

THIS PRINT COVERS CALENDAR ITEM NO.: 13

**SAN FRANCISCO
MUNICIPAL TRANSPORTATION AGENCY**

DIVISION: Office of the Board of Directors

BRIEF DESCRIPTION:

Appointing Jeffrey Paul Tumlin to the position of Director of Transportation, effective December 16, 2019, and approving the execution of an employment agreement with Jeffrey Tumlin that includes the following key terms: a term ending December 31, 2024, annual base compensation in the amount of \$342,483, benefits equivalent to specified benefits provided to members of the Executive Management bargaining unit under the 2019-2022 Memorandum of Understanding between the Municipal Executives Association and the SFMTA (MEA MOU), and one year severance pay if the Board terminates the employment agreement for convenience, subject to the limitations in Government Code section 53260.

SUMMARY:

- Charter Section 8A.102(c) states that the SFMTA Board of Directors shall appoint a Director of Transportation, that the Director shall be employed pursuant to an individual contract, that an independent survey shall be conducted and that the Director's compensation shall be comparable to chief executive officers of the public transportation systems that most closely match the SFMTA in size, mission and complexity.
- Former Director of Transportation Edward D. Reiskin left his position as of August 14, 2019.
- Following the appointment of a Search Committee, an executive search firm was selected to assist in a national recruitment and selection process.
- Advertisement of the position was broad and comprehensive.
- The proposed salary of \$342,483 is comparable to the salary of the chief executive officers of the transit systems surveyed.

ENCLOSURES:

1. SFMTA Resolution
2. Employment Agreement

APPROVALS:

DATE

CHAIR: 

11/13/19

SECRETARY: 

November 13, 2019

ASSIGNED MTAB CALENDAR DATE: November 19, 2019

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PURPOSE

Appointing Jeffrey Paul Tumlin to the position of Director of Transportation, effective December 16, 2019, and approving the execution of an employment agreement with Jeffrey Tumlin that includes the following key terms: a term ending December 31, 2024, compensation in the amount of \$342,483, benefits equivalent to specified benefits provided to members of the Executive Management bargaining unit under the MEA MOU, and one year severance pay if the Board terminates the employment agreement for convenience, subject to the limitations in Government Code section 53260.

STRATEGIC PLAN GOALS AND TRANSIT FIRST POLICY PRINCIPLES

Indirectly this calendar item supports all goals in the Strategic Plan as well as Transit First Policy Principles, as it appropriately compensates the Director of Transportation who leads the SFMTA toward the achievement of all goals, objectives and principles.

DESCRIPTION:

Background

Charter Section 8A.102(c) states: “The Agency’s board of directors shall: ... [a]ppoint a Director of Transportation, who shall serve at the pleasure of the Board. The Director of Transportation shall be employed pursuant to an individual contract. His or her compensation shall be comparable to the compensation of the chief executive officers of the public transportation systems in the United States which the Board of Directors, after an independent survey, determine most closely resemble the Agency in size, mission, and complexity...”

On April 29, 2019, former Director of Transportation Edward D. Reiskin announced he would not seek renewal of his contract and would be leaving the SFMTA as of August 14, 2019. On July 16, 2019, the Board of Directors appointed Tom Maguire to serve as Interim Director of Transportation to serve until such time as the Board of Directors selected and appointed a candidate to serve as Director of Transportation on a permanent basis. This interim appointment became effective on August 15, 2019. On May 22, 2019, the Chair of the SFMTA Board of Directors appointed a committee to conduct a search for a new Director of Transportation. Director Amanda Eaken chaired the committee and Directors Art Torres and Steve Heminger served as members.

The committee selected an executive search firm, Alliance Resource Consulting, which developed a job profile for the position and placed ads in various association newspapers including the American Public Transportation Association’s (APTA) Passenger Transport, the California Transit Association, LinkedIn, Mass Transit Magazine, National Forum for Black Public Administrators, International Hispanic Network, TransitTalent.com, National Aging and Disability Transportation Center and Militaryhire.com. APTA’s Passenger Transport alone is

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read by 70,000 people around the world so the advertisement of the position was broad and comprehensive. Alliance also contacted individuals and organizations identified by members of the SFMTA Board and others to solicit recommendations about potential candidates for the position.

In order to solicit input from staff and stakeholders regarding the qualities and experience that the ideal candidate should possess, the committee reached out to and met with Agency staff from all levels and divisions, as well as representatives from labor unions representing Agency employees. The SFMTA Board held a hearing in July 2019 to solicit feedback from the public. The Citizen's Advisory Council also provided comments regarding the qualities and experience that the next Director of Transportation should possess. Alliance crafted a survey that was sent to staff and stakeholders. Over 750 people completed the survey including SFMTA staff from all levels and divisions within the Agency

The Search Committee met in September to interview and recommend candidates for the SFMTA Board to consider. On October 1, 2019, the SFMTA Board of Directors interviewed candidates for the position and on October 15, 2019, met to discuss the Director of Transportation candidates.

Jeff Tumlin is currently a Principal and Director of Strategy at Nelson/Nygaard, a consulting company that specializes in holistic planning for all modes of transportation. He has spent his entire career helping organizations around the world clarify their values, then bring the mechanics of their operations into alignment with those values. Most of his work has been with cities, where he has helped build and restructure transportation departments to deliver cities' social justice, economic development, public health, and ecological sustainability goals. He has also helped mobility technology companies understand how cities work so he knows the public transportation industry from inside and out. His projects have won numerous awards and his work is seen by numerous cities and associations around the world as transformative.

Two years ago, Mayor Libby Schaaf asked Jeff to help create the new Oakland Department of Transportation and lead its first nine months. During that time, he focused on healing the divisiveness within the agency, knowing that it could not accomplish its goals without creating an inclusive, respectful, welcoming work environment for all staff.

In San Francisco, Jeff Tumlin led the transportation component of a dozen detailed neighborhood plans throughout the city, including the Market/Octavia, Balboa Park, and Central Waterfront specific plans; the Glen Park and Visitacion Valley community plans; and the Ocean Beach Master Plan. One plan stitched together an historic neighborhood following the removal of the Central Freeway. Another helped restore the center of a working-class neighborhood following the removal of toxic waste from its formerly industrial core. Together, these plans helped accommodate nearly 50,000 new residents while mitigating traffic, largely by making walking more delightful, bicycling safer and transit more efficient and reliable. Most recently Tumlin has been leading the San

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Francisco County Transportation Authority's downtown congestion pricing study, focusing on using mobility pricing not to raise revenue or even eliminate congestion, but rather advance equity and ensure small business success.

Employment Agreement

The Employment Agreement sets forth the terms and conditions of Mr. Tumlin's employment including appointment; term of appointment; authority and duties; extent of service; compensation and benefits, and termination and severance. The contract terms include a term ending December 31, 2024, base annual compensation in the amount of \$342,483, benefits equivalent to specified benefits provided to members of the Executive Management bargaining unit under the MEA MOU, and one-year severance pay if the Board terminates the employment agreement for convenience, subject to the limitations in Government Code section 53260.

Salary Comparability Survey

Charter Section 8A.102(c)(1) states that the compensation paid to the Director of Transportation "shall be comparable to the compensation of the chief executive officers of the public transportation systems in the United States, which the directors, after an independent survey, determine most closely resemble the Agency in size, mission and complexity."

Those public transportation systems include: MBTA (Boston), WMATA (D.C.), SEPTA (Philadelphia), New Jersey Transit, DART (Dallas), Houston MTA, Denver RTD and MARTA (Atlanta).

In summer 2019, a survey was conducted to determine the salary of the Chief Executive Officers at regional and California transit properties and at transit systems that closely resemble the SFMTA in size, mission and complexity. It is important to note that the SFMTA is unique in its structure as no other transit agency includes other modes such as bicycles, parking garages, pedestrians, traffic engineering, and taxicabs within their jurisdiction.

The average total compensation paid to California transit properties surveyed is approximately \$407,245. The average total compensation paid to transit properties that most closely match the SFMTA based on size, mission and complexity is approximately \$389,830.

The proposed salary, in the amount of \$342,483 is comparable and in most cases, below the salary paid to chief executive officers of the transit systems surveyed.

STAKEHOLDER ENGAGEMENT

As discussed above, the SFMTA Board and the search committee conducted significant internal and external outreach regarding the qualities, skill and experience for the next Director of Transportation

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ALTERNATIVES CONSIDERED

The SFMTA Board could approve a different candidate or terms of employment at its discretion.

FUNDING IMPACT

This will have no financial impact as the annual salary is the same salary as was paid to the prior Director of Transportation.

ENVIRONMENTAL REVIEW

On October 10, 2019, the SFMTA, under authority delegated by the Planning Department, determined that approving an employment contract for the Director of Transportation is not defined as a “project” under the California Environmental Quality Act (CEQA) pursuant to Title 14 of the California Code of Regulations Sections 15060(c) and 15378(b).

A copy of the CEQA determination is on file with the Secretary to the SFMTA Board of Directors and is incorporated herein by reference.

OTHER APPROVALS RECEIVED OR STILL REQUIRED

The City Attorney has reviewed this calendar item.

No other approvals are required.

RECOMMENDATION

Approval of this item is a policy matter for the SFMTA Board of Directors.

SAN FRANCISCO
MUNICIPAL TRANSPORTATION AGENCY
BOARD OF DIRECTORS

RESOLUTION No. _____

WHEREAS, The Board of Directors of the San Francisco Municipal Transportation Agency (SFMTA) has the duty under San Francisco Charter Section 8A.102(c)(1) to appoint a Director of Transportation who shall serve at the pleasure of the Board; and,

WHEREAS, Charter Section 8A.102(c)(1) requires that the Director of Transportation be employed pursuant to an individual employment contract; and,

WHEREAS, On October 1, 2019, the SFMTA Board of Directors interviewed candidates for the position of Director of Transportation; and,

WHEREAS, A survey was conducted to determine the salary of the Chief Executive Officers at regional and California transit properties and at transit systems that most closely resemble the SFMTA in size, mission and complexity; and,

WHEREAS, On October 10, 2019, the SFMTA, under authority delegated by the Planning Department, determined that approving an employment contract for the Director of Transportation is not defined as a “project” under the California Environmental Quality Act (CEQA) pursuant to Title 14 of the California Code of Regulations Sections 15060(c) and 15378(b); and,

WHEREAS, A copy of the CEQA determination is on file with the Secretary to the SFMTA Board of Directors, and is incorporated herein by reference; and,

RESOLVED, That the Municipal Transportation Agency Board of Directors does hereby appoint Jeffrey Paul Tumlin to the position of Director of Transportation of the San Francisco Municipal Transportation Agency, effective December 16, 2019; and be it

FURTHER RESOLVED, That the SFMTA Board of Directors approves the execution of an Employment Agreement with Jeffrey Paul Tumlin including the following key terms: a term of ending December 31, 2024, base annual compensation in the amount of \$342,483, benefits equivalent to specified benefits provided to members of the Executive Management bargaining unit under the 2019-2022 Memorandum of Understanding between the Municipal Executives Association and the SFMTA, and one year severance pay if the Board terminates the employment agreement for convenience, subject to the limitations in Government Code section 53260.

I certify that the foregoing resolution was adopted by the San Francisco Municipal Transportation Agency Board of Directors at its meeting of November 19, 2019.

Secretary to the Board of Directors
San Francisco Municipal Transportation Agency

SFMTA EMPLOYMENT AGREEMENT

THIS AGREEMENT (“Agreement”) is made this 19th day of November 2019, by and between the City and County of San Francisco, a municipal corporation (the “City”), acting by and through the Board of Directors (the “Board”) of the San Francisco Municipal Transportation Agency (the “SFMTA”), and Jeffrey Paul Tumlin (“Employee”), an individual.

1. **Appointment of Employee.** Exercising its authority under San Francisco Charter Sections 8A.102(c)(1), the Board hereby appoints Employee as the Director of Transportation of the SFMTA, to be effective on December 16, 2019. Employee accepted the appointment, with the understanding that Employee shall serve at the pleasure of the Board as an at-will, exempt employee, and may be terminated at any time, subject to the provisions of Section 5 below.

2. **Term of Appointment.** Employee’s appointment shall be for a term commencing on December 16, 2019, and expiring on December 31, 2024, unless earlier terminated as provided in Section 5 below. The parties can mutually agree to extend the term of this Agreement, pursuant to Paragraph 10 below.

3. **Authority and Duties; Extent of Service.** Employee shall exercise all duties of a City department head, including without limitation, the duties set forth in San Francisco Charter Section 8A.102 and San Francisco Administrative Code Section 2A.30, as those laws may be amended from time to time. Accordingly, Employee shall be the appointing authority for the SFMTA with power to appoint, discipline, remove, and supervise all employees of the SFMTA as provided by law. Employee shall administer and manage in a professional, efficient and effective manner all functions and assets assigned to or under the jurisdiction of the SFMTA as set forth in and subject to Article VIIIA of the Charter, and shall perform any other duties and responsibilities consistent with the Director of Transportation position, including but not limited to those duties and responsibilities as the Board may assign to Employee from time to time.

Employee shall devote Employee’s full time and best efforts to the business of SFMTA and the duties of the Director of Transportation position. Employee will not accept any employment with any other person, corporation, firm, or entity, or accept appointment as a member of a non-profit or governmental board or commission without prior approval from the Board.

4. **Compensation & Benefits.**

(a) Employee’s annual salary for the term of this Agreement shall be three hundred forty-two thousand, four hundred eighty-three Dollars (\$342,483), subject to such deductions and withholding as may be required by law, authorized by this Agreement, or otherwise authorized by Employee. Employee’s annual salary shall be payable in the same manner and at the same time as the SFMTA pays other employees.

(b) The San Francisco Charter establishes the levels and terms and conditions of retirement benefits for members of the San Francisco Employees’ Retirement System

("SFERS"), including Employee. Employee is responsible for paying required contributions to SFERS under the Charter, through a payroll deduction.

(c) Except as otherwise provided by this Agreement, Employee is entitled to benefits and other terms and conditions of employment equivalent to those provided to a member of the Executive Management bargaining unit under the terms of the Memorandum of Understanding for fiscal years 2019-2022 between the Municipal Executives Association ("MEA") and the SFMTA (the "2022 MEA MOU") that are specified in Exhibit A to this Agreement. When the 2022 MEA MOU refers to action by the Appointing Officer or City, such action shall be taken by the Board. After expiration or amendment of the 2022 MEA MOU, the terms in effect immediately prior to expiration or amendment will continue to apply for the term of this Agreement, until such time as the Board and Employee agree to amend this Agreement in accordance with Section 11.

5. Termination of Agreement.

(a) Termination for Convenience. The Board may terminate this Agreement at any time at its convenience, without cause, and without stating any reason therefore. If the Board terminates this Agreement for convenience, Employee shall be entitled to severance as provided in Section 7.

(b) Termination for Cause. The Board may terminate this Agreement for Cause. The Board shall make a determination that Cause for termination exists within the discretion of the Board and without requirement of a hearing or right to an appeal of any kind. Cause is defined as:

- (1) any material violation by Employee of this Agreement or any City or SFMTA policy, practice or procedure, including, but not limited to policies prohibiting discrimination, harassment or relation in the workplace, and prohibiting workplace violence or threats; or
- (2) the commission by Employee of any material act of misconduct or dishonesty, or intentional or grossly negligent disclosure of confidential information; or
- (3) the commission by Employee of any material act prohibited by the SFMTA Statement of Incompatible Activities; or
- (4) the commission by Employee of any act or omission that the Board concludes has a direct, substantial and adverse effect on the reputation of the City or SFMTA or on Employee's ability to provide effective leadership for the SFMTA, including but not limited to any act that reflects dishonesty in representations made by Employee in connection with his selection and appointment as Director of Transportation.

(c) Effect of Termination for Convenience or Cause. If the Board terminates this Agreement, Employee's employment will terminate automatically and Employee's compensation and benefits under the terms of this Agreement shall cease.

6. **Severance.** If the Board terminates this Agreement employment for convenience, then subject to the limitations in Government Code section 53260, Employee shall receive all earned but unpaid compensation under this Agreement, plus one (1) year's salary, calculated without adjustments made under Section 4(b) of this Agreement, to be paid in the same manner and at the same time as other SFMTA employees are paid, provided, however, that the Board may, in its sole discretion, determine to pay such amount in a lump sum. Employee shall not be entitled to any severance payment under this provision unless Employee submits to the SFMTA Board, in a form acceptable to the City Attorney, a waiver of rights releasing the City and all agents, employees, departments, commissioners and officers thereof, from any and all actions, causes of action, damages, claims and demands, in law or in equity, that may arise of the Employee's employment or termination. Pursuant to Government Code section 53260, regardless of the term of the Agreement, if the Agreement is terminated, the maximum cash settlement that Employee may receive shall be an amount equal to the monthly salary of the Employee multiplied by the number of months left on the unexpired term of the contract, with exceptions as specified in section 53260.

7. **Resignation, Death, Incapacity.** Employee may resign Employee's appointment upon at least sixty (60) days' advance written notice to the Board or any shorter period agreed to by the Board. Compensation due under the terms of this Agreement shall cease on the day after Employee's resignation, death or incapacity. For purposes of this Agreement, "incapacity" shall be defined as the inability of Employee, as a result of any physical or mental illness, to perform the essential functions of the Director of Transportation position with or without reasonable accommodation.

7. **Governing Law.** This Agreement shall be governed by and construed in accordance with the laws of the State of California and enforced only in a state or federal court located in San Francisco, California.

8. **Notices.** All notices and any other written communication required or permitted to be served hereunder or by law shall be in writing and be deemed served by delivering or mailing the same, postage prepaid, and addressed as follows:

To the Board: Chair, Board of Directors
San Francisco Municipal Transportation Agency
One South Van Ness Avenue, Seventh Floor
San Francisco, California 94103

To Employee: Director of Transportation
San Francisco Municipal Transportation Agency
One South Van Ness Avenue, Seventh Floor
San Francisco, California 94103

Either party may modify the address at which it shall receive notice under this Agreement by three day's prior written notice to the other party.

9. **Representation.** The Director of Transportation position is not represented by any union, covered by any union memorandum of understanding or other agreement, or covered the City's Unrepresented Employee Ordinance.

10. **Entire Agreement/Amendment.** This Agreement constitutes the entire agreement between the parties and supersedes all prior oral or written understandings between the parties. There are no oral or written covenants, inducements, promises or agreements between the parties except as contained herein. This Agreement may be amended only by a writing signed and approved by the Board and Employee in the same manner as this Agreement.

<hr/> <p>Malcolm Heinicke, Chair SFMTA Board of Directors</p> <p>Approved as to Form: Dennis J. Herrera City Attorney</p> <p>By:</p> <hr/> <p>Katharine Hobin Porter Chief Labor Attorney</p>	<hr/> <p>Jeffrey Paul Tumlin</p> <p>Authorized by Municipal Transportation Agency Board of Directors</p> <p>Resolution No: _____</p> <p>Adopted: _____</p> <p>Attest:</p> <hr/> <p>Roberta Boomer, Secretary SFMTA Board of Directors</p>
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Exhibit A
Employment Agreement

Employee is entitled to benefits and other terms and conditions of employment equivalent to those provided under the following provisions of the MEA MOU, as provided in paragraph 4(c) of the Employment Agreement:

1. The following sections of Article III: Pay, Hours and Benefits:

Section III(A):	Wages (paragraphs 119-124)
Section III.H:	Methods of Calculation
Section III(J)(2):	Management Leave
Section III(O)(1):	Recognized Holidays
Section III(P):	Vacation
Section III(Q):	Sick Leave
Section III(R):	State Disability Insurance
Section III(T):	Management Flex Spending – Compensation Package
Section III(W):	Retirement Planning Seminar
Section III(X):	Life Insurance
Section III(Y):	Parental Release Time
Section III(Z):	Eye Examination
Section III(AA):	Jury Duty

2. The following section of Article IV: Training, Career Development and Incentives:

Section IV(A):	Management Training Funds
Section IV(C):	Paid Status During Training
Section IV(E):	Reimbursement for Licenses, Certificates and Professional Memberships
Section IV(F):	Direct Deposit of Payments and Paperless Pay Policy

3. The following sections of Article V: Working Conditions:

Section V(R):	Mileage Reimbursement
Section V(E):	Parking Facilities