



# Memorandum

**TO:** HONORABLE MAYOR  
CITY COUNCIL

**FROM:** Betsy Shotwell

**SUBJECT:** SEE BELOW

**DATE:** November 28, 2005

Approved

Date

Nov. 29, 2005

**SUBJECT: APPROVAL OF AN AGREEMENT WITH PATTON BOGGS LLP FOR  
FEDERAL LEGISLATIVE REPRESENTATION SERVICES**

## RECOMMENDATION

Approval of an agreement with Patton Boggs LLP, for legislative representation services in Washington, D.C., for the period January 1, 2006, through to June 30, 2006, in an amount not to exceed \$60,000, and with the option to extend the agreement for two (2) years with an annual payment of \$122,500 in the first year (FY 2006-2007) and \$127,500 in the second year (FY 2007-2008) subject to annual appropriations.

## BACKGROUND

The City of San Jose is often recognized as a leader in municipal services and for its quality of life. This reputation is a direct outgrowth of City government's ability to make informed public policy decisions and influence the direction in which the City is headed at a regional, state, and national level. Recognizing that federal and state legislative activities impact local government, the City must possess the ability to respond to emerging trends with an informed legislative strategy.

Since January of 2003, the firm of Patton Boggs LLP has provided the City of San Jose with lobbying services and legislative and grant information on a regular basis. The firm of Patton Boggs assigned Edward Newberry, Marek Gootman and Kevin O'Neill as its key contact for coordinating interaction with the City. These individuals are the City's representatives with congressional offices and federal agencies through which the City pursues federal funding and legislative outcomes that are consistent with the City's legislative priorities adopted by the Council each year.

In addition to providing regular reports, representatives of Patton Boggs visit San Jose to meet with the Mayor, Council members and City staff to report on Washington activities and to identify areas of federal legislative priority. At any time the firm is available to assist Council members and their staff by providing information and/or resolving specific federal legislative issues.

Highlights of the firm's accomplishments and related activities over the past three years are attached, (attachment A).

**ANALYSIS**

The firm of Patton Boggs provides continuity for the City's lobbying program and its staff has familiarity with City issues. The firm's fees are well within the range paid by other large cities for comparable services. The City currently is paying the firm \$96,000 per calendar year (\$8,000 per month) with a cap of \$12,000 on reimbursable expenses, totaling \$108,000 per year. Staff is recommending an increase to \$10,000 per month, for a sum of \$60,000 for the six months until June 30, 2006. If an option to extend the agreement is exercised for FY 2006/07, the total amount of the contract would be for \$122,500. If a second FY option is exercised for FY 2007/08, the amount of the agreement would be \$127,500. The City Manager's Office would be authorized to exercise the options on behalf of the City.

**COORDINATION**

This agreement was coordinated with the Budget Office and the City Attorney's Office.

**COST IMPLICATIONS**

The cost of the legislative representation services contract is spread among several funds that benefit from these services. There is sufficient funding available in the 2005-2006 Adopted Budget appropriations to address the proposed increase in the contract.

**BUDGET REFERENCE**

Fund #/Name	Appn #	Appn. Name	Total Current Appn.	2005-2006 Adopted Budget (Page)
001 (General Fund)	0112	City Manager's Office Non-Personal/Equipment	769,407*	VIII-24
443 (Low & Moderate Income Housing Fund)	0112	City Manager's Office Non-Personal/Equipment	18,593	X1-45

HONORABLE MAYOR AND CITY COUNCIL

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513 (SJ/Santa Clara Treatment Plant Operating Fund)	0112	City Manager's Office Non-Personal/Equipment	18,593	X1-68
523 (Airport Maintenance & Operation Fund)	0112	City Manager's Office Non-Personal/Equipment	24,649	X1-3
541 (Sewer Service & Use Charge Fund)	0112	City Manager's Office Non-Personal/Equipment	6,480	X1-72

\* A portion of the City Manager's Office Non-Personal/Equipment appropriation is allocated to this contract.



BETSY SHOTWELL  
Director, Intergovernmental Relations

Attachment

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ATTORNEYS AT LAW

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(202) 457-6000

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## MEMORANDUM

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**To:** City of San Jose  
**From:** Patton Boggs LLP  
**Date:** November 23, 2005  
**Subject:** Three-Year Summary of Federal Relations Activities and Results

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### Executive Summary

This memorandum reviews Patton Boggs federal relations work and accomplishments on behalf of San Jose since being retained to represent the City in 2003.

Over the past three years, we have focused on achievements in: (1) increasing and protecting the amount of federal funding to the City through project earmarks, agency policy initiatives, program eligibility changes, and grants; (2) facilitating federal agency action or program flexibility to achieve local operational goals; (3) advancing specific legislative modifications with unique implications for the City; (4) engaging in or coordinating high-priority multi-city coalition efforts on funding or policy issues with a direct impact on City functions; (5) advising the City on emerging issues and legislation; and (6) promoting the profile and awareness of the City. Sample results include –

- Appropriations project funding totaling nearly \$14 million for various City-led transportation, public safety, human services, economic development, and infrastructure needs, with increasing amounts annually.
- Transportation projects totaling \$33.4 million in the SAFETEA-LU reauthorization bill, plus various funding and policy provisions for the Silicon Valley Rapid Transit Corridor project.
- Homeland security program eligibility, operational improvements, and preservation, with directed funding to the City totaling \$16.5 million.
- Broader Congressional support for the Silicon Valley Rapid Transit Corridor, including facilitating with business community assistance local visits by four leading House and Senate appropriators and authorizers, and working with VTA leads, some resolution of specific issues.

- Municipal Health Services Program extension by passage of a legislative waiver provision allowing continuation of expanded Medicare coverage for a local program.
- Protection of the Utility User Tax (UUT) revenue base in passage of a federal moratorium on State and local government taxation of the Internet.
- Expedited processing of economic development grant awards in time to execute a local contract.
- Promotion of the City and access to potential resources by organizing meetings with national foundations, think tanks, federal agency leads, and key congressional interests on various issues.

### Appropriations

In general, we worked with the City Manager's office to establish a structured process and criteria for City leads to identify, develop, and advance the most viable appropriations requests to the congressional delegation. Beginning in the FY2004 funding cycle, we initiated that process – meeting with agency leads, prepared background papers and justifications, conducting staff briefings, completing supplemental forms and letters, facilitating delegation and committee meetings and four Congressional leadership visits to the City, and otherwise advocating for the identified projects.

#### FY2003

Because we assumed representation of the City at the end of the prior year federal appropriations cycle, our impact was limited to about one month of end-stage work on previously submitted projects. Those projects involved the BART extension and support for Santa Clara Valley Water District requests. City appropriations totaled \$100,000 for a childcare outreach effort initiated by Congressman Honda, and \$250,000 for BART.

#### FY2004

Appropriations for San Jose project priorities totaled \$2.625 million (\$625,000 to the City and \$2 million for BART). Specific funded City-led projects included:

- \$2 million for Silicon Valley Rapid Transit Corridor Project
- \$400,000 for Smart Start program training enhancements
- \$125,000 for construction of a Strong Neighborhoods Initiative youth facility
- \$100,000 for San Jose Police Department communications equipment

Labor-HHS-Education earmarks submitted by Democratic House members were stripped from the final Omnibus Appropriations bill were, cut in retaliation for failing to support passage earlier that year. Had those earmarks not been cut, the San Jose House delegation was likely to secure some additional funding for any of three more projects targeted for that bill.

#### FY 2005

Funding for San Jose project priorities totaled \$4,119,750 (\$1,619,750 to the City and \$2.5 million for BART). Specific City-led projects included:

- \$2.5 million for Silicon Valley Rapid Transit Corridor Project
- \$700,000 for the North San Pedro water and wastewater infrastructure improvements
- \$500,000 for the Almaden Express Pedestrian Overcrossing
- \$250,000 for the San Jose B.E.S.T At-Risk Youth and Anti-Gang Program
- \$97,000 for the Tully-Senter School Hub construction
- \$72,750 for the Maple Leaf Shopping District improvements

In addition, the City endorsed and promoted several Santa Clara Valley Water District projects that received a total of \$8 million.

#### FY 2006

The FY2006 appropriations process is not yet complete, with two bills still pending final consideration. The budget deficit and enormous financial cost of the Iraq war and rebuilding after the hurricanes is placing tremendous short-term and long-term constraints on federal budgeting. Overall, the trend was toward a very austere budget, with most domestic programs receiving notable cuts in funding levels. The number and size of earmarked projects have been reduced across all bills, in some cases by more than 50%.

Nevertheless, funding thus far for San Jose project priorities totals \$7.25 million (\$750,000 to the City and \$6.5 million for BART). Specific funded City-led projects included:

- \$6.5 million for Silicon Valley Rapid Transit Corridor Project
- \$400,000 for the Gang Prevention Task Force Anti-Violence Public Outreach Campaign
- \$200,000 for the Youth Science Institute facility improvements (RDA project)
- \$150,000 for the Blackford Williams Community Center (SNI project)

The City again endorsed and supported several Santa Clara Valley Water District projects that received a total of \$10.5 million.

In addition, the City supported successful efforts led by the Santa Clara County Housing Authority to secure a Moving-to-Work program designation "preference" for the City and County as a rider to FY2006 appropriations.

Earmarks were stripped from the Labor-HHS-Education conference bill, due to overall budget constraints and House conferees declining to declare as "emergency" the need to fund certain core programs. In contrast to FY2004, all projects were removed - Republican and Democrat, Senate and House. This conference bill failed to pass the House and is being reconsidered, but prospects still are not strong for earmarks to be incorporated in a revised version. Three of the City's highest-priority projects worth up to \$1 million were targeted for the bill, so some additional funding was likely without the general earmark elimination.

#### Transportation

Ranking among the highest priorities for San Jose, efforts to advance the City's transportation agenda yielded \$33.4 million for City-led highway project requests in the transportation

reauthorization bill, as well as various important policy outcomes for the BART extension, and \$11.25 million in annual appropriations over three years for the BART project.

More generally, we worked with VTA and other local stakeholders to develop and execute a mutual long-term strategy for advancing the BART extension project in Congress and with the Federal Transit Administration (FTA). The objective was to ensure the City's heightened lobbying efforts would serve as a compliment to the existing efforts of VTA. These activities included regular coordinated outreach to appropriations and authorizing committee Members and staff, leveraging the City's elected leadership, as well as local visits to San Jose by the Chairmen of those committees.

### 2003

For potential City earmarks in the highway and transit bill reauthorization, we advised and assisted agency staff in developing and submitting funding requests for three proposals (Silicon Valley ITS Center, Guadalupe River Clean-up, and the Coyote Creek Trail), which Congressman Honda and Congresswoman Lofgren ultimately advanced for inclusion in the reauthorization. We helped to identify viable projects, contributed to justifications, and advocated on priorities with the delegation. By the end of 2003, both chambers of Congress had introduced the shells of legislation for the bill, and the Senate Environment and Public Works Committee had marked up the largest parts of the Senate's version of the bill.

In order to expand support for the FY2004 BART extension appropriations request, we initiated and helped the Silicon Valley Manufacturing Group to organize a trip for Congressman Ernest Istook (R-OK), then Chairman of the House Appropriations Transportation and Treasury Subcommittee, which oversaw annual transportation funding. That visit contributed to the increase in FY2004 appropriations to \$2 million, despite "not recommended" status from the FTA.

### 2004

We continued activities in promoting the BART extension and individual City projects, although the highway and transit reauthorization bill advanced and then stalled in a contentious conference between the House and the Senate. The House version of the bill included \$17 million in funding for the City's three projects.

In order to expand support for the BART extension project and other City priorities in the transportation reauthorization and FY2005 appropriations bills, we initiated and helped the Silicon Valley Manufacturing Group to organize two Congressional leadership visits to San Jose, designed to more personally engage them and garner support --

- Senator Richard Shelby (R-AL), Chairman of the Senate Transportation Appropriations Subcommittee and Chairman of the Senate Banking Committee, the committees of jurisdiction over annual transportation funding and transit provisions of the transportation reauthorization.
- Congressman Don Young (R-AK), Chairman of the House Transportation and Infrastructure Committee that has oversight for the highway and transit provisions of the transportation reauthorization bill.

These visits contributed to success in increased FY2005 appropriations at \$2.5 million for BART, as well as a \$16 million increase in City-specific project funding from the final transportation reauthorization in the next year.

## 2005

After being reintroduced and renegotiated in the new Congress, the highway and transit reauthorization bill (SAFE TEA-LU) finally became law in August 2005. We worked with the City's Transportation Department to update and promote the City project requests, including two new projects that secured additional funding. Throughout these phases, we communicated regularly with congressional staff to reinforce City priorities.

For specific San Jose priorities, the bill included: (1) \$33.4 million in total funding for all of the transportation projects advanced by the City, (2) authorization for the Silicon Valley Rapid Transit Corridor project, including a symbolic \$11 million funding level for development, and (3) an important policy modification that will facilitate federal approval of the BART extension.

Beyond the formula allocations through states, the City advocated for and received specifically earmarked funding for five project requests --

I-880 / Stevens Creek Boulevard Interchange	\$12.6 million
Guadalupe River Trail	\$6.4 million
Silicon Valley Traffic Incident Management Center	\$6.4 million
U.S. Corridor 101 - Capitol Interchange to Tully Road Interchange	\$4.0 million
Coyote Creek Trail	\$4.0 million

With regard to the BART extension, we continued to work closely with VTA representatives and other local interests to seek supportive language for the Silicon Valley Rapid Transit Corridor project. The final bill included language authorizing the continued development of the BART extension, which effectively allows VTA to continue the process of developing the project for a Full Funding Grant Agreement (FFGA).

Very significantly, Congressman Honda and the House delegation, working with VTA, led a remarkably effective effort to successfully include language to grandfather the BART extension as one of just four transit projects nationwide that will have its FFGA application assessed on evaluation standards in place prior to a recent change by the Federal Transit Administration (FTA). That provision notably strengthens the potential that the project will receive federal funding approval.

In addition, we consulted with Senator Boxer's office about including the BART extension among some specific transit projects that Congress targeted for special emphasis in the bill by providing a "symbolic" earmark for their development. The final bill included an \$11 million funding level for the BART extension; unlike the other City highway projects, this earmark does not guarantee actual funding at that level, and the amount itself has no bearing on the total amount the project can ultimately seek through the FFGA process. Rather, the unfunded earmark is intended to convey the strong level of support the project enjoys with the Congressional delegation and aid in the annual appropriations process.

Finally, we worked with the Silicon Valley Leadership Group to organize a site visit to San Jose by Congressman Knollenberg (R-MI), the new Chairman of the House Appropriations Subcommittee on Transportation-Treasury-Housing and Urban Development. That bill is the target for the BART extension funding (as well as other City project requests). Chairman Knollenberg spent a day touring projects and meeting with business leaders, concluding in a dinner with the Mayor. The Chairman's direct experience in the City afforded favorable context on the value of project requests as final decisions were made on the FY2006 bill, including the \$6.5 million for the BART extension, a \$1.5 million increase over the initial Senate funding level.

### Washington, DC Visits

Over the past three years, we organized more than 50 Congressional and federal agency meetings, for the Mayor and Council Members to promote the City and advance its priorities.

The Mayor has visited Washington an average of three times each year to advance the City's federal funding and policy initiatives, particularly the BART extension, often in coordination with Silicon Valley Leadership Group President Carl Guardino. In addition, several Council Members have engaged in federal outreach on behalf of the City and in connection with municipal association activities.

#### 2003

We organized three trips for Mayor Gonzales to Washington to discuss the BART extension and the City's appropriations requests. More than two dozen meetings were arranged with member offices, including a meeting coordinated with Congressman Richard Pombo (R-CA) for Mayor Gonzales and Carl Guardino to talk House Majority Whip Roy Blunt (R-MO).

As part of the Mayor's Washington visits, we worked with the Silicon Valley Manufacturing Group to bring together the Washington representatives of major local companies, to discuss legislative strategy in support of the BART extension and pursue follow-up efforts. Congressman Honda and Congresswoman Lofgren both attended and participated in the strategy sessions, which included approximately fifteen lobbyists for Valley companies.

We also assisted officials from the City Manager's office and the City Council in their attendance at national association conferences and set up additional meetings in order to maximize their time in Washington. For example, when Vice Mayor Dando came to the National League of Cities' annual conference, we organized a series of meetings designed to (1) raise the profile of San Jose beyond the Bay Area delegation; (2) initiate a dialogue on homeland security funding policy concerns; and (3) advance other specific pending interests identified with City officials, such as early child development, stroke research and water infrastructure projects. Vice Mayor Dando's NLC role on homeland security issues resulted in some useful discussions at the start of that policy debate.

#### 2004

We organized three policy visits to Washington aimed at raising San Jose's profile and promoting individual funding priorities. Vice Mayor Dando and Councilmember Chavez represented Mayor Gonzales in February, and the Mayor returned personally in April and September.

During these visits, the Mayor met with key Department of Transportation and Federal Transit Authority officials, as well as the San Jose delegation and a range of other Members and staff involved with transportation and appropriations committees of jurisdiction. We also met with the California Governor's Office in Washington, DC, in order to expand and deepen collaboration on shared policy goals.

In addition, we facilitated meetings for the Mayor to explore federal agency funding opportunities with senior Administration officials. We met with the Director of the Office of Community Services in the U.S. Department of Health and Human Services about tapping a variety of discretionary and competitive grant sources, including a possible new demonstration project in San Jose tied to the Strong Neighborhoods Initiative. We also met with senior staff to the White House Drug Policy Advisor concerning possible funding to increase law enforcement drug interdiction efforts.

## 2005

We helped to organize three advocacy trips in 2005 – for the Mayor in March and May, one tied to a visit by the Silicon Valley Leadership Group delegation of corporate and government leaders; and for Councilmember Campos in September. We also planned for another Mayor trip in October, which ultimately was postponed given the status of Congressional and Administration activity.

Objectives for the visits included addressing issues related to the Silicon Valley BART Extension project; advancing the FY2006 appropriations agenda; exploring other federal agency and foundation funding opportunities; and promoting various policy positions related to economic development and business vitality in the region.

Over the course of these visits, the Mayor participated in approximately thirty congressional meetings with various House and Senate Committee leadership and staff, the San Jose delegation, and other members of the California delegation. We also met again with the Director and staff of the California Governor's Office regarding assistance in advocating for the BART extension.

Additionally, we arranged meetings with senior Administration officials to review local connections to special initiatives, identify potential new sources of funding for local activities, and raise the City's profile. We organized a discussion with the SBA Administrator regarding City participation in small business development promotion efforts. We also secured a meeting with the First Lady's Special Projects Director related to a nascent youth development initiative, highlighting some of the City's anti-gang and early education programs.

In the non-governmental sector, we facilitated an introductory meeting with three senior representatives of the Annie E. Casey Foundation to discuss the Mayor's likely agenda as chair of the NLC Youth, Education, and Families Council, as well as ideas and opportunities related to education and self-sufficiency projects. We also participated in meetings between the Mayor and the Public Education Network to help identify future connections.

We subsequently arranged for meeting between Councilmember Campos and members of the delegation to reinforce the City's funding requests. We also set up meetings with an official from

the Department of Education to discuss future funding opportunities and with a scholar at the New America Foundation to discuss replication of the City's Strong Neighborhoods Initiative.

### Homeland Security Funding and Policy

We worked extensively on securing directed homeland security funding and related policy issues to assure increased resources to San Jose, helping to deliver a total of \$16.5 million to the City as an Urban Area Security Initiative (UASI) designee, providing greater flexibility in the use and administration of those funds, and protecting the funding source from disadvantageous legislative modifications.

To achieve those goals, we both advocated independently for San Jose to be part of an expanded UASI program when it was not initially included, and we partnered to initiate and coordinate a coalition of large, high-risk cities that are similarly situated to San Jose.

2003

After analyzing the homeland security funding opportunities in the FY 2003 appropriations bill and grant authorization bills, we began an effort to obtain direct funding for San Jose, and coordinate with large municipalities both nationwide and within California in order to increase a funding agenda that would jointly benefit the City.

San Jose was not one of the 30 cities that received FY2002 funding from the UASI program. We subsequently communicated with the Department of Homeland Security on substantive policy concerns regarding the distribution criteria and expanding next set of designations to include the City. We also organized a meeting for the Mayor with Congressman Harold Rogers (R-KY), Chairman of the House Homeland Security Appropriations Committee, and advocated with him to assure that the future UASI federal distribution model would adequately account for San Jose risk characteristics. In November 2003, the Department of Homeland Security announced a new round of FY2004 grants totaling \$675 million for the Urban Area Security Initiative, of which \$9,982,442 was allocated to San Jose.

More generally, we helped to initiate a coalition of large and high-risk municipalities to enhance leverage and capacity in developing and advocating homeland security funding issues of mutual concern. The initial issues we focused on included: (1) reimbursements for incremental expenses incurred in responding to heightened threat levels, and allowing overtime costs as an eligible expense; (2) creating a new basis for distributions to address disproportionately low funding levels to the States and localities responsible for the largest and high-risk populations; and (3) laying the groundwork for more direct funding to localities.

During passage of the emergency supplemental appropriations and the Senate Homeland Security Bill (S. 1245 in the 107<sup>th</sup> Congress), we engaged in defining and advancing this policy agenda, working through the California delegation and others. To advance our objectives, with our coalition partners, we prepared background papers, policy papers, and draft report language. We contacted and met with key members of the House and Senate Leadership, Appropriations Committees, new Homeland Security Committee, and Rules Committee to seek support for these positions. We also initiated contacts with DHS programmatic and policy offices, such as the Office of Domestic Preparedness, to discuss the City's participation in new grant programs and to gather information

about selection criteria for other funding opportunities, as well as discuss concerns about current funding mechanisms.

In the emergency supplemental appropriations, our efforts resulted in the bill: (1) providing for some overtime cost reimbursements and directing the Department of Homeland Security (DHS) to prepare recommendations for more expansive overtime support in future State block grants; (2) requiring DHS to assess and recommend a new risk-based distribution formula for State block grant funding, including the possibility of direct funding for localities; (3) increasing the level of required State passthrough to localities in the new critical infrastructure program; and (4) preventing inclusion of a statutory per capita requirements for distribution of the remainder of State block grants after the 0.75% formula baseline is applied, which would lock in disproportionately low funding to big States and big cities.

The Senate homeland security authorizing bill also evidenced our work on behalf of the City with such results as: (1) more guidance to States that internal funding allocations need to follow threat; (2) a prominent and defined role for local government officials to participate in State planning and funding approval processes; (3) expanded high-threat area opportunities; (4) mandated 80% pass-through to localities; (5) waiver authority for local match requirements; (6) allowances for overtime expense reimbursements; and (7) waiver authority for caps on overtime expenditure amounts. For those items on which we did not succeed, we either secured statements in the record from supporters or laid the groundwork for future action on the Senate floor and in the House.

#### 2004

Once San Jose secured UASI funding status, we continued to advocate aggressively for the City's homeland security funding agenda in several areas, performing a facilitating role in the coalition of the large, high-risk municipalities that we helped to initiate last year, and working with the Governor's representative. Objectives included: (1) increasing FY2005 appropriations for the UASI program and maximizing funding flexibility; (2) preserving other key first response/homeland security grant funding from which the City derived notable assistance, including Emergency Performance Management Grants (EPMG) and Metropolitan Medical Response System (MMRS) grants; and (3) negotiating for favorable treatment under pending House and Senate legislation that creates statutory authority for future appropriations and modifies current funding mechanisms.

For FY2005 appropriations, we engaged with relevant appropriations staff and the delegation regarding outstanding homeland security demands, problems experienced in targeting funds according to risk and need, and the overall case for additional, directed funding. We also drafted and secured signatories on detailed multi-city Mayoral letters to appropriators that outlined our issues. We pursued several amendments to increase funds to Urban Area Security Initiative designees, and assuring that State Formula Grant distributions are targeted based more on risk, receiving support from the City's full House and Senate delegation.

As a result, the final FY2005 Homeland Security appropriation increased UASI funding by \$160 million, eliminating a proposed 10% cap on overtime expenditures, newly allowing use of funds for target hardening purposes, and waiving aspects of federal law to permit funds to be drawn in advance of expenditure. It held prior funding for EPMG and preserved MMRS grants.

We also continued to engage our coalition partners in extensive negotiations with relevant House and Senate committees as they moved pending proposals toward inclusion in the September 11th Intelligence Reform bills. We secured fundamental changes in strengthening the position of high-risk urban areas; expanding the use of funds for overtime and some construction purposes; and lowering or eliminating non-federal match requirements.

In conference we sought further modifications and clarifications in several areas that would benefit San Jose and similarly situated cities. We briefed the California delegation conferees, prepared policy analysis papers, and conducted media outreach. Some of the specific policy changes sought included: maximizing the amount of funding distributed based upon threat criteria, which would benefit both San Jose and California; grandfathering existing UASI designees, and their plans and decision-making structures, as eligible recipients under any new grant system; creating procedural safeguards to hold the State plans accountable to major urban areas by requiring incorporation of existing UASI efforts and establishing new review and comment systems; eliminating a non-federal match requirement; and narrowing supplantation limits and permitting federal funds to be used in place of local funding for expenditures that serve a dual purpose of terrorism preparedness and traditional law enforcement.

We also contributed advice to staff of a DHS task force of state and local officials on progress in changing current systems to improve local access and utilization of homeland security grant funding.

#### 2005

We continued advocacy on the long-standing funding and legislative issues, primarily focused on UASI and other smaller federal funding streams through which the City underwrites core activities, as well as proposed changes to first responder grants.

The UASI program remained under threat of pending legislation for major modifications that could reduce and dilute the resources available to San Jose and the other large, high-threat municipalities. Partnering with representatives from the California Governor's DC office and San Francisco, we developed and organized a series of briefings for lead officials of the California UASI designees to discuss the importance of continued UASI funding and preservation of the current program structures. These meetings included discussions with senior staff to the White House Homeland Security Council, House and Senate Homeland Security Committees, House and Senate Appropriations Committees, Department of Homeland Security, and key members of the California House and Senate congressional delegation.

We also maintained our annual dealings with House and Senate Appropriations Committee staff about incorporating priority funding and policy elements into the FY2006 appropriations bill, including funding levels for UASI, MMRS, and EPMG programs; risk-based allocations for State first responder grants; flexibility to undertake construction, overtime, and maintenance activities; and waiver of limits on advance funding drawdowns.

Nearly all of the City's identified priorities were incorporated in the final FY2006 appropriations bill. Despite criticizing the overall \$6.6 billion in unspent prior appropriations and generally cutting first responder grants, the conference agreement preserved UASI funding (the largest source for the City) at \$765 million, only a 10% reduction from FY2005, compared against a 50% cut in State Homeland Security Grants. Key policy provisions sought by the City also were included, such as removing a

mandatory 10% set-aside for EMS activities, preserving the UASI allowance for limited construction projects, avoiding caps on operational costs, and permanent continuation of the waiver that allows advance drawdown of UASI federal funds. Furthermore, the distribution of State grants was changed to reflect risk factors after the minimum base distribution, which should provide additional funding to California for passthrough to the City. Other notable funding achievements sought by the City included preservation of level funding for MMRS grants and a \$5 million increase to the EPMG program.

In addition, we continued working on advancing legislative changes to changing first responder grant programs that protect the UASI funding source and provide for greater risk-based distributions. Most of those issues were carried over from 2004 efforts, and we sustained advocacy with relevant House and Senate committees, preparing policy proposals, drafting legislation and amendments, and crafting joint-city letters to appropriators and authorizers advocating for certain positions.

Specifically, we assisted in securing additional Senate co-sponsors and support for amendments to appropriations bills related to changes in federal funding distributions and keeping the current UASI program intact. After that effort failed on the Senate floor, we successfully advocated remove harmful legislative provisions that were attached to the appropriations bill and the Patriot Act reauthorization. We continue to engage in negotiations with relevant House and Senate Homeland Security Committee staff on a compromise structure for a modified regional grant program that preserves the most advantageous aspects of the UASI system.

### **Telecommunications / Tax Legislation**

Throughout the past three years, we worked on a variety of telecommunications issues with impacts on the City's revenue and regulatory authority.

In 2003 and 2004, we worked with the City Manager's office to address San Jose's concerns about legislation that would extend the moratorium on state and local government taxation of the Internet. The proposal included a provision to prohibit local governments from continuing to collect telecommunications taxes when traditional telecommunications services are bundled with Internet service that would otherwise not be subject to local taxation. This provision threatened the current ability of California municipal governments to tax telephone services under Voice Over Internet Protocol (VOIP), contrary to a compromise position previously reached in the Senate, seriously undermining the City's Utility User Tax (UUT) revenue base. We developed policy positions and consulted with the Senate delegation on various proposals to avoid the negative impacts the bill would have on the City's tax revenue. After several attempts at developing a compromise, the Senate passed a two-year extension on the moratorium, successfully averting the problem.

In 2005, we worked to analyze and begin advancing the San Jose positions on anticipated changes to the Telecommunications Act of 1996, working in tandem with other California cities and the California League of Cities. Concerns include pre-emption of the Utility User Tax; franchise fees and agreements; right-of-way fees; public, educational, and governmental broadcast requirements; and the option of providing municipal broadband. We began gathering data from the City on likely budgetary impacts that various policy proposals would have, which will help to guide positions to be advanced in protecting local priorities. We held preliminary discussions with committee staff, as well as delegation staff and other California city interests about identifying specific issues of shared

priority and coordinating advocacy efforts. We also engaged with the National League of Cities, the United States Conference of Mayors, and the National Association of Telecommunications Officers and Advisors in their negotiations with industry groups.

### **Housing and Community Development**

In consultation with the City's Housing Department and the Housing Authority of the County of Santa Clara, we advanced opposition in 2003 and 2004 to policy changes to the Section 8 Housing Choice Voucher Program that have a negative fiscal impact on San Jose. The combined efforts by the coalition of large, high-cost localities that we helped to organize, the California Governor's DC representative, and numerous housing groups, achieved incremental reversals and improvements to policies that ultimately covered most immediate funding shortfalls.

We continued to work with the high-cost locality coalition and broader housing advocate community to assure that congressional interests remain engaged until further policy modifications are achieved, including provision of sufficient Section 8 funding and more reasonable implementation of potential reforms in the FY2005 and FY2006 appropriations processes. Immediate objectives included requiring the program to more accurately assess Fair Market Rents and incorporate additional local-specific data into its funding formula, and replenish housing agency reserves in a timely manner.

We also advised and assisted the City regarding status, implications, and recommended actions on other housing and community development legislative and funding issues, such as authorization of the Samaritan Initiative for comprehensive homeless services and proposed modifications to Community Reinvestment Act regulations.

During FY2006 appropriations consideration, we worked on behalf of the City with other municipal interests to successfully preserve the Community Development Block Grant (CDBG) program, albeit with a 7% funding reduction. The Administration had sought to eliminate CDBG through consolidation with 17 other grant programs with narrowed allocation criteria, reducing consolidated funding by 50%, and shifting responsibility to the U.S. Department of Commerce. In addition, we focused with a few similarly situated municipalities on preventing elimination of the Section 108 Loan Guarantee program, which the City uses to a greater extent than many other localities. We also positioned for dealing with potential formula changes to CDBG allocations.

Per the City's request, we monitored the new legislation proposing changes to the structure and requirements of the Government Sponsored Enterprises, Fannie Mae and Freddie Mac, the largest buyers of secondary mortgages particularly for low-income homebuyers, advocating on the City's behalf for two positions related to affordable housing.

In a successful effort led by the Santa Clara County Housing Authority, we also supported a Moving-to-Work program designation "preference" for the City and County as a rider to FY2006 appropriations legislation.

### **Eminent Domain**

In 2005, we began to monitor and assist the City on response to potential federal legislation restricting use of eminent domain powers for economic development initiatives, addressing

Congressional dissatisfaction with the recent U.S. Supreme Court ruling in *Kelo v City of New London*. The House and Senate introduced numerous pieces of legislation limiting local governments' use of eminent domain. We helped to frame and present the case to the delegation on the importance of allowing prudent exercise of eminent domain authority for economic development purposes, consistent with current California law. With the primary support and most immediate consideration tied to a provision in FY2006 Senate appropriations text, we focused on negotiated language that left California standards intact. The final result was somewhat more limiting than optimal, but applies federal limits narrowly, leaves sufficient flexibility for further federal administrative interpretations of eligible exercise based on California criteria, and does not restrict projects in which federal funds are not involved.

### Municipal Health Service Program Extension

We successfully worked with a four-city coalition to secure an extension of the Medicare waiver for San Jose that allows continuation of the Municipal Health Service Program demonstration from 2004 through 2006. The waiver allows for an expanded array of outpatient clinic services not normally covered, including prescription drugs, dentistry and dentures, podiatry, optometry, and mental health services. We assisted lead sponsors in the Senate and House through delegation and committee staff contacts, providing policy justifications and identifying legislative mechanisms.

### Federal Agency Facilitation

We assisted the Redevelopment Agency in expediting U.S. Department of Housing and Urban Development headquarters approval of pending Section 108 loan guarantee applications in time to execute a local contract. We continue to facilitate a resolution to a requested housing conversion.

We also explored contacts with program offices in the U.S. Department of Health and Human Services and U.S. Department of Education regarding the status and potential for early childhood development funding.

### Other Projects (representative sample)

- **Environmental and Water Resources:** We monitored and advised on various water issues, such as wastewater blending policies. Specifically responding to proposed Title 16 program cuts by the Bureau of Reclamation in 2003, we began to work with the Santa Clara Valley Water District on FY2003 funding to the South Bay Water Recycling Project; those proposals included a disproportionately large reduction to the South Bay project, which was substantially resolved in subsequent appropriations.
- **Aviation Security:** When the airport experienced security staffing level problems, we worked closely with the airport's leadership team and the congressional delegation to temporarily increase staff and thereby reduce customer service times.
- **Youth Violence/Anti-Gang Initiatives:** After identifying an interest in the Senate Judiciary Committee to promote new initiatives to reduce youth violence and gang activity, we started dialogue with staff to include San Jose in a potential hearing and subsequent policy and funding discussions. We worked with the City to compile and transmit information about successful local efforts and identify potential hearing witnesses.

- **Mount Umunhum:** We coordinated with the Army Corps of Engineers and staff to Congressman Honda and Congressman Lewis (R-CA) office regarding the follow-up procedure to ensure FUDS funding is directed to the Mount Umunhum cleanup, pursuant to FY2003 appropriations language.

### Administration Budget Analysis

Each year the appropriations process begins in early February with the release of the President's Budget proposal. On the City's behalf, we participated in White House and agency briefings for local and state representatives, and we provided the City with a comprehensive analysis of the proposed budget's impact on priority interests for municipal governments.

### Federal Grant Opportunity Tracking

On a regular and on-going basis we provide the City with notices of federal and other funding opportunities for a variety of programs for which it is eligible, highlighting particularly relevant notices, especially in law enforcement, homeland security, water resources and airports. We also meet with agency program offices to proactively identify interests and future funding, and we answer City questions regarding these grant program opportunities. In some cases, we help to draft and secure congressional letters of support for submissions.

### National Association Coordination and Support

In addition to narrower city coalition efforts, we monitored and participated on behalf of the City in selected U.S. Conference of Mayors (USCM) and National League of Cities (NLC) policy activities of high priority to San Jose and with clear local impact.

We also provided some support to the Mayor and Councilmembers in participation at related conferences and events. For example, we drafted and submitted USCM resolutions for the Mayor's sponsorship, including one on homelessness, and commented on other proposed resolutions for any co-sponsorship or potential concerns. In 2005, we arranged for the Mayor to speak at the USCM an annual conference on a panel about innovative programs to strengthen working families.