- For those transitioning as Associate Grade VIIIa, eligibility consideration for Senior Grade VIIIb will be after 1 year if ABAG tenure as a P3 is greater than 5 years or at the time that ABAG plus MTC service years as a P3 or Associate equivalent is greater than or equal to 5 years.

MTC and SEIU Local 1021 hereby agree to retain David Campos, Deputy County Executive for the County of Santa Clara, to mediate issues that may arise related to the Outstanding Employment Issues for Transitioning ABAG Employees in Section 1.

2. Retiree Medical Coverage Issue

Issue: Require that ABAG or MTC honor ABAG's agreement with SEIU 1021 lifetime medical coverage guarantee for retirees and legacy employees.

Resolution: There is no lifetime guarantee for current ABAG retirees; it is subject to revision by future ABAG Boards. MTC's retiree medical coverage is a significant benefit for many transitioning employees who currently only have MARA. Transitioning ABAG

employees will have the medical benefit negotiated as part of the current and future Memorandum of Understanding. Retirees currently have the same benefit as active staff.

3. Employee and Retiree Issue:

Issue: Provide that staff integration will not occur until all staff integration issues related to CalPERS are resolved:

Resolution: According to CalPERS, they will not provide a determination until after the staff consolidation. To address this uncertainty, language has been added to Section 6.2 of the Contract for Services.

4. Employee Organizational Study Issue

Issue: Transitioning ABAG staff shall be full participants in the MTC Organizational Study approved by MTC in March 2017. The parameters, evaluation criteria, and process for the Organization Study shall be developed in collaboration with transitioning ABAG staff.

Resolution: MTC agrees that Transitioning ABAG staff shall be full participants in the MTC Organizational Study approved by MTC in March 2017. The parameters, evaluation criteria, and process for the Organization Study shall be developed in collaboration with transitioning ABAG staff.

This Letter Agreement is effective May 24, 2017 subject to the ratification and approval of the governing bodies and/or memberships of the entities that the signatories represent.

Steve Heminger

Executive Director, Metropolitan Transportation Commission
Signing on behalf of the Metropolitan Transportation Commission

Date

Roxanne Sanchez

President, Service Employees International Union, Local 1021
Signing on behalf of SEIU Local 1021

Date