

**Exemplar, Inc. and Service Employees International Union, Local 87, Petitioner.** Case 20–RC–149999

March 31, 2016

DECISION ON REVIEW AND ORDER

BY CHAIRMAN PEARCE AND MEMBERS HIROZAWA  
AND MCFERRAN

On May 14, 2015,<sup>1</sup> the Acting Regional Director issued a Decision and Direction of Election (pertinent portions of which are attached) in which she found that the petitioned-for multifacility unit of all full-time and regular part-time janitorial services employees employed by the Employer within the City of San Francisco, California, is not an appropriate unit for bargaining. The Acting Regional Director found that the Petitioner was, however, entitled to seek Board certification of its status as the collective-bargaining representative of the janitors at one of the two petitioned-for facilities, where the Employer had extended voluntary recognition to the Service Employees International Union, Local 87 (the Petitioner). Accordingly, she directed an election in that unit.<sup>2</sup>

Thereafter, pursuant to Section 102.67 of the National Labor Relations Board's Rules and Regulations, the Petitioner filed a request for review of that decision, contending that the petitioned-for multifacility unit is an appropriate unit for bargaining. On June 8, the Board granted the Petitioner's request for review. The election was conducted as scheduled on June 8, and the ballots were impounded pending the Board's Decision on Review.<sup>3</sup> The Petitioner and the Employer each filed a brief on review.

The National Labor Relations Board has delegated its authority in this proceeding to a three-member panel.

Having carefully reviewed the entire record, including the parties' briefs on review, we find, contrary to the Acting Regional Director, that the petitioned-for multifacility unit of janitorial services employees in the City of San Francisco is an appropriate unit for bargaining. Accordingly, we reverse the Acting Regional Director's decision and remand this case to the Regional Director

<sup>1</sup> All dates are 2015 unless otherwise indicated.

<sup>2</sup> The unit found appropriate consisted of all full-time and regular part-time janitorial employees employed at 630 Sansome Street and 555 Battery Street, San Francisco, California, excluding engineers, clerical, trash, and recycling staff, guards, and supervisors as defined in the Act. The Sansome Street and Battery Street locations, referred to as the Sansome Complex, are adjoining buildings that constitute a single facility.

<sup>3</sup> As the instant petition was filed prior to the implementation of the Board's Final Rule on representation case procedures (see 79 Fed. Reg. 74308 (Dec. 15, 2014)), the ballots were impounded pursuant to the Sec. 102.67(b) of the Board's Rules effective at that time.

for further appropriate action consistent with this decision.

I. FACTUAL BACKGROUND<sup>4</sup>

The Employer provides janitorial, landscaping, and stone-care services to private and government-owned buildings at various locations throughout the United States. It currently provides services at two Federal government facilities in San Francisco: the General Services Administration (GSA) building located at 50 United Nations Plaza (herein UN Plaza) and the Sansome Complex.

The Employer has voluntarily recognized the Petitioner as the representative of the janitorial services employees at the Sansome Complex since the Employer commenced services there on March 1. As of March 25, the Employer agreed to provide wages and benefits to the Sansome Complex employees in accordance with the terms of the Petitioner's multiemployer collective-bargaining agreement, although the Employer has not signed that agreement.<sup>5</sup> The Employer currently employs 10 full-time and 1 on-call janitor at the Sansome Complex. One of the full-time janitors is designated as a site supervisor but is part of the recognized bargaining unit. All 11 of these employees were employed by the predecessor janitorial-services provider at that location.

UN Plaza closed for renovations several years ago, and when it reopened, the Employer won the bidding to provide janitorial services, to commence on July 1, 2013. Currently, the Employer employs seven janitors at UN Plaza—six full time and one part time. One of the six full-time employees is designated as the site supervisor. The Acting Regional Director found that the site supervisor is not a statutory supervisor, and this finding is not in dispute.

The two site supervisors report to Regional Manager Coleen Trundy, who supervises the Employer's San Francisco area operations, which consist solely of the two facilities at issue. Trundy reports to Employer President Martha Lutt. UN Plaza and the Sansome Complex are separated by a distance of approximately 2.1 miles.

II. THE ACTING REGIONAL DIRECTOR'S DECISION AND THE CONTENTIONS OF THE PARTIES

The Acting Regional Director found that the Petitioner is entitled to seek Board certification as the collective-bargaining representative of the janitorial employees at

<sup>4</sup> The facts are fully set forth in the Decision and Direction of Election.

<sup>5</sup> The record shows, however, that the Employer has not followed all of the provisions of that agreement. For instance, under the collective-bargaining agreement, the employees work 7-1/2 hours a day, but the Employer has them work 7-hour shifts.

the Sansome Complex, but she concluded that the petitioned-for multifacility unit is not appropriate. The Acting Regional Director found that the Employer's UN Plaza employees do not share a sufficient community of interest with the Sansome Complex employees. She found that the employees in the petitioned-for unit are subject to centralized management and supervision, and have similar skills, duties, and working conditions, but that the absence of functional integration and interchange between the two locations and her "fundamental concerns" about the lack of any showing of interest from among the UN Plaza employees render the unit sought inappropriate.<sup>6</sup> Thus, she directed an election at the Sansome Complex only.<sup>7</sup>

The Petitioner argues that the degree of employee interchange should not be the determining factor in analyzing a petitioned-for multifacility unit, because interchange is entirely within the control of the Employer and can be easily manipulated by the Employer to create smaller bargaining units that must be organized building by building (which will, in the Petitioner's view, increase labor strife). The Petitioner also asserts that the lack of evidence that UN Plaza employees wish to be represented is also not determinative, as no UN Plaza employees testified and there is no evidence that they were opposed to representation. Finally, it asserts that cases cited by the Acting Regional Director do not support her findings.

The Employer contends that the Acting Regional Director analyzed all of the relevant factors in reaching her decision that the unit is inappropriate and did not just focus on interchange, as suggested by the Petitioner. Further, it asserts that the Acting Regional Director merely evaluated whether employee choice might resolve a close call with respect to the community-of-interest issue and did not otherwise elevate this factor. Finally, the Employer asserts that the Petitioner's warning that the Acting Regional Director's decision will force unions to organize on a building-by-building basis is unfounded.

### III. ANALYSIS

In determining whether a petitioned-for multifacility unit is appropriate, the Board evaluates the following community-of-interest factors among employees working at the different locations: similarity in employees' skills,

<sup>6</sup> The Acting Regional Director also found that the geographical separation between the facilities is not geographically significant and that the parties' bargaining history does not bear on the determination of whether the unit sought is appropriate.

<sup>7</sup> In addition, the Acting Regional Director found that the Employer's voluntary recognition of the Union as the exclusive collective-bargaining representative of its employees at the Sansome Complex does not serve as a recognition bar to the instant petition. No party sought review of this finding.

duties, and working conditions; centralized control of management and supervision; functional integration of business operations, including employee interchange; geographic proximity; bargaining history; and extent of union organization and employee choice. *Clarian Health Partners, Inc.*, 344 NLRB 332, 334 (2005); *Bashas', Inc.*, 337 NLRB 710, 711 (2002); *Alamo Rent-A-Car*, 330 NLRB 897, 897 (2000). We reject the Petitioner's suggestion that the petitioned-for unit is presumptively appropriate. The Board does not apply a presumption in favor of finding petitioned-for multifacility units to be appropriate, and instead, as discussed, subjects them to a multifactor community-of-interest test. For the same reason, we also disagree with the Employer's claim—to the extent it is even properly before us—that the petitioned-for multifacility unit is presumptively inappropriate.

It is well settled that a petitioned-for unit need only be *an* appropriate unit, not the only or the most appropriate unit. See *Specialty Healthcare & Rehabilitation Center of Mobile*, 357 NLRB 934, 940 (2011) ("But the suggestion that there is only one set of appropriate units in an industry runs counter to the statutory language and the main corpus of our unit jurisprudence, which holds that the Board need find only that the proposed unit is *an* appropriate unit, rather than the most appropriate unit . . . .") (emphasis in original), *enfd. sub nom. Kindred Nursing Centers East, LLC v. NLRB*, 727 F.3d 552 (6th Cir. 2013). Further, in deciding whether a petitioned-for unit is "appropriate" under Section 9(b), "[t]he Board's discretion in this area is broad, reflecting Congress' recognition 'of the need for flexibility in shaping the [bargaining] unit to the particular case.'" *NLRB v. Action Automotive*, 469 U.S. 490, 494 (1985) (quoting *NLRB v. Hearst Publications, Inc.*, 322 U.S. 111, 134 (1944)).

Having weighed all of the factors, we find, contrary to the Acting Regional Director, that the petitioned-for janitorial services employees at the two facilities at issue, the Employer's only two in San Francisco, share a community of interest and therefore constitute an appropriate unit.<sup>8</sup> As found by the Acting Regional Director, the petitioned-for janitors at both locations have substantially similar skills, duties, and working conditions. In addition, there are no onsite supervisors; all of the petitioned-for employees are supervised by Regional Manager Trundy. The requested unit corresponds to a distinct

<sup>8</sup> It is undisputed that the petitioned-for employees are readily identifiable as a group. See *Specialty Healthcare*, *supra*; *DPI Secuprint Inc.*, 362 NLRB 1407, 1410 fn. 10 (2015) ("'Readily identifiable as a group' . . . means simply that the description of the unit is sufficient to specify the group of employees the petitioner seeks to include.").

administrative grouping of the Employer's employees in the City of San Francisco under the regional manager's supervision. Finally, the geographic distance of 2.1 miles does not limit full employee participation in union activities.

#### *A. Skills, Duties, and Working Conditions*

Here, as found by the Acting Regional Director, the record shows that the employees at both locations have similar skills, duties, and working conditions. Thus, all of the employees at both locations perform janitorial work in an office building setting.<sup>9</sup> Although the employees at the two buildings use different cleaning products and equipment, the overall skills required are the same. UN Plaza, unlike the Sansome Complex, is a LEED<sup>10</sup> Platinum-certified building, and as part of maintaining this certification, the Employer is required to use low-noise equipment and low-odor, environmentally friendly cleaning products. UN Plaza also contains historical flooring surfaces that require special cleaning products and techniques.<sup>11</sup> However, as found by the Acting Regional Director, the special training required to clean the historical flooring surfaces does not establish a meaningful distinction in skills between the two locations, as the training for that task takes only about 2 hours,<sup>12</sup> and only two of the seven employees—one full-time employee and one on-call employee—at UN Plaza have received that specialized training.<sup>13</sup> Similarly, although the janitors at UN Plaza, unlike the janitors at the Sansome Complex, receive special training on interacting with tenants because they work during the day, when the building is occupied,<sup>14</sup> this training can be completed in 30 minutes and thus does not establish a meaningful distinction in skills.

<sup>9</sup> As found by the Acting Regional Director, the Employer also performs grounds maintenance functions at UN Plaza, but there is no evidence about the scope of this work, the extent of any special skills or equipment involved, or how the work is assigned.

<sup>10</sup> LEED stands for Leadership in Energy and Environmental Design and reflects environmental standards developed and monitored by the U.S. Green Building Council, which is a nongovernmental organization. See <http://www.usgbc.org/leed>.

<sup>11</sup> The Sansome Complex also has some areas with historical flooring, but those areas are serviced by a separate company operating under a different service contract.

<sup>12</sup> Regional Manager Trundy testified that this training took 2 hours for the full-time janitor but longer (almost a week) for the on-call employee because of his lack of experience with floor work and because he had never been a janitor before. Trundy testified that an employee could otherwise be trained in all aspects of the work at UN Plaza in about a day.

<sup>13</sup> All UN Plaza employees are trained to avoid damaging the historical surfaces.

<sup>14</sup> The bulk of the cleaning at the Sansome Complex is during the evening shift, when tenants are not present.

Further, the employees at the two locations have, with limited exceptions, substantially similar terms and conditions of employment. Although the two groups of employees are currently paid at slightly different hourly rates (the Sansome Complex employees are paid \$0.40 more per hour than UN Plaza employees), as found by the Acting Regional Director, this difference is attributable to the Employer's voluntary adoption at the Sansome Complex of the wage rates spelled out in the Petitioner's multiemployer collective-bargaining agreement. The petitioned-for employees otherwise receive comparable fringe benefits. The Employer makes health and welfare and pension contributions to the Service Employees International Union (SEIU) General Employees Trust Fund and the SEIU National Industry Pension Fund on behalf of the Sansome Complex employees<sup>15</sup> and pays an amount equal to these contributions directly to UN Plaza employees. Thus, we agree with the Acting Regional Director that there is no meaningful difference in the employees' economic terms and conditions of employment. With respect to the employees' noneconomic terms and conditions of employment, the Employer's employee handbook sets rules and policies applicable to the employees at both locations, except to the extent superseded by the collective-bargaining agreement at the Sansome Complex.<sup>16</sup>

Finally, we find that the tighter security requirements at the Sansome Complex, as compared to UN Plaza, do not establish a significant difference in the janitors' working conditions or otherwise negate the shared community of interest among the janitors.<sup>17</sup> See *Cal-Central*

<sup>15</sup> As noted by the Acting Regional Director, the Petitioner represented at the hearing that the Employer's health and welfare and pension contributions had not been accepted because the Employer was not a signatory to the collective-bargaining agreement. The Employer attached to its posthearing brief copies of two deposited checks purporting to cover those contributions for March, along with an affidavit from President Lutt averring to their authenticity. We agree with the Acting Regional Director that irrespective of whether the checks were accepted and cashed, the Employer has at the very least tendered fund contributions on behalf of its Sansome Complex employees.

<sup>16</sup> For instance, the employees at the two locations have different holiday schedules, but the same number of holidays (10 at each facility).

<sup>17</sup> The janitors at the Sansome Complex use digital computerized fingerprint recognition to enter the facility and are required to carry a PIV card for identification. No such arrangements exist at UN Plaza. In addition, several of the floors at the Sansome Complex house government offices with additional security requirements. The Employer's employees who service those areas undergo additional security screening by the tenant agencies, which decide individually whether to grant the individual employee access to that area to perform janitorial services. The building has public and employee areas, and in order to get into the employee areas, the employees need to have an electronic security clearance card and are allowed in only during certain times of the day. In some cases, an employee may have to be escorted (for

*Press*, 179 NLRB 162, 164 (1969) (finding community of interest among employees with similar working conditions even though some of the employees possessed security clearances and those who did not had to be isolated from classified projects).

### B. Highly Centralized Management and Common Supervision

As found by the Acting Regional Director, the management and supervision of the employees in the petitioned-for unit is highly centralized. The Employer's senior manager is President Lutt, and she alone, with the assistance of her staff, determines the Employer's labor policy, vacation, pay, and other terms and conditions of the employees' employment. As noted, the employees at both locations are required to comply with the Employer's employee handbook, except that any superseding terms of the Petitioner's collective-bargaining agreement apparently apply to employees at the Sansome Complex. The petitioned-for unit corresponds with the Employer's administrative grouping of its janitorial employees in the City of San Francisco under the supervision of Regional Manager Trundy. All disciplinary and personnel decisions are made by Trundy, sometimes in consultation with Lutt and other senior managers. Because the site supervisors are working janitors, Regional Manager Trundy, in coordination with President Lutt and her team, exercises complete management control over the employees at the two San Francisco facilities. See *DPI Secuprint, Inc.*, 362 NLRB 1407, 1411 (in finding a community of interest, the Board considered that "the petitioned-for unit 'conform[s] to the department lines established by the [E]mployer'" (quoting *Bergdorf Goodman*, 361 NLRB 50, 52 (2014))). See also *Macy's Inc.*, 361 NLRB 12, 20 (2014) (in finding that other employees did not share an overwhelming community of interest with the petitioned-for cosmetics and fragrance employees, the Board found that the "fact that the petitioned-for unit tracks a dividing line drawn by the Employer is particularly significant").<sup>18</sup>

instance, the employee who cleans the rest rooms is not permitted to enter any of the doors).

<sup>18</sup> Cf. *Odwalla, Inc.*, 357 NLRB 1608, 1612–1613 (2011) (Board found that the petitioned-for unit was a "fractured unit," in part because it did not track any lines drawn by the employer, such as a department, function, or classification, and was not structured along lines of supervision or in accordance with the method of compensation); *Alamo Rent-A-Car*, 330 NLRB at 898 (The Board found the petitioned-for unit of two of the employer's four facilities in the San Francisco area not to be appropriate where, inter alia, "[t]he proposed unit [did] not conform to any administrative function or grouping of the Employer's operations." Instead, the Board found the unit of four San Francisco facilities to be appropriate.)

### C. Functional Integration/Employee Interchange

It is undisputed that the two locations sought are not functionally integrated and there has been no interchange of employees between the two facilities. As found by the Acting Regional Director, the two locations are serviced under separate Federal contracts covering different periods of performance. The employees' personnel records are maintained in their distinct locations. Further, no employee from either location has ever been assigned work at the other building. If an employee is absent, only the employees on a preferential list for that location will be called.<sup>19</sup> Further, as noted by the Acting Regional Director, the requirement for security-cleared employees serves to restrict the transfer of UN Plaza employees to the Sansome Complex.

We disagree with the Acting Regional Director's statement that the lack of employee interchange is a particularly important factor that weighs substantially against a finding that the employees in the two facilities share a community of interest. The principal decision that the Acting Regional Director cited in making this statement, *Jerry's Chevrolet, Cadillac*, 344 NLRB 689, 693 (2005), is inapposite. The Acting Regional Director relied on the dissent, and the majority holding tends to support the opposite view: The majority found that the employer had rebutted the single-facility presumption and that the appropriate unit had to include all four of the employer's facilities even though there was no meaningful interchange among the facilities.<sup>20</sup> In the case before us, moreover, the Petitioner is seeking a multifacility unit, and the issue is simply whether it is *an* appropriate unit for bargaining under the multifactor community-of-interest test, not whether a single-facility unit would be inappropriate.<sup>21</sup>

<sup>19</sup> President Lutt testified that when the Employer procures its contracts, it sets up the proposal so that it can support itself and not rely on the support of employees at other locations.

<sup>20</sup> In *Jerry's Chevrolet*, the Regional Director found the petitioned-for unit of automotive service employees at one facility to be an appropriate unit. In that case, the service employees worked in separate buildings under separate managers, and there was little interchange. The Board majority acknowledged these factors but found that they were overcome by the close proximity of the buildings (three were within 1000 feet of each other, and the fourth was directly across the highway from the rest), the centralization of labor relations, the high functional integration of the facilities, and the similarity of skills, pay, and job functions at all locations. *Id.* at 690–691.

<sup>21</sup> Similarly, the other cases cited by the Acting Regional Director for the proposition that lack of interchange is a particularly important factor that weighs against finding that the employees share a community of interest do not involve petitioned-for multifacility units and thus are distinguishable. See *First Security Services Corp.*, 329 NLRB 235, 236 (1999) (petitioned-for single-facility unit); *Executive Resources Associates, Inc.*, 301 NLRB 400, 401 (1991) (same); *Towne Ford Sales*, 270 NLRB 331, 311–312 (1984) (petitioned-for accretion to

#### D. Geographic Proximity

We agree with the Acting Regional Director that the 2.1-mile geographical distance between the two facilities in this densely populated, high-traffic urban environment is not significant and find that it would permit full employee participation in union activities. As found by the Acting Regional Director, the record does not establish that the absence of employee interchange and functional integration is attributable to the distance between facilities or any resultant difficulty in transporting employees between the facilities. Indeed, the Board has routinely approved multilocation units of facilities located further apart. See, e.g., *Stormont-Vail Healthcare, Inc.*, 340 NLRB 1205, 1205, 1208 (2003) (distances of 10 to 70 miles from main facility did not warrant excluding outlying facilities from unit); *Capital Coors Co.*, 309 NLRB 322, 325 (1992) (distance of 90 miles between facilities did not preclude finding a community of interest).

#### E. Bargaining History

We agree with the Acting Regional Director that the parties' bargaining history does not bear on the determination of whether the unit sought is appropriate, and thus we regard this as a neutral factor. The Petitioner offered testimony showing that prior to UN Plaza's being closed for renovations the Petitioner represented another janitorial employer's employees at the two facilities at issue in a single unit. As found by the Acting Regional Director, that evidence of a prior bargaining relationship has little relevance due to the intervening 4-year period in which the Petitioner has not represented employees at UN Plaza, and because the Petitioner did not present any evidence that the previous employer structured its business similarly to the Employer in this case. In addition, we find that the Employer's voluntary recognition of the Petitioner and the parties' fledgling collective-bargaining relationship at the Sansome Complex is not sufficiently settled or established as to significantly affect the multifacility unit analysis. Cf. *Capital Coors Co.*, supra at 325 (declining to rely on bargaining history where there was an intervening period during which employees were not represented); *Esco Corp.*, 298 NLRB 837, 839-840 (1990) (bargaining history not controlling where, inter alia, the most recent agreement expired over 4 years prior).

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existing unit), affd. 759 F.2d 1477 (9th Cir. 1985). Further, *Essex Wire Corp.*, 130 NLRB 450 (1961), presented the issue of whether a new warehouse constituted an accretion to an existing unit, and the Board found, contrary to the administrative law judge, that the new warehouse was a completely new or different operation, rather than an accretion to the existing unit. The fact that there was no interchange between the new warehouse and the existing unit was one of several factors considered by the Board in making this finding. Id. at 453.

#### F. Extent of Union Organization and Employee Choice

As found by the Acting Regional Director, there is no record evidence to show whether the Petitioner has attempted to organize the employees at UN Plaza, who are fewer in number than the Sansome Complex employees, and the Petitioner's showing of interest was based solely on cards signed by Sansome Complex employees. The Acting Regional Director expressed "fundamental concerns" about the lack of any showing of interest among the UN Plaza employees and weighed this factor in favor of finding that only the employees at the Sansome Complex constitute an appropriate unit. Nevertheless, as acknowledged by the Acting Regional Director, the Petitioner's extent of organization, although one factor to be considered, cannot be given controlling weight. See *NLRB v. Metropolitan Life Insurance Co.*, 380 U.S. 438, 441-442 fn. 4 (1965). We find that, because this factor is not controlling and other factors discussed above ultimately favor finding the petitioned-for unit to be appropriate, the extent of organization factor does not tip the balance against the appropriateness of the unit. In addition, we specifically reject the Acting Regional Director's suggestion that Board policy would foreclose her from directing an election among UN Plaza employees. The Acting Regional Director did not cite, and we are unaware of, any cases that state that when a petitioner seeks a multifacility unit, a showing of interest must be demonstrated at *each* of the facilities, as opposed to 30 percent of the entire unit sought.<sup>22</sup>

In sum, we find this factor to be neutral.

#### IV. CONCLUSION

The petitioned-for janitors at UN Plaza and the Sansome Complex have substantially similar skills, duties, and working conditions; all of the Employer's managerial and supervisory functions for the two facilities at issue are centralized; there are no statutory supervisors stationed at the two sites; all of the employees are super-

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<sup>22</sup> We find the cases on which the Acting Regional Director relied in making this assertion to be distinguishable. In *Sperry Gyroscope Co.*, 147 NLRB 988 (1964), the Board found the petitioned-for unit consisting of two existing certified units and the unrepresented employees at a single plant to be inappropriate on any basis, without any reference to a showing of interest issue. The Board noted that the petitioners had "declined to take any alternate unit position, and none of the parties ha[d] requested an election in any alternate unit which might be appropriate on a combined or residual basis." Id. at 955. In a footnote to its statement about alternative units, the Board merely noted the lack of showing of interest among unrepresented employees. Id. at 955 fn. 17. *Brooklyn Union Gas Co.*, 123 NLRB 441, 446 (1959), *Hartford Electric Light Co.*, 122 NLRB 1421, 1424 (1959), and *Montana-Dakota Utilities Co.*, 110 NLRB 1056 (1954), all concerned the showing of interest necessary to obtain a self-determination election, which is not the issue here.

vised by Regional Manager Trundy; and the requested unit constitutes a separate administrative grouping of the Employer's employees in the City of San Francisco under the regional manager's supervision. Further, the geographic distance of 2.1 miles permits for full employee participation in union activities.

The lack of functional integration and employee interchange is the one factor that disfavors a finding of an appropriate unit that includes employees at both facilities. Here, that factor is plainly outweighed by the numerous other factors that support a finding of a community of interest. See *I.T.O. Corp. of Baltimore v. NLRB*, 818 F.2d 1108, 1113 (4th Cir. 1987) (community-of-interest finding affirmed, "[a]lthough certain of the relevant factors, such as similarity of wages, were seemingly absent as to some if not all of the added employees").

Accordingly, for the reasons discussed above, we find that the petitioned-for unit consisting of all full-time and regular part-time janitorial services employees employed by the Employer within the City of San Francisco, California, is an appropriate unit for bargaining. We reverse the Acting Regional Director's finding that the petitioned-for multifacility unit is not an appropriate unit for bargaining.

#### ORDER

The Acting Regional Director's Decision and Direction of Election is reversed, and the case is remanded to the Regional Director for further appropriate action consistent with this decision.

#### APPENDIX

##### DECISION AND DIRECTION OF ELECTION

By its Petition, as amended during the hearing in this matter, Service Employees International Union, Local 87 (Petitioner) seeks to represent a multifacility unit of all full-time and regular part-time janitorial services employees employed by Exemplar, Inc. (Employer) within the City of San Francisco. A hearing officer of the Board held a hearing, and Petitioner and Employer subsequently filed briefs with me.

The parties stipulated, and I find, that Petitioner is a labor organization within the meaning of the Act, and that the Employer is engaged in commerce within the meaning of the Act.

The parties disagree whether the petitioned-for multifacility unit is an appropriate unit. The Employer contends that: (1) its voluntary recognition of the Petitioner as the exclusive collective-bargaining representative of its employees at two adjacent federal buildings located at 630 Sansome Street and 555 Battery Street in San Francisco (collectively, "the Sansome Complex")<sup>1</sup> should bar the instant petition; (2) the Petition is tanta-

<sup>1</sup> The Employer asserted at the hearing and in its brief that its adjoining service buildings, located at 630 Sansome St. and 555 Battery St. in San Francisco, constitute a single facility or "complex." In its brief, Petitioner agreed that these two facilities are essentially one facility. I

mount to an *Armour-Globe* self-determination election, which is inappropriate here because the Employer has extended recognition to the Petitioner at the Sansome Complex; (3) the existing single-facility (Sansome Complex) unit of employees is such an appropriate unit; (4) there is a rebuttable presumption that a single-facility unit is appropriate; and (5) Petitioner bears, but has not met, the burden to rebut the presumptive appropriateness of the existing single-facility unit by demonstrating that the employees at both facilities share a community of interest.

The Petitioner argues that where, as here, it seeks a multifacility unit, the Board's single-facility presumption does not apply. In this regard, the Petitioner further contends that Respondent has not met its burden of showing that the petitioned-for multifacility unit lacks the requisite community of interest.

I have considered the evidence and arguments presented by the parties on each of these issues. As discussed below, I have concluded that the Petitioner is entitled to seek Board certification of its status as the collective-bargaining representative of the appropriate existing single-facility unit, which includes the site supervisor. However, I conclude that the petitioned-for multifacility unit is not appropriate because the Employer's UN Plaza employees do not share a sufficient community of interest with the existing single-facility unit and Petitioner has made no showing of interest among the unrepresented UN Plaza employees. I shall therefore direct that an election be held at the Employer's Sansome Complex, as set forth below.

#### I. STATEMENT OF FACTS

The Employer provides janitorial, landscaping, and stone-care services to private and government-owned buildings at various locations throughout the United States. The Employer currently has contracts to provide those services at two locations in San Francisco: (1) at the General Services Administration (GSA) building located at 50 United Nations Plaza (UN Plaza); and (2) at the Sansome Complex. The UN Plaza and Sansome Complex locations are separated by a distance of approximately 2.1 miles.<sup>2</sup>

##### A. The UN Plaza Service Contract

The UN Plaza closed for renovations several years ago, and when it reopened, the Employer won the initial 1-year service contract (Service Contract) for janitorial services at that building, commencing on July 1, 2013.<sup>3</sup> The Service Contract, by its terms, was scheduled to expire on June 30, 2014, but the parties have exercised the 1-year-extension options contained therein. Currently, the Employer employs seven janitors at UN Plaza;

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take administrative notice that only a private alley separates the two buildings. Accordingly, and absent any dispute in this regard, I find that these two adjoining buildings constitute a single facility.

<sup>2</sup> For context, the City of San Francisco spans approximately 49 square miles.

<sup>3</sup> The record contains inconsistent testimony regarding the date that the UN Plaza location closed for renovations. One witness placed the closure in 2006, while Petitioner President Olga Miranda testified that a signatory employer, American Building Services, operated UN Plaza and the Sansome Complex as a single bargaining unit until January of 2011. This factual dispute is irrelevant to the issues presented herein.

six full time and one part time.<sup>4</sup> One of the six full-time employees is designated as the site supervisor.

The UN Plaza employees are paid \$18.85 per hour, plus a Health and Welfare contribution of \$1154.31 per month for full-time employees, along with a pension payment of \$1.15 per hour worked. Both the Health and Welfare and Pension contributions are paid directly to the employees.

The UN Plaza employees work on three shifts, all of which occur during business hours. The first shift of two employees begins at 6 a.m. The second shift of four employees begins at 11 a.m. The remaining one-employee shift runs from 2:30-7 p.m. Because they work during the day, while the building is occupied, the UN Plaza employees receive 30 minutes of additional training on how to interact with tenants, including role-playing scenarios.

The UN Plaza location is a LEED<sup>5</sup> Platinum certified building. As part of maintaining this certification, the Employer is required to use low-noise equipment and low-odor, environmentally friendly cleaning products. The UN Plaza building also contains historical flooring surfaces that require special cleaning products and techniques.<sup>6</sup> Only one full-time and one on-call employee at UN Plaza are trained on cleaning the historical floor surfaces, although all UN Plaza employees are trained to avoid damaging the historical surfaces. The initial training for cleaning the historical surfaces in the UN Plaza building takes about 2 hours. The UN Plaza contract also includes some grounds maintenance, but there was no evidence adduced at the hearing as to the scope of this work, the extent of any special skills or equipment involved, or how that work is assigned.

#### *B. The Sansome Complex Contract*

The Employer commenced service under the Sansome Complex contract on March 1, 2015. It currently employs 10 full-time janitors at this location, all of whom were employed by the predecessor janitorial services contractor at that location. One of these full-time employees is also designated as the site supervisor. Four additional predecessor employees whom the Employer did not hire were placed on a preferential hiring list. The Employer voluntarily recognized Petitioner as the bargaining representative of the Sansome Complex unit when it obtained the services contract for that location. As of March 25, 2015, the Employer agreed to provide wages and benefits to its Sansome Complex employees in accordance with the terms of the Petitioner's multiemployer collective-bargaining agreement. The Employer has not, however, signed that collective-

<sup>4</sup> The Employer's president testified that it employs six full-time employees at UN Plaza, along with one on-call employee. While the Employer's San Francisco regional manager testified that there are six regular shifts at UN Plaza, including one from 2:30 to 7 p.m., the regularity and duration of the on-call employee's shift(s) is unclear.

<sup>5</sup> LEED stands for Leadership in Energy and Environmental Design, and reflects environmental standards developed and monitored by the U.S. Green Building Council, which is a nongovernmental organization. <http://www.usgbc.org/leed>

<sup>6</sup> The Sansome Complex also has some areas with historical flooring, but those areas are serviced by a separate company operating under a different service contract.

bargaining agreement.

The Sansome Complex employees are paid \$ 0.40 more per hour than the UN Plaza employees. The Employer also pays Health & Welfare and Pension contributions to the SEIU General Employees Trust Fund and the SEIU National Industry Pension Fund on behalf of the Sansome Complex employees.<sup>7</sup> The Employer pays an amount equal to these contributions directly to its UN Plaza employees.

The 10 Sansome Complex employees work on four shifts. One employee starts work at 6:30 a.m. Two employees start work at 7:30 a.m. Two more employees start work at 10:30 a.m. The remaining five employees start work at 3 p.m. and end work at 10:30 p.m.

The Sansome Complex has tighter security requirements than UN Plaza, which has a direct impact on employee access. For example, employees at Sansome Complex are required to carry an identification card, called a PIV card, which contains a computer chip. In addition, several of the floors at the Sansome Complex house government offices with additional security requirements. The Employer's employees who service those areas undergo additional security screening by the tenant agencies, which decide whether to grant the individual employee access to that area to perform janitorial services.

#### *C. Management and Supervision*

The Employer's senior manager is its president, Martha Lutt. Lutt receives management assistance from her human resources staff and the Employer's chief financial officer. Answering directly to Lutt are several regional managers. Both facilities at issue here fall under the supervision of the Employer's regional manager for the San Francisco area. All disciplinary and personnel decisions are made by that regional manager in consultation with Lutt and other senior managers.

Each location has a site supervisor, who answers directly to the regional manager. Both site supervisors perform janitorial work in addition to their duties as site supervisor. The UN Plaza site supervisor can task other employees to perform work, while the Sansome Complex site supervisor cannot because, as the Employer explained, that supervisor is part of the bargaining unit. There was no evidence offered as to whether the site supervisors are paid at a higher rate than the other employees or whether they are evaluated based on the performance of the other employees.

Lutt alone determines the Employer's labor policy, vacation, pay, and other terms and conditions of the employees' employment. The employees at both locations are required to comply with the Employer's employee handbook, except that the superseding terms of Petitioner's collective-bargaining

<sup>7</sup> At the hearing, Petitioner represented that the Employer's Health & Welfare and Pension contributions had not been accepted because it was not a signatory to the collective-bargaining agreement. The Employer attached to its posthearing brief copies of two deposited checks purporting to cover those contributions for March 2015, along with an affidavit from the Employer's president, Martha Lutt, averring to their authenticity. Irrespective of whether the checks were accepted and cashed, it is undisputed that, at the very least, the Employer has tendered Fund contributions on behalf of its Sansome Complex employees.

agreement apply to employees at the Sansome Complex. For example, the Sansome Complex employees enjoy a different holiday schedule, albeit with the same number of holidays—10 at each facility.

The evidence adduced at the hearing shows that there is no interchange of employees between the two facilities. If necessary, the regional manager will work a shift to cover for an absent employee, but the Employer has never assigned an employee from one facility to work at the other. Employees' personnel records are maintained at their respective work locations.

## II. ANALYSIS

Distilled down, the parties' positions and arguments essentially raise two issues: (1) whether the Employer's voluntary recognition of the Petitioner as the collective-bargaining representative of its employees at the Sansome Complex serves to bar the instant petition; and (2) whether the UN Plaza employees should be included in a single bargaining unit with the employees at the Sansome Complex. As explained more fully below, I have answered "no" to both questions.

....

### B. The Petitioned-For Unit is Not Appropriate

I find that the petitioned-for multifacility unit is not appropriate because the Employer's Sansome Complex employees lack a community of interest with the Employer's UN Plaza employees. The Board's procedure for determining an appropriate unit under Section 9(b) of the Act is to examine first the petitioned-for unit. If that unit is appropriate, then the inquiry into the appropriate unit ends. If the petitioned-for unit is not appropriate, the Board may examine the alternative units suggested by the parties, but it also has the discretion to select an appropriate unit that is different from the alternative proposals of the parties. See, e.g., *Overnite Transportation Co.*, 331 NLRB 662, 663 (2000); *NLRB v. Lake County Assn. for the Retarded*, 128 F.3d 1181, 1185 fn. 2 (7th Cir. 1997).

The Employer asserts that the petitioned-for multifacility unit is presumptively inappropriate, invoking the Board's oft-cited rebuttable presumption that a single-facility unit is appropriate. See, e.g., *J&L Plate*, 310 NLRB 429 (1993). However, when a union seeks a multifacility unit, the single-facility presumption is inapplicable. *NLRB v. Carson Cable TV*, 795 F.2d 879, 887 (9th Cir. 1986); see also *Capital Coors Co.*, 309 NLRB 322 (1992). In other words, the presumption of appropriateness carries with it no corresponding presumption that all other units are inappropriate. As the court in *Carson Cable* explained:

Where, as here, the union requests and the Board designates a multi-location unit as appropriate, the (single-facility) presumption simply has no application. The presumption does not preclude designation of a larger unit, but only works to assure that a Board determination that a smaller unit is appropriate will almost never be subject to challenge.

*Id.* at 887; see also *Macy's*, 361 NLRB 12, 31 fn. 65 (2014) ("That a unit is presumptively appropriate in a particular setting does not mean that a different unit is presumptively *inappro-*

*priate.*") (emphasis in original); *Capital Coors Co.*, *supra*.

Because the Petitioner has requested a multifacility unit comprising all of the janitorial and maintenance staff employed by the Employer within the city limits of San Francisco, the single-facility presumption is not applicable. I must therefore determine whether the petitioned-for unit is an appropriate one under the Board's generally applicable standards.

The Board determines whether a petitioned-for multifacility unit is appropriate based on its evaluation of the community of interests among employees working at the different locations, including: (1) similarity in employee skills, duties, and working conditions; (2) functional integration of the business, including employee interchange; (3) centralized control of management and supervision; (4) geographical separation of facilities and collective-bargaining history; and (5) extent of union organization and employee choice. *Capital Coors Co.*, *supra*; *NLRB v. Carson Cable TV*, *supra*. I find, as discussed in greater detail below, that the employees at the Sansome Complex and UN Plaza lack the requisite community of interest.

#### i. Employees at Both Locations Have Substantially Similar Skills, Duties, and Working Conditions

I find that the employees in the petitioned-for unit have similar skills, duties, and working conditions. All of the employees at both locations perform janitorial work in an office setting. Although each building requires different cleaning products and equipment, the overall skills required are the same. Employees at the Sansome Complex receive special training on interacting with tenants, but this training can be completed in 30 minutes. Nor does the special training required to clean the historical floors at the UN Plaza establish a meaningful distinction in skills between the two locations—the initial training for that task only takes 2 hours. Moreover, only two of the seven employees at the UN Plaza location receive that specialized training.

I also note that the employees at the two locations have, with limited exceptions, substantially similar terms and conditions of employment. Certainly, the two groups of employees are paid at different hourly rates, but this slight difference is attributed to the Employer's voluntary adoption of the wage rates spelled out in the Petitioner's collective-bargaining agreement. The employees otherwise receive comparable fringe benefits. I therefore find no meaningful difference in the employees' economic terms and conditions of employment. With respect to the employees' noneconomic terms and conditions of employment, the Employer's employee handbook sets rules and policies applicable to the employees at both locations, except to the extent superseded by the collective-bargaining agreement at the Sansome Complex.

#### ii. The Two Locations are not Functionally Integrated and Have No Interchange of Employees

I find that the Sansome Complex and UN Plaza locations are not functionally integrated. The Sansome Complex and the UN Plaza building are geographically distinct operations, separated by a distance of approximately 2.1 miles. Each location is serviced under separate Federal contracts covering different periods of performance. Cf. *Executive Resources Associates*, 301 NLRB 400, 401–402 (1991) (finding separate community of



interest for groups of employees of a single employer working under separate government contracts on a single military base, where one contract expired more than a year after the other). There is no interchange of cleaning products or equipment between the facilities, in part because each building has special requirements that preclude such interchange. In short, there is no functional integration of the operations at the two locations.

I also find that there is no interchange of employees between the locations. The undisputed evidence in the record shows that no employee from either location has ever been tasked to perform work at the other building. Although the Petitioner argued that such an interchange is feasible based on the similarity of the work performed, the Board determines community of interest based on actual interchange, not the mere potential for it. See *Essex Wire Corp.*, 130 NLRB 450, 453 (1961) (finding no community of interest where jobs were “virtually interchangeable” but “there was in fact no interchange”); see also *Combustion Engineering*, 195 NLRB 909, 912 (1972).

The Employer argues that the need for security clearance to work at the Sansome Complex weighs against finding a community of interest, and while I agree, I find that this factor is not dispositive. Cf. *Cal-Cent. Press*, 179 NLRB 162, 164 (1969) (finding community of interest among employees with similar working conditions even though some of the employees possessed security clearances and had to be isolated from classified projects). However, the requirement for security-cleared employees does serve to restrict the transfer of UN Plaza employees to the Sansome Complex.

Overall, I find that there is no functional integration or interchange of employees between the two locations and conclude that this factor weighs against finding a community of interest among the employees in the petitioned-for unit.

### iii. The Management and Supervision of the Employees in the Petitioned-For Unit is Highly Centralized

Essentially, all of the Employer’s managerial and supervisory functions for the two facilities at issue are centralized with the regional manager and Lutt, with the assistance of Lutt’s management team. These higher-level managers make all personnel decisions with respect to employees at both locations. Although the Employer designates an employee at each site as a “site supervisor,” neither party contends, and the evidence does not establish, that either of the employees so designated exercise any of the twelve supervisory indicia set forth in Section 2(11) of the Act. Although there was some testimony that the UN Plaza site supervisor directed the tasks of his coworkers, there was no evidence offered that the site supervisor did so “responsibly.” See *Community Education Centers, Inc.*, 360 NLRB 85 (2014); citing *CGLM, Inc.*, 350 NLRB 974, 974 fn. 2, 983–984 (2007), *enfd. mem.* 280 Fed. Appx. 366 (5th Cir. 2008); see also *Croft Metals, Inc.*, 348 NLRB 717, 722 fn. 13 (2006).

I therefore find that the Employer’s regional manager, in coordination with Lutt and her team, exercises complete management control over the employees at its two San Francisco facilities, which weighs in favor of finding that the petitioned-for unit is appropriate.

### iv. Geographical Separation of Facilities and Bargaining History

The geographical distance between facilities is important as to whether it is feasible for all employees in a multilocation unit to participate without great difficulty in union activities. See *NLRB v. Sunset House*, 415 F.2d 545 (9th Cir.1969). I find that the geographical separation between the facilities—a distance of approximately 2 miles in a densely populated, high-traffic urban environment—is not significant. Cf. *Capital Coors Co.*, *supra* at 325 (a distance of 90 miles between facilities did not preclude finding a community of interest). The evidence adduced at the hearing did not establish that the absence of employee interchange and functional integration is attributable to the distance between facilities or any resultant difficulty in transporting employees between the facilities.

The Petitioner presented evidence that, prior to January 2011, it represented another janitorial employer’s employees at the two facilities at issue here in a single unit. It argues that the existence of that historical bargaining unit demonstrates that the petitioned-for unit is appropriate.

For its part, the Employer notes that it has already voluntarily recognized the Petitioner as the collective-bargaining representative of its Sansome Complex employees and has offered to abide by the terms of the Petitioner’s multiemployer collective-bargaining agreement. Thus, it argues that the recent history of collective bargaining at the Sansome Complex supports a finding that the multifacility unit sought is inappropriate. Accepting both parties’ factual representations at face value, neither is accorded much weight.

The Petitioner’s evidence of a prior bargaining relationship covering both the Sansome Complex and UN Plaza has little relevance due to the intervening 4-year period in which the Petitioner has not represented employees at the UN Plaza, particularly where, as here, Petitioner has not presented any evidence that the previous employer structured its business similarly to the Employer here. Similarly, I find that the Employer’s voluntary recognition of the Petitioner and the parties’ fledgling collective-bargaining relationship at the Sansome Complex is not sufficiently settled or established to significantly affect my decision. Cf. *Dezcon, Inc.*, 295 NLRB 109, 112 (1989) (finding that expired jurisdiction-wide collective-bargaining agreement was inconclusive because the parties’ bargaining relationship was “insufficiently settled or established”); *Capital Coors Co.*, *supra* (declining to rely on bargaining history where there was an intervening period during which employees were not represented). In sum, I find that the geographical separation between the facilities would permit for full employee participation in union activities. I further conclude that the parties’ bargaining history does not bear on the determination of whether the unit sought is appropriate.

### v. Extent of Union Organization and Employee Choice

In evaluating community of interest, “the overriding policy of the Act is in favor of the interest in employees to be represented by a representative of their own choosing for the purpose of collective bargaining.” *Judge & Dolph, Ltd.*, 333 NLRB 175, 185 (2001) (citing *NLRB v. Western & Southern Life Insurance Co.*, 391 F.2d 119, 123 (3d Cir. 1968), *cert.*

denied 393 U.S. 978 (1968).) In considering the extent of Petitioner's organizing of the employees at the two facilities, I note that the UN Plaza employees have been without a collective-bargaining representative since July 1, 2013, when the Employer began operating at that location. The instant petition was not filed until after the Employer voluntarily recognized the Petitioner as the collective-bargaining representative of its Sansome Complex employees, who comprise nearly 60 percent of the petitioned-for unit. There is no evidence on the record to show whether and to what extent the Petitioner has attempted to organize the smaller group of UN Plaza employees, but I note that the Employer offered on the record to recognize the Petitioner at the UN Plaza based on a majority showing. (Tr. 41–42.) As of the date of the hearing, at least, no such showing had been made.<sup>9</sup>

Under Section 9(c)(5) of the Act, the extent that employees have been organized may not be the controlling determinant of the appropriateness of a proposed bargaining unit, but it is a factor that plays “an affirmative part in such determinations.” See e.g., *Acme Markets, Inc.*, 328 NLRB 1208 (1999) (citing *Central Power & Light Co.*, 195 NLRB 743 (1972)); *Audiovox Communications Corp.* 323 NLRB 647 (1997). Here, there is no evidence that the Petitioner has organized the minority group of UN Plaza employees. It has made no showing of interest among them.<sup>10</sup>

Turning to employee choice, there is no evidence that employees have expressed a desire to be included in a single bargaining unit with the Sansome Complex employees, that they prefer to be represented in a separate unit or, indeed, that they are aware of the instant Petition at all. Put simply, although “[e]mployee choice can tip the balance in determining which of two equally appropriate units should be preferred,” I cannot discern the employees' wishes from this record. *Pacific Southwest Airlines*, 587 F.2d 1032, 1044 (1978). Accordingly, neither does employee choice “tip the balance” in favor of finding the existence of a community of interest between the UN Plaza employees and the existing Sansome Complex unit.

In summary, I conclude that the petitioned-for unit is not an appropriate unit for collective bargaining. Although I find that the employees in the petitioned-for unit are subject to centralized management and supervision, and have similar skills, duties, and working conditions, the total absence of functional integration and interchange between the two locations and the fundamental concerns about the lack of any showing of interest among the minority group of UN Plaza employees to be represented by the Petitioner render the unit sought inappropriate. *Sperry Gyroscope Co.*; *Brooklyn Union Gas Co.*; *Hartford*

<sup>9</sup> Nevertheless, as discussed above, voluntary recognition, if it were to occur, would not bar the instant Petition.

<sup>10</sup> On this basis alone, it would appear that Board policy forecloses me from directing an election among the UN Plaza employees. See e.g., *Sperry Gyroscope Co.*, 147 NLRB 988, 994 fn. 17 (1964); *Brooklyn Union Gas Co.*, 123 NLRB 441, 444 (1959); *Hartford Electric Light Co.*, 122 NLRB 1421 (1959). See also *Great Lakes Pipe Line, Co.*, 92 NLRB 583 (1950) (the Board is duty bound “to prevent injustice being done to minority groups by . . . arbitrary inclusion of such groups in a larger unit wherein they would have no effective voice to secure the benefits of collective bargaining.”)

*Electric Light Co.*; *Montana-Dakota Utilities, Co.*, supra.

The lack of employee interchange is a particularly important factor, one which weighs substantially against a finding that the employees share a community of interest. *Jerry's Chevrolet, Cadillac*, 344 NLRB 689, 693 (2005) (Liebman, M., dissenting) (lack of significant employee interchange between groups of employees is a “strong indicator” that employees enjoy a separate community of interest) (citing *Executive Resources Associates*, 301 NLRB 400, 401 (1991)); see also *First Security Services Corp.*, 329 NLRB 235, 236 (1999) (describing lack of employee interchange as “critical factor” in assessing community of interest to rebut single-facility presumption); *Towne Ford Sales*, 270 NLRB 311, 311–312 (1984) (describing employee interchange as “especially important” factor in considering community of interest in accretion context).

In *Jerry's Cadillac*, the Board found that a multilocation unit comprising service departments at four adjacent car dealerships was the only appropriate unit despite the lack of meaningful employee interchange. 344 NLRB at 691. In doing so, the Board relied on the close geographic proximity, high level of functional integration, centralization of labor relations, and the similarity of skills, pay, and other conditions among the service employees at the four locations. *Id.* Here, by contrast, the facilities sought to be included in the unit lack the geographical proximity and functional integration that might otherwise sufficiently balance out the complete lack of employee interchange between the two locations. *Cf. Capital Coors Co.*, supra (finding petitioned-for multilocation unit appropriate because of functional integration, interchange of employees, and similarity of working conditions). Indeed, the unit sought is inappropriate because there is a lack of functional interchange involving UN Plaza and the Sansome Complex and because the unit would consist of a heterogeneous grouping of UN Plaza employees who have absolutely no interchange with the Sansome Complex employees, nor any manifest interest in being represented by the Petitioner. After considering the “balanc[e] of salient factors” relevant to the designation of a multilocation bargaining unit,<sup>11</sup> I find the unit sought to be inappropriate.

I find, however, that a unit of the Employer's janitorial employees at the Sansome Complex is appropriate, and that the Employer's voluntary recognition of that unit does not bar a representation election. Accordingly, I shall direct an election in the unit set forth below.

### III. CONCLUSION AND FINDINGS

Based on the entire record in this proceeding, I conclude and find as follows:

1. The hearing officer's rulings made at the hearing are free from prejudicial error and are affirmed.
2. The Employer is engaged in commerce within the meaning of Section 2(6) and (7) of the Act, and it will effectuate the purposes of the Act to assert jurisdiction in this case.
3. The Petitioner claims to represent certain employees of the Employer.
4. A question affecting commerce exists concerning the representation of certain employees of the Employer within the

<sup>11</sup> See *Spring City Knitting Co.*, 647 F.2d at 1016.

meaning of Section 9(c)(1) and Section 2(6) and (7) of the Act.

5. The following employees of the Employer constitute a unit appropriate for the purpose of collective bargaining within the meaning of Section 9(b) of the Act:

All full-time and regular part-time janitorial employees employed at 630 Sansome Street and 555 Battery Street, San Francisco, CA, EXCLUDING engineers, clerical, trash, and recycling staff, guards and supervisors as defined in the Act.