



Memorandum

TO: HONORABLE MAYOR AND
CITY COUNCIL

FROM: Betsy Shotwell

SUBJECT: SEE BELOW

DATE: November 17, 2008

Approved

Christine J. Shuppig

Date

11/20/08

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

RECOMMENDATION

Adoption of a resolution authorizing the City Manager to negotiate and execute an agreement with Patton Boggs LLP, for legislative representation services in Washington, D.C. for the period January 1, 2009 through June 30, 2009, with annual options to renew the agreement for four successive one year terms commencing July 1, 2009, through June 30, 2013, for a total amount not to exceed \$633,000 for the initial term and any optional renewals. The contract amounts for this term are as follows: FY 2008-09: January 1, 2009 – June 30, 2009 for \$69,000; FY 2009-10: July 1, 2009 – June 30, 2010 for \$138,000; FY 2010-11: July 1, 2010 – June 30, 2011 for \$ 138,000; FY 2011-12: July 1, 2011 – June 30, 2012 for \$144,000; FY 2012-13: July 1, 2012 – June 30, 2013 for \$144,000.

OUTCOME

With Council direction, Patton Boggs will continue to serve the City until June 30, 2009, with options to renew for four successive terms commencing July 1, 2009, through June 30, 2013.

BACKGROUND

The City of San José is often recognized as a leader in municipal services and for its quality of life. This reputation is a direct outgrowth of the 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 José with lobbying services and legislative and grant information and has represented the City with Congressional offices and federal agencies through which the City pursues federal funding and legislative outcomes.

On June 26, 2007, the City Council approved extending Patton Boggs' contract to December 31, 2008, with a 12-month retainer of \$127,500. With the passage of over six years since the last Request for Qualifications (RFQ), the Council authorized the City Manager's Office to release a RFQ for legislative representation services in Washington, D.C. for services commencing January 1, 2009 through June 30, 2013.

ANALYSIS

The RFQ for federal legislative services was released on August 6, 2008, and was posted on RFP Depot, the City's Bidline, *Roll Call- the Newspaper of Capitol Hill*, in the National League of Cities *Nation's Cities Weekly* and was highlighted in an August 15 Information Memorandum to the City Council. The deadline for submittals was Friday, August 29, 2008. Following review of the two proposals submitted to the City, the two firms were invited for interviews after Congress recessed: Patton Boggs LLP and Van Scoyoc Associates.

The oral interview panel was composed of representatives from the City Manager's Office, the Redevelopment Agency, the Mayor's Office, the Airport, and the Environmental Services and Transportation Departments. The panel used the following criteria to evaluate the applicants during the oral interview process:

- **Agency Experience:** Familiarity with Federal/City issues that would be of significance to the City of San José, including relationships with California Congressional representatives, key Congressional committee leaders and with Senators McCain/Obama and their policy advisors.
- **Expertise and Qualifications:** Qualifications, capacity and experience of the team assigned to San José.
- **Federal Funding Experience:** Firm's experience and record in seeking and obtaining federal appropriations and grants for clients.
- **Communications:** Firm's resources and tools for communicating with client on routine and urgent issues, assistance with testifying before Congress and with national and trade publications, and overall approach to scope of services.

Based on the above criteria, and the criteria utilized in the Evaluation Worksheets which included proposal responsiveness, experience of proposer, customer satisfaction/firm reputation and fee structure, Patton Boggs was chosen as the number one choice. Following is a discussion on how Patton Boggs met the above criteria:

Agency Experience – Widely recognized as one of the nation's preeminent lobbying and law firms, Patton Boggs has substantial expertise in its public policy representation of local and municipal governments. In addition to representing the City of San José, the firm represents more than two dozen cities, counties and local and regional authorities of various sizes on a diverse range of issues and projects, with an impressive record of successes in securing Federal funding for critical local projects. Their success stems from substantive expertise in the full range of policy areas affecting localities, coupled with strategic political skills and broad bi-partisan contacts in Congress and the Executive Branch. The firm's impressive list of clients and

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staff has resulted in the firm's success in addressing the City's issues and excellent representation in Washington, D.C. As an example, Patton Boggs currently serves the following large cities and counties with populations over 300,000: Dallas/Ft Worth Airport; Los Angeles; Jacksonville, Florida; King County (Seattle), Port of Oakland, California; Charlotte, North Carolina (including Mecklenburg County); Denver; Baltimore; Houston; Minneapolis; San Diego; and Washington, D.C.

With change in the Executive Office imminent, the firm will schedule meetings and assist in preparation and follow-up with Members of Congress, Congressional staff, Administration officials and Executive agency representation. In addition to the ongoing assistance with the City's communications to Congress and the Executive Branch, Patton Boggs will continue to seek additional opportunities for the Mayor and other San José leadership to interact with Congressional and the Administration representatives to promote the City's Federal agenda. As done in the past, the firm will develop a comprehensive itinerary for City officials traveling to Washington, D.C., and provide a recommended agenda, background information, transportation, and meeting space for participants.

Expertise and Qualifications – Patton Boggs' professionals have represented the City since 2003 and have helped the City achieve many of its policy objectives. The Patton Boggs team approach has assured the involvement of lobbyists with the most appropriate skills and governmental contacts for any particular effort. While Patton Boggs has provided a core team assigned to the City of San Jose, the firm also has a large number of staff resources that can be directed to the City's interest to respond to particular issues or specific issues. Complete biographies for the Patton Boggs' team members serving San José can be made available upon request.

Federal Funding Experience -- Over the past five years, Patton Boggs has helped secure more than \$45 million in directed federal funding to the City with an additional \$10.6 million pending this year. The firm has also supported the City's partner efforts to finance millions of dollars in projects of importance to San Jose, particularly the Santa Clara Valley Water District flood control agenda. In the annual appropriations process, the firm worked with the City to develop and advance a diverse range of project requests. Funded projects included transportation improvements, anti-gang programs, law enforcement technology, social services, childcare quality enhancement, workforce training, community facilities, and water infrastructure.

In addition, Patton Boggs led efforts on several initiatives to provide more resources to the City or enable better program implementation, such as the San José Airport explosive detection system funding, Urban Area Security Initiative (UASI) qualification, foreclosure response legislation and implementation, and renewable and alternative energy priorities. A complete summary of the firm's advocacy on behalf of the City is attached.

Communication – Marek Gootman will continue as the lead partner in overseeing the firm's contract with the City of San José with Marek and Pamela Welsh serving as the principal contacts for daily management of the contract. Daily contact with City staff by phone and e-mail to field inquiries discuss strategies for action will continue as well as the more formal contact with two to three visits to San José annually to meet with City officials and present at the Rules and Open Government Committee. The firm will provide the Intergovernmental Relations staff with monthly updates on the status of Federal issues and the firm's activities on behalf of the

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City; present an annual year-end report to the Mayor and City Council on outcomes achieved; analyze and provide analysis on the President’s Budget proposal, assessing impacts on local government priorities; and provide timely information and advice on Federal funding opportunities.

Lastly, with the fee increase, Patton Boggs has indicated that additional staff will be made available to expand capacity and add depth as advocates on behalf of the City in Washington, D. C.

Contract Terms. As structured, the total amount of compensation that may be paid under the Agreement for the initial six months and four optional renewals will not exceed \$633,000. The City Manager may exercise the annual renewal options on behalf of the City. Compensation for the initial six months and each renewal period is as follows:

FY	Term	Amount
08-09	Jan.1 2009-June 30, 2009	\$69,000
09-10	July 1, 2009-June 30, 2010	\$138,000
10-11	July 1, 2010-June 30, 2011	\$138,000
11-12	July 1, 2011- June 30, 2012	\$144,000
12-13	July 1, 2012- June 30, 2013	\$144,000

Lastly, after evaluation of the two written proposals by the selection panel representatives, the following table lists the final tabulation of the written proposals:

Evaluation Category	Max Points	Patton Boggs LLP	Van Scoyoc Assoc.
Proposer Responsiveness	Pass/Fail	PASS	PASS
Experience of Proposer	65	50.6	43
Customer Satisfaction/Firm Reputation	15	12.1	11.7
Fee Structure (Cost)	10	10	10
Local Business Enterprise	5	0	0
Small Business Enterprise	5	0	0
Total	100	72.70	64.70

EVALUATION AND FOLLOW-UP

No additional follow up actions with the Council regarding the contract are expected at this time.

PUBLIC OUTREACH

- Criterion 1:** Requires Council action on the use of public funds equal to \$1 million or greater. (Required: Website Posting)
- Criterion 2:** Adoption of a new or revised policy that may have implications for public health, safety, quality of life, or financial/economic vitality of the City. (Required: E-mail and Website Posting)
- Criterion 3:** Consideration of proposed changes to service delivery, programs, staffing that may have impacts to community services and have been identified by staff, Council or a Community group that requires special outreach. (Required: E-mail, Website Posting, Community Meetings, Notice in appropriate newspapers)

While this memorandum doesn't meet the \$1 million threshold under Criterion 1, this memorandum will be posted on the City's website for the December 9, 2008 City Council meeting where the Council and the public will have the opportunity to comment.

COORDINATION

This memorandum was coordinated with the City Attorney's Office, City Manager's Budget Office, and the Federal lobbyist firm of Patton Boggs, LLP, in Washington, D.C.

BUDGET REFERENCE

The table below identifies the funds and appropriations proposed to fund the agreement recommended as part of this memorandum.

Fund #	Appn #	Appn Name	Total Appn	Amount for Agreement	2008-2009 Adopted Operating Budget Page	Last Budget Action (Date, Ord. No.)
001	0112	Non-Personal/Equipment City Manager's Office	\$1,097,115	\$11,000	N/A	N/A

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443	0112	Non-Personal/Equipment City Manager's Office	\$18,375	\$18,000	N/A	N/A
513	0112	Non-Personal/Equipment City Manager's Office	\$18,375	\$18,000	N/A	N/A
523	0112	Non-Personal/Equipment City Manager's Office	\$24,500	\$16,000	N/A	N/A
541	0112	Non-Personal/Equipment City Manager's Office	\$6,125	\$6,000	N/A	N/A
Total Current Funding Available			\$1,164,490	\$69,000		

CEQA

Not a project.



BETSY SHOTWELL

Director, Intergovernmental Relations

Contact: For more information, contact Betsy Shotwell, Director of Intergovernmental Relations at 408-535-8270

Attachment

MEMORANDUM

To: City of San Jose
From: Patton Boggs LLP
Date: November 10, 2008
Subject: Five-Year Summary of Federal Relations Activities and Results

Executive Summary

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

Over the past five 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 and Direct Funding – managed efforts that secured more than \$45 million in directed federal funding to the City, with an additional \$10.6 million pending in FY2009 appropriations bills. Funded projects included transportation improvements, anti-gang programs, law enforcement technology, social services, childcare quality enhancement, workforce training, community facilities, and water infrastructure. We also supported City partner efforts to finance millions of dollars in projects of importance to San Jose, particularly the Santa Clara Valley Water District flood control agenda.
- Transportation Reauthorization – secured funding for 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 – resolved designation and distribution criteria, and a wide range of administrative issues, resulting in the inclusion of San Jose / Bay Area on the Urban Area Security Initiative (UASI) program funding list since FY2004, with directed funding initially to the City and then to the Bay Area totaling more than \$100 million.
- San Jose International Airport – advocated successfully for increased federal security staffing levels, and to facilitate funding of in-line Explosive Detection System (EDS) construction, with in an initial federal funding contribution of about \$18 million.
- BART Extension – secured 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 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).
- Housing Foreclosure Response – advocated for inclusion of \$4 billion in direct federal assistance as part of the Housing and Economic Recovery Act (P.L. 110-289), then led advocacy on implementation by the U.S. Department of Housing and Urban Development. These efforts focused on maximizing formula funding, ensuring direct funding to large localities, maximizing flexibility in eligible uses of funds, and addressing various operational and administrative concerns. We engaged in discussions with senior Administration officials, Congressional committee staff, pertinent associations, and organized and advanced a shared policy agenda by leveraging a coalition of similarly situated large localities to promote these positions -- most of which were incorporated into the final program. These efforts resulted in the City being directly awarded \$5.6 million in federal Neighborhood Stabilization Program funds.
- Internet Tax Moratorium – protected the Utility User Tax (UUT) revenue base through joint efforts with other local governments to avert imposition of a permanent moratorium in favor of a short-term extension, and specifically assure protections for collection of Utility User Tax revenue on most traditional telecommunications services bundled with Internet service.
- City Profile and Funding Results – promoted 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. This outreach resulted in specific outcomes, such as subsequent recommendation by the delegation to NASA Ames to pursue an “urban greening” energy-related partnership project, highlighting of San Jose economic impact factors during Senate debate on climate change legislation, pending consideration of a clean power microgrid project, and increased agency responsiveness to particular funding concerns.
- Green Vision - assisted in delegation and federal agency outreach to promote the City’s “Green Vision” and advised the City on advocacy efforts to extend expiring renewable energy tax incentives critical to both Green Vision objectives and local economic development.
- Federal Courthouse – facilitated a dialogue with the General Services Administration (GSA) headquarters staff and San Jose Congressional delegation on assuring that federal agency responsibilities are addressed to avoid impediments that might delay moving forward, and so that future funding can be pursued when appropriate.

- Municipal Health Service Program – worked with a four-city coalition to secure an extension of the Medicare waiver for San Jose that allowed continuation of the Municipal Health Service Program demonstration from 2004 through 2006, enabling an orderly transition to conclude the program.
- Reservist Pay Reviews – coordinated with City staff and Department of Defense personnel to secure authority and create a system that enabled release for expedited and accurate review of reservist pay to enable the City to determine supplemental wages.

Appropriations

A primary function in the appropriations process is to help the City execute an effective approach to identify, seek, and secure several million dollars in project-specific federal “earmarks” for a wide range of activities. For the most part, this involves City-led and executed functions, but also garnering funds in partnership with other entities that deliver direct and measurable benefits for City priorities, such as transit, water, or educational projects.

Each year, we worked with the City Manager’s office to identify and advance a diverse set of project requests for different Congressional offices across multiple appropriations bills. Our efforts included, but were not limited to, meeting with agency leads, preparing background papers and justifications, conducting staff briefings, completing supplemental forms and letters, facilitating delegation and committee meetings and Congressional leadership visits to the City, and otherwise advocating for the identified projects. This approach has resulted in successful outcomes over the past five years –

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:

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

Labor-HHS-Education earmarks submitted by Democratic House members were stripped from the final Omnibus Appropriations bill 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:

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

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

FY 2006

The budget deficit and enormous financial cost of the Iraq war and rebuilding after the hurricanes are 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 totaled \$7.25 million (\$750,000 to the City and \$6.5 million for BART). Specific funded City-led projects included:

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

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. In contrast to FY2004, all projects were removed – Republican and Democrat, Senate and House. 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.

FY 2007

Congress again did not finalize appropriations bills and instead passed a long-term Continuing Resolution which level-funded the majority of the federal government and eliminated all earmarks.

Nevertheless, work with City staff and the congressional delegation to develop and justify San Jose projects throughout the year produced very favorable results in House and Senate bills. Although appropriations bills generally included fewer projects and lower funding levels, with earmarks reduced by up to 70%, efforts on City-led projects for San Jose yielded more than \$1.45 million in the bills prior to the removal of earmarks, plus \$2 million through identification and reprogramming of existing unspent federal funds –

- San Jose International Airport runway guardlights - \$400,000
- Homeless Job Training Initiative - \$300,000
- “Smart Start” partnership with National Hispanic University for early childhood development training and certification programs - \$350,000
- Blossom Hill / Monterey Pedestrian Overcrossing - \$200,000
- Services for New Americans program, providing outreach and coordinated assistance to immigrant communities - \$200,000
- San Jose BEST At-Risk Youth Program - “soft earmark” (no specified funding level).

FY 2008

The process to secure Congressionally-directed project funding has become increasingly challenging in FY2008, with pressure against the practice of “earmarking” notably impacting funding. Congress committed to cutting earmarks and adopted new disclosure rules which mandated that sponsors be identified, imposed eligible use restrictions, and eliminated subgrant allowances. In FY2008, the number and funding amount of earmarks were again reduced dramatically from prior years.

Despite the highly competitive environment, San Jose project priorities totaled about \$3 million. Specific City-led projects included:

- Blossom Hill / Monterey Highway Pedestrian Overcrossing - \$490,000
- San Jose B.E.S.T. Gang Intervention Program expansion - \$493,000
- Homeless Job Training Initiative - \$315,000
- San Jose “Smart Start” partnership with National Hispanic University - \$277,000
- EHC Sobrato House - \$196,000
- Services to New Americans program - \$191,600
- Early Start / Great Start early childhood education program - \$191,600
- San Jose Area Water Reclamation and Reuse Program - \$984,00

FY 2009

The political debate over the earmarking practice continued from FY2008. Additional reforms were considered, including a one-year moratorium on all earmarking, and further limitations were imposed such as restricting eligible uses, eliminating subgrants, and requiring more disclosures. Nevertheless, the number of earmark requests submitted continued to increase, while the number of projects included in the draft FY2009 bills did not.

Despite these constraints, funding for City-led projects pending in the available draft bills increased to more than \$10.6 million, mainly attributable to an increase in water infrastructure funding where larger amounts are possible than for program / service-based projects. In addition, that does not

include notable City requests pending in major bills that have not moved in committee, particularly for transportation programs, or Army Corps projects led by the Santa Clara Valley Water District and supported by the City.

Unfortunately, the appropriations process stalled over the summer and a Continuing Resolution (CR) was passed to keep the government operating through March 6, 2009. Although the CR did include the three military-related appropriations bills – Defense, Homeland Security, and Military Construction-Veterans Affairs, domestic agency appropriations bills remain in flux until the new Administration and Congress take office. It remains unclear whether these will pass in an omnibus package or a year-long Continuing Resolution (which may or may not include earmarks).

Recognizing these caveats, the projects secured for the City thus far include –

- Homeless Post-Hospitalization Medical Respite Care - \$500,000 (Senate), \$350,000 (House)
- Law Enforcement technology records management and field reporting systems - \$695,000
- B.E.S.T. Gang Intervention Program intensification - \$250,000
- SVWIB Silicon Valley Small Business Portal - \$250,000
- Japantown Sewer Rehabilitation - \$500,000
- San Jose Water Reclamation Project - \$8,000,000 (*up from \$250,000 in President's Budget*)

Other pending requests address needs related to a one-stop homeless center facility, highway improvements, rail grade separations, and library services.

Note: These amounts are very tentative; funding levels almost certainly will change in negotiation over the final version of the bills, typically adjusted down and sometimes stripped entirely.

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 Reps. Honda and 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 shells of legislation, and the Senate Environment and Public Works Committee had marked up the largest parts of the Senate's version.

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 (SAFETEA-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.

2006

We identified and helped the City to secure \$2 million for the Blossom Hill / Monterey Pedestrian Overcrossing project outside of the regular FY2007 appropriations through Congress reprogramming of funds previously appropriated to projects outside the San Jose area. This funding was guaranteed and not subject to any further Congressional action. A bureaucratic problem

delayed access to the funds, and we worked with the U.S. Department of Transportation and relevant congressional committee staff to secure their release.

2007

Pending the need for future intensive advocacy after local approval of funding measures that could sustain BART extension operation and completion of VTA work with FTA on technical issues, we assisted the City in maintaining contact with FTA and Congressional leaders to emphasize continued commitment to the project – including introductory meetings for the new Mayor with various senior officials – and monitoring progress.

2008

In anticipation of the upcoming transportation reauthorization, we currently are engaging with the Department of Transportation, House and Senate committees of jurisdiction, and think tanks on funding policy reform themes, focused on implications to major cities like San Jose. For example, we are discussing a proposal to create a mode-neutral, direct funding stream for major metropolitan areas for projects with strong cost-benefit metrics, bypassing states and emphasizing the importance of major urban areas as economic engines and the primacy of local decision-making.

We also began efforts with the City Manager's office to establish a structured process and criteria for City leads to identify, develop and advance the most viable requests to the Congressional delegation for funding consideration in the transportation reauthorization.

San Jose International Airport

In addition to seeking appropriations for a specific runway safety improvement project, efforts on behalf of San Jose International Airport began with resolution of inadequate federal security staffing levels and subsequently expanded to encompass funding and policy issues related to installation of in-line Explosive Detection Systems and reauthorization of the Federal Aviation Administration.

Initially, our work centered on narrow technical interventions supporting airport leadership. When the airport experienced security staffing level problems in late 2003, we helped work with the Congressional delegation to successfully persuade the Transportation Security Administration (TSA) to temporarily increase staff and reduce customer wait times over the holiday season. In 2004, we assisted City and airport officials in pursuing Congressional support for Department of Transportation approval of a cargo route to China.

In mid-2006, we began to expand work with airport staff on broader and more substantial funding issues, particularly related to installation of in-line Explosive Detection Systems (EDS). We helped the Airport pursue maximum support from the TSA through both advocacy and technical advice. We advanced a dual track of (1) seeking a direct one-time grant and (2) approval of the alternative "service agreement" long-term contract. TSA subsequently entered into detailed negotiations on a significant grant for Terminal A. Throughout this process we engaged with Congressional oversight committees, the delegation and TSA. We provided assistance with TSA contacts, information on agency spending plans and timelines to aid in negotiations, clarification on grant procedures, and other activities. The Airport ultimately received an initial TSA grant of \$18.1 million for Terminal A improvements, and we are assisting in seeking more funds for Terminal B.

In addition, we assisted airport officials in assessing policy and local priorities for various funding and administrative changes in the pending Federal Aviation Administration reauthorization. These included enhancements to the Passenger Facilities Charge, increases to the Airport Improvement Program, and tax treatment of airport bonds. We also helped to coordinate with other airports on positions of mutual benefit and responded to Congressional delegation staff questions regarding local impacts of various policy options.

Washington, DC Visits

Over the past five 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 former and current Mayors visit Washington an average of three times each year to advance the City's federal funding and policy initiatives, particularly the BART extension and the Green Vision, 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 speak with 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 limited 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.

2006

In order to advance the City's FY2007 funding and policy agendas, we helped to organize two advocacy trips for Mayor Gonzales – one in January coordinated with the U.S. Conference of Mayors Annual Meeting, and the other in March coinciding with San José receiving the Partnership for Livable Cities' Entrepreneurial American Leadership award for affordable housing initiatives. Primary objectives of the January visit were to address issues involving the Silicon Valley BART Extension project, as well as other policy concerns such as the loss of Difficult Development Area status, potential eminent domain restrictions, and telecommunications reform. VTA General Manager Michael Burns and Silicon Valley Manufacturing Group CEO Carl Guardino participated in the BART-related discussions. Although Congress had not yet reconvened for the next session and most Members were not in Washington at that time, the Mayor met personally with Minority Leader Pelosi, Senator Feinstein, and Representative Honda, and senior staff to the other Members of the San José delegation. He also met with Department of Transportation Chief of Staff John Flaherty.

For the associated USCM session, we worked with a few other major city representatives to develop and advance a special resolution taking an official USCM position on protection of local eminent domain powers, anticipating possible Senate action on the issue. We also facilitated the Mayor's involvement in a small dialogue session about advancing the work of National League of Cities Institute for Youth, Education and Families, along with mayors from Boston, Baton Rouge, Denver, Louisville, Indianapolis, Nashville, and Providence.

The March visit focused on advocating for the City's specific FY2007 appropriations requests, as well as follow-up on the loss of Difficult Development Area status and other housing topics. The Mayor met with Representatives Lofgren and Honda, and senior staff in the other four delegation offices. The Mayor reviewed the details of identified project priorities.

2007

With the initiation of the new City administration, we provided transitional assistance and feedback to the Mayor's senior staff in developing and advancing a federal advocacy approach that reflects both ongoing and new priorities. Topics included funding appropriations, pending legislation of interest to the City, identification of additional legislative opportunities, federal agency partnerships, and participation in associations and ad hoc coalitions.

In February and June, we assisted in identifying and organizing DC meetings for the Mayor, trying to quickly establish a presence and working relationships for the Mayor with the congressional delegation, congressional leadership, and relevant federal agencies. We developed agendas, preparing background materials, briefed staff, and engaged in discussions and follow-up. Topics covered appropriations, transportation, affordable housing programs, energy and environmental sustainability, economic development, airport security financing, and federal facilities.

In addition to the San Jose delegation in both House and Senate, meetings included –

- Office of the Speaker of the House (Senior Policy Advisor)
- Transportation Security Administration (Assistant Secretary, and senior staff)

- Economic Development Administration (Deputy Assistant Secretary)
- Department of Housing and Urban Development (Assistant Secretary for Policy Development and Research, and senior staff)
- Federal Transit Administration (Chief of Planning and Environment, Chief Counsel, and senior staff)
- General Services Administration (Deputy Commissioner, and senior staff)
- Department of Energy (Deputy Assistant Secretary for Energy Efficiency and Renewable Energy, and senior staff)
- Environmental Protection Agency senior staff for Climate Protection Partnerships, Green Building Workgroup, Energy Supply and Industry, Green Power Partnership, Energy Star, Water and Wastewater Management

2008

We assisted in identifying and organizing various D.C. meetings for the Mayor in order to promote the San Jose national profile and involvement in federal policy and funding debates, as well as better inform the City of new program and policy opportunities.

In coordination with the Mayor's Office, we developed agendas, prepared background materials, briefed staff, and engaged in meeting discussions and follow-up. Topics included appropriations, transportation, affordable housing, energy and environmental sustainability, economic development, workforce development, airport security financing, and federal facilities.

In addition to meeting with the full San Jose delegation and key staff in both the House and Senate, we again focused on expanding the Mayor's contacts to include priority Congressional Committees, relevant federal agencies, and various think tanks, such as –

- Senate Committee on Environment and Public Works (Staff Director), regarding energy, climate change, greentech jobs, and related economic policy.
- House Select Committee on Energy and Global Warming (Staff Director and Majority Counsel), regarding energy, climate change, greentech jobs, and economic policy.
- Office of Rep. Hilda Solis (Legislative Director), regarding greentech jobs and workforce development.
- Transportation Security Administration (Assistant Administrator and senior staff), regarding airport in-line explosive detection system financing.
- Brookings Institution (Vice President), regarding metropolitan policy research and federal legislative proposals related to transportation, innovation, technology, and environmental investments.

- Center for American Progress (Senior Fellows for Energy and Climate Change topics).
- Steve Goldsmith, former Mayor of Indianapolis, current Kennedy School/Harvard Director of Innovations in Government Program and CapitalSource Director of Infrastructure Finance and Investment Group, regarding innovative municipal financing and public management practices.
- Pareto Energy (CEO and staff), regarding clean power system and project applications.

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 tens of millions 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 107th 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 continued 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.

2006

Action on homeland security issues related to funding in the FY2007 appropriations process, program administrative concerns, and potential impacts on grant programs due to proposed reforms of the Department of Homeland Security and the Federal Emergency Management Agency.

Throughout the appropriations cycle we continued a lead role in advocacy and High-Risk Urban Area Coalition efforts, focusing on continuation of Urban Area Security Initiative funds that represent the majority of funding to the City. Congress ultimately increased funding for the UASI program (while other grant sources were cut), preserved key administrative policy provisions, and rejected proposed set-asides that may be inconsistent with regional strategic plans and needs assessments.

With regard to homeland program administration issues, we secured and circulated draft DHS guidelines and documents for review and comment, provided input to DHS senior staff on program development and implementation, and identified opportunities for the City to participate in DHS decision-influencing teams. In anticipation of the potential need for a UASI grant extension to accommodate contracting delays outside of City control, we also worked with DHS to affirm receptivity to an extension request.

In addition, we addressed issues related to legislation moving all homeland security grants to FEMA oversight, thereby separating out agency responsibilities for risk assessment and grants, and potentially shifting allocations based on risk of terrorism to a more universal all-hazards approach likely to dilute resources for the City. We helped to secure report language explicitly protecting the current distribution of terrorism-focused funding. We also helped to generate a statement by the House Homeland Security Committee Chairman that reinforces the position.

We also engaged on other pending public safety issues with direct relevance to San Jose, such implementation of interoperable communications grant programs. Specifically, we continue to deal with the National Telecommunications and Information Administration as they develop criteria for nearly \$1 billion in new grant funding targeted to interoperable communications system needs, trying to assure that those factors reflect the local circumstances in San Jose.

In addition, as Congress considered imposing financial penalties on localities with “sanctuary city” policies, we assisted the City in analyzing applicability to San Jose and clarifying federal misperceptions about the local policy on cooperation with federal agencies around law enforcement and illegal immigrant status.

2007

In 2007 most homeland security work focused on final conference negotiations on the 9/11 authorization bill involving reforms to grant programs, and advocacy on funding prioritization in implementation of the Public Safety Interoperable Communications Grant program that guaranteed \$14.5 million to the Bay Area initiative in which San Jose participates.

Working in a lead role on behalf of the High-Risk Urban Area Coalition, advocacy efforts on the 9/11 bill helped to secure a favorable outcome on the priority local government issues related to the Urban Area Security Initiative (UASI) program that delivers the most funding to the City, such as –

- Excluding UASI funds from being tapped to provide a minimum guaranteed allocation States, thereby preserving the full UASI appropriations for UASI designees.
- Codifying utilization of the key risk assessment criteria that have supported significant funding allocations to San Jose and the Bay Area.
- Preventing expansion of automatic program eligibility for the 100 largest Metropolitan Statistical Areas, thereby greatly diluting funds, by instead formalizing current policy of the Department of Homeland Security (DHS) to assess the 100 largest areas for potential invitation to apply.
- Averting a shift to Metropolitan Statistical Areas as the required geography for UASI designations, maintaining current DHS discretion to center on subareas that make operational sense.
- Eliminating proposed hard limits on the proportional allocation of UASI versus State grant appropriations, which would have limited the amount of UASI funding available.
- Increasing the UASI funding authorization level from \$850 million to \$1.3 billion over five years, contrasted with flat funding for State grants.
- Expanding eligible use of funding for personnel costs to allow use for straight-time as well as overtime, and increased permissibility to 50% of the total grant.

- Clarifying the definition of “supplantation” to assure that localities do not need to maintain the same level of prior-year local funding for specific activities in order to utilize future UASI funds for those same activities.

In addition, negotiations for expansion of UASI fund eligible uses and protection against being siphoned off for minimum state allocations contributed to inclusion of bill provisions on Emergency Management Performance Grants that (i) increase authorization levels to \$950 million over the next five years, of which California receives 8%, up from \$200 million in FY2007 appropriations, and (ii) allow use for construction of Emergency Operations Centers with a lower nonfederal match rate of 25% (versus the standard EMPG match of 50%).

Finally, efforts with some other Tier 1 UASI designees on the allocation decisions for \$1 billion in new Public Safety Interoperable Communications yielded a set-aside minimum guarantee worth \$14.5 million to the Bay Area UASI. We worked with the National Telecommunications and Information Administration, Department of Homeland Security, and White House Homeland Security Council, and congressional interests to advocate criteria for implementation that maximize impact by focusing funds on designated high-risk areas, for which the City would be competitively positioned.

In addition, as Congress used the immigration bill debate to again consider imposing financial penalties on localities with various “sanctuary city” policies, we assisted in analyzing applicability to San Jose, clarifying misperceptions about the local policy on cooperation with federal agencies around law enforcement and illegal immigrant status, and successfully opposing adoption of harmful amendments.

Finally, we assisted the Mayor’s Office in assessing and supporting Senator Feinstein’s efforts to secure passage of her anti-gang bill, which provides for increased federal resources to prevention, intervention, and enforcement activities. The bill passed the Senate, but prospects in the House are uncertain because of opposition to some enforcement penalties.

2008

Our work on homeland security and public safety issues focused on effective implementation of 9/11 Act authorization bill reforms to the Urban Area Security Initiative (UASI) grant program, preserving appropriations for those grants delivering significant, targeted funds to the City, and coordination on regional interoperable communications initiatives. We also monitored and supported involvement in general legislative action addressing public safety issues, as appropriate.

Following legislative efforts that completed the 9/11 Act last year, we focused on U.S. Department of Homeland Security (DHS) implementation of the measures to protect against administrative interpretations that may disadvantage the City and region. For example, we identified and advocated on concerns about the new DHS approach to data for the risk formula Population Index, utilizing Metropolitan Statistical Areas (MSA) as the scale no matter the geographic operating area. That disadvantages the Bay Area UASI, which is larger than the MSA and would not get the benefit of counting the full population being served, while other UASIs are smaller than the MSA and would receive inflated population values.

Additionally, we worked to address other operational concerns, such as seeking to clarify transparency and consulting requirements for State use of UASI funds it withholds, and using appropriations direction to prevent DHS administrative proposed imposition of a 25% non-federal match requirement.

We participated in legislative efforts to formally authorize Urban Search & Rescue Task Forces (H.R. 4158), and the bill has been incorporated in an omnibus measure that passed the House Homeland Security Committee. San Jose participates in the regional task force based in Menlo Park and would be benefited from greater program stability and enhanced federal reimbursement standards.

We also collaborated with San Francisco, Oakland, and regional counties to set a two-day schedule of joint briefings with delegation and appropriations / authorizing committee staff, updating them on the strengthened status of regional interoperable communications projects, as well as UASI concerns.

Finally, we assisted in monitoring and supporting general priorities, such as anti-gang legislation providing increased federal resources to prevention, intervention, and enforcement activities; COPS program reauthorization; Byrne Grant reauthorization; and the Mayor's Against Illegal Guns coalition violence reduction proposals.

Telecommunications / Tax Legislation

Throughout the past four 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

U.S. Conference of Mayors, and the National Association of Telecommunications Officers and Advisors in their negotiations with industry groups.

2006

As forecasted, efforts to reform the Telecommunications Act stalled after the full House and the Senate Commerce Committee passed differing versions in June, with deep divisions in scope and policy approaches; notably modified bills will be developed by the new majority in the next session. Throughout the process, we provided local impact information and proposal assessments to the delegation, including Rep. Eshoo and Senator Boxer on the committees with jurisdiction over telecommunications reforms. We also coordinated positions and advocacy with representatives of other large cities, the League of California Cities, and California State Association of Counties.

San Jose interests conformed with the general municipal priorities of preserving current franchise revenue levels, maintaining local prerogatives in managing rights-of-way, and assuring adequate build-out of services in lower-income and geographically undesirable areas. The final House bill provisions protected revenues and the ability to set constraints on access to local rights-of-way, but despite bipartisan efforts toward floor amendments, which we helped to facilitate, it did not address concerns about right-of-way enforcement in local courts or minimum build-out coverage. The Senate Committee bill addressed local rights-of-way enforcement, but created other concerns related to application of an accounting standard that could narrow the basis of total revenue on which franchise fees can be collected, as well as build-out standards.

Specific to San Jose, we worked to help the City retain its ability to require delivery of I-Net services as part of local service agreements. San Jose is almost unique in its current position vis a vis franchise negotiations. We developed a policy approach, drafted legislative language, and prepared justifications that led to Senator Boxer advancing the amendment during committee consideration. The amendment would provide a limited exception for new I-Net requirements in those areas where an administrative proceeding has commenced. Although not adopted in committee, we are well-positioned to renew efforts during the crafting of the new bills in the future.

With regard to threats to the Utility User Tax, we worked with City staff to assess and respond to the impact of a U.S. Treasury Department decision that it would no longer impose the Federal Excise Tax (FET) on long distance and bundled telephone communication services, responding to legal challenges. In addition, legislation was introduced in both the House and Senate to eliminate the FET altogether. In our ongoing efforts to preserve existing local revenue, we coordinated with other California localities, and negotiated resolution to issues of unintended potential impacts with the lead House sponsor of the FET elimination bill, as well as relevant Senate offices.

2007

We worked with other local governments to avert imposition of a permanent moratorium on state and local government taxation of the Internet in favor of a short-term extension, and to assure inclusion of previously negotiated protections reserving collection of Utility User Tax revenue for traditional telecommunications services bundled with Internet service that would otherwise not be subject to local taxation.

The final bill extended the moratorium by seven years. It also created a new exemption for taxes on email service, homepages, and instant messaging, when not bundled and incidental to the Internet access service. That provision remained somewhat up to interpretation, and we worked to assure it was not applied unfavorably in implementation.

2008

We provided technical / legal advice on the requirements of the moratorium in the Internet Tax Freedom Amendments Act (P.L. 110–108), as well as the potential for future legislative action when the federal standards expire in 2014. For example, the law created a new exemption for taxes on email service, homepages, and instant messaging, when not bundled and incidental to the Internet access service. That guidance was intended to inform consideration of impacts on the City's Utility User Tax and applicability to certain evolving telecommunications technologies (e.g., voice over internet protocol (VOIP), etc.).

We also advised on the status, prospects, and potential local consequences of H.R. 5793, Cell Tax Fairness Act, a bill led by Rep. Lofgren with the full House delegation cosponsoring. The bill proposes to set a moratorium on localities imposing additional cellphone-specific taxes.

Finally, we researched and provided detailed comparative information on E-rate program funding sources and relative levels of support to similarly-sized localities nationwide, as factual input to local policy discussions around potential application of filtering technologies.

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. We also supported San Jose in efforts to secure a \$25.8 million Section 108 loan and \$2 million Brownfields grant, and successfully expedited release of funds to enable a land acquisition under deadline.

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.

For FY 2007, CDBG funding levels continued to be the focus of heavy lobbying by national associations, which we supported by restating City interest and information about local uses. As a result of the intense national efforts, CDBG appropriations levels likely will exceed FY2006. In addition, given their importance to San Jose redevelopment efforts in the past, we participated in a small group advocating against elimination of the HUD Section 108 Loan Guarantee Program and Brownfields Economic Development Initiative Program, and symbolic amounts of funding are anticipated, positioning to at least sustain those programs for consideration in a more favorable congressional environment.

With regard to HUD-proposed modifications to the CDBG funding allocation formula announced in 2006, we monitored the progress of House hearings and Administration efforts to advance the draft legislation. The proposal closely resembled "Alternative 4" in the HUD report, establishing a single formula with minimum grant thresholds to reduce the number of direct recipients by about 150 communities, and modifying "need-based" inputs and weights to reflect income variables, economic trends, substandard housing, and demographics measuring consumption of public services. We began to assess positions of various interests and the best position for City response. However, given the change in control of Congress and the contentiousness of the issue, CDBG formula reforms were extremely unlikely to be given serious consideration, and the topic received virtually no further attention in 2007 or 2008.

With regard to general legislative priorities with notable impact to San Jose, we worked with a small group of major municipalities to advocate directly on key provisions of bills creating a National Housing Trust Fund (NHTF) and reforming the Section 8 program. For the NHTF bill that passed the House, the group efforts helped to ensure (1) direct funding to localities for 60% of the funding, rather than States seeking to receive and control suballocation of the full amount; (2) allocation of funds based on population, housing development costs, and other factors advantageous to very large, expensive areas like San Jose; and (3) allowing local governments to provide grants to themselves rather than distribute all amounts externally. On Section 8 reforms, we helped to promote protections in the funding formula, allowance of greater reserves, and modifications to the

Moving-to-Work Program, including removal of time limits and more flexible eligibility criteria that would benefit San Jose once designated.

A final version of NHTF ultimately was enacted into law under the broader Housing and Economic Recovery Act that addressed foreclosure crisis response, deferring start of the program to 2010 and stripping out the 60% guaranteed direct payment to local governments, but preserving favorable housing development cost factors in allocations.

Housing and Economic Recovery Act of 2008 / Neighborhood Stabilization Program

Housing policy and advocacy efforts in 2008 centered on foreclosure crisis response legislation, “The Housing and Economic Recovery Act of 2008,” which includes the Neighborhood Stabilization Program (NSP) that provides nearly \$4 billion in federal funds to states and localities to address the national foreclosure crisis. San Jose directly received more than \$5.6 million in funding; Santa Clara County did not receive any allocation (nor did San Francisco).

During consideration of the Housing and Economic Recovery Act, Patton Boggs identified key issues relevant to San Jose and took the lead role in organizing a group of the largest cities and urban counties for advocacy on those policy topics, particularly grant assistance to local governments and conforming loan limit increases. Immediately upon passage, we initiated agency-side work to protect City interests as HUD actually implements the measure, particularly with regard to (1) use of funds; (2) formula weighting; (3) data sources; (4) local-state grant split; (5) state minimum calculation; (6) direct local allocations; (7) very low-income set-aside treatment; (8) local administrative funding allowance; and (9) planning, reporting, and auditing processes. We received a commitment from HUD to be integrated in the program development and consultation process going forward, alongside anticipated general association outreach. We organized and drafted a policy statement submitted to HUD on behalf of 30 cities and counties. HUD guidelines incorporated many of the City’s preferred policy positions.

On the evening prior to the HUD “Summit on Housing” related to implementation of this program, we convened an informal event for housing program leads from twelve localities, including two representatives from San Jose. HUD Deputy Assistant Secretary Manuel Ochoa addressed the attendees and answered questions regarding NSP implementation and policy development. The event provided a networking opportunity for local technical staff to share best practice ideas.

Patton Boggs staff also attended and reported details from the “Summit on Housing” on topics of particular interest to the City, including: 1) NSP elements and implementation; 2) Best Practices for Neighborhood Stabilization; 3) Distribution Methods for Targeting Communities in Need; 4) Performance and Reporting Requirements; 5) Land Banking; and 6) HOPE for Homeowners and the Federal Housing Administration’s Secure programs.

We provided detailed, early information to clarify notable programmatic differences between NSP and the Community Development Block Grant program, as well as pending deadlines. Issues addressed included program requirements on administration, low-income set-aside targeting, eligible uses, and program income usage. We also continued to advise the City on proactively appealing to the State of California for additional funds from its separate allocation, taking advantage of successful advocacy with HUD to permit supplemental funding to direct NSP grant recipients.

We have provided several detailed memoranda and informal updates throughout this process, both on the development of legislation prior to enactment and on implementation of that law prior to the finalization of regulations. We also provided San Jose with the Final Notice for review and comment, the national “raw data” HUD used to compute allocation formula distributions, and background rationale HUD used in developing the NSP formula methodology.

Conforming Loan Limit Increase

With other very high-cost areas, we advocated for inclusion of a permanent raise in the cap on loans that Fannie Mae and Freddie Mac can purchase in high-cost areas, seeking an increase to \$730,000. The final result was a compromise at the lesser of \$625,000 or 115% of the area median housing price, which represents an increase from \$550,000 in the Senate and decrease from nearly \$730,000 in the House. The political challenge to achieving the higher level was that the only remaining populous areas where the \$625,000 cap might be exceeded are in parts of California, metro-New York City, metro-District of Columbia, and metro-Salt Lake City, leaving a relatively minority of impacted districts.

McKinney-Vento Homeless Assistance Program Reauthorization

Responding to House Financial Services Committee outreach and action on H.R. 840, the HEARTH Act, that would reauthorize federal homeless assistance programs, we provided support to the City on various issues. In particular, we helped to address concerns around the definition of homelessness; educational and rural advocates generally sought to broaden eligibility to people living in substandard conditions, while other housing and urban governments wanted to keep it more narrowly focused on those actually living on the street. Because no additional funding could be reliably forecasted to expand the program, the anticipated impact of broadening the definition would be dilution of funding. The committee ultimately passed a version of the bill that kept the definition relatively narrow, but provided some flexibility in use of funds.

Difficult Development Area Status

In recent years we pursued legislative and administrative options to restore the “Difficult Development Area” (DDA) metropolitan region designation under the U.S. Department of Housing and Urban Development (HUD) Low Income Housing Tax Credit (LIHTC) program. Efforts included analysis of formula issues and statutory / regulatory authorities to fix identified problems, facilitating City meetings with senior HUD officials, helping to prepare House and Senate delegation letters to HUD regarding flaws in the DDA methodology and alternatives to address those issues, and ongoing discussions with HUD staff.

In each appropriations cycle we continued to seek a policy clarification insert to the HUD appropriations bill, in tandem with pressing for HUD administrative action. We drafted legislative and report language to resolve the problem, which served as the basis for negotiations with appropriations and authorizing committee staff. We also pursued administrative resolution by arguing existing HUD authority to define allowable rents for previously developed affordable housing units at a different level from those used in a new DDA calculation. Such an adjustment would resolve the anomaly in the DDA designation, which relies on a ratio of regional Fair Market Rent to Very Low Income levels compared against other jurisdictions; HUD has maintained

artificially inflated San Jose income levels in order to avoid problems with reducing current affordable housing rents.

Despite these efforts, the required statutory adjustment to help restore the “Difficult Development Area” (DDA) designation remains extremely challenging to advance. Anticipated reform legislation that could carry necessary changes were deferred or altered by the focus of the committees of jurisdiction on foreclosure response.

Certain related LIHTC issues were addressed in the foreclosure bill, which increased state-level flexibility to boost suballocations to local areas from its own regular LIHTC receipts. In addition, a provision that protects renters from the impact of decreasing area median gross income rates may begin to decouple income limit changes and rents in a way that leads to a helpful decoupling within the DDA formula. However, dealing with the San Jose situation in the foreclosure bill context primarily involved preventing potentially problematic “hold harmless” policy language from being included and codified.

We continue to work with delegation leads, as well as pursued exploratory contacts with organizations like the National Association of Home Builders, which may have generally aligned interests in a formula change.

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.

For FY 2007, Congress continued to consider possible national constraints on exercise of local land use authorities, we monitored and argued against enactment of federal legislation that would restrict current California standards for exercise of eminent domain or expand local government liability to compensate developers for zoning limitations or “regulatory takings.” We worked with a group of large municipalities concerned about implications for urban revitalization, as well as municipal and environmental associations, including those with a national profile or representatives on committees of jurisdiction.

As the eminent domain debate concentrated on Senate action, we participated in ongoing consultations with Senate Judiciary Committee staff on various drafts of an eminent domain bill, seeking to assure consistency with California standards, such as allowing “blight” to be addressed and precluding new direct access to federal courts for adjudication of local eminent domain

conflicts. We provided background information on eminent domain utilization and analysis of legislative proposal impacts.

We also advocated the City's position against a House bill effort to substantively expand the current standards of a regulatory taking, so that localities would be subject to greater liability for existing land use regulations that limit the use of property and arguably diminish its value. The bill would help developers claim compensation for common zoning decisions on matters like size of buildings, environmental impacts, or nonconforming uses. It also would allow developers / property owners to sue directly in federal court, rather than pursuing claims in State courts with experience in resolving technical local zoning and land-use regulation issues, potentially making it more difficult for localities to defend. We again provided information and analysis to both the City and the delegation, and after House passage, secured commitments from Senate supporters to prevent the bill from moving forward.

We continue to monitor the potential for serious action on the bill and prepare to oppose any restrictions current California standards for exercise of eminent domain or expand local government liability to compensate developers for zoning limitations or "regulatory takings." We are coordinating with the group of large municipalities and environmental associations on the issue. We also briefed new delegation staff about the standards for and historical local use of eminent domain. Prospects for the bill to be reconsidered in a Democrat-controlled Congress remain very low.

Environmental and Energy Issues

In support of the Green Vision initiative, we assisted in Congressional, agency, and external group outreach. We also actively engaged on pending climate change legislation to assure local government benefits, and advised the City on advocacy efforts to extend expiring renewable energy tax incentives critical to both Green Vision objectives and local economic development.

We targeted and facilitated Mayoral meetings with House and Senate committees having jurisdiction over energy and climate issues, and supported ongoing outreach promoting San Jose efforts. We also identified and organized discussions with policy opinion leaders, such as the Center for American Progress, trying to highlight San Jose innovation and economic messages at the national level in order to generate interest in advancing City interests and attract federal (or private) investment as opportunities arise. For example, those initial outreach efforts ultimately resulted in Sen. Feinstein specifically referring NASA Ames Research Center to work with the City on "urban greening" and energy initiatives, with efforts now underway.

Additionally, we provided analysis and support for efforts to secure federal demonstration project funding related to City-sponsored development and highlighting of Silicon Valley energy technologies. We previously facilitated meetings for Environmental Services Department with delegation staff regarding wastewater plant infrastructure, watershed protection, water supply, and Army Corps study authorization. We also monitored and promoted inclusion of relevant project authorizations in the recently-passed Water Resources Development Act.

Per the City's endorsement of the local government Energy Efficiency and Conservation Block Grant concept proposed by the U.S. Conference of Mayors, we joined in supporting successful advocacy for inclusion of the program in a comprehensive energy bill. If ultimately fully funded (which is impossible under current budget circumstances), the program formula could direct up to

\$5 million to San Jose, and these funds could be used for a range of activities anticipated by the Green Vision plan. Unfortunately, efforts with a subset of the largest cities were not successful in trying to ensure that is targeted to the largest jurisdictions. Lower Senate thresholds for direct eligibility were included in the agreement, which significantly expands the number of cities and counties to receive funding without increasing the total amount available, and thus dilutes the total funding that the City could expect to receive.

During the failed Senate effort to advance a climate change bill cap-and-trade, we joined with a group of other large localities to work with the Senate Environment and Public Works Committee leads on amendments and policy items of benefit to the City, especially around use of carbon allocation auction proceeds for local government interests. In addition to the U.S. Conference of Mayors effort to carve out a funding stream for the new Energy Efficiency and Conservation Block Grant, we helped to promote modifications that were incorporated in the final version of the proposed cap-and-trade bill, providing separate resources for local government action around land use, transit-oriented development, and technology. That effort may lay the groundwork for action next year, although the potential proposals and politics around climate change legislation should change dramatically.

Finally, we provided detailed reports, advised on the status of, and assisted in communicating support for extension of solar and renewable energy tax incentives. We conveyed to the delegation and beyond the City's position on urgent local economic needs and rationale for action, and began to coordinate possible messaging efforts among a few other localities with similar economic interests. Congress made at least ten unsuccessful attempts to pass this legislation, but it ultimately was enacted just prior to adjournment as part of the emergency economic recovery / financial services stabilization package.

Water Resources

Throughout our representation we monitored and advised on various water issues, such as wastewater blending policies. Specifically we engaged with broader efforts to successfully seek new project authorization under the Bureau of Reclamation Title XIX program for the Bay Area Water Recycling initiative (H.R. 1526 / S. 1475). That legislation gives authority to pursue annual appropriations for a range of additional smaller scale recycling projects in the region, including a new authorization of \$8.25 million for the South Bay treatment facility in which San Jose participates directly. It also consolidates the existing San Jose Area Water Reclamation and Reuse Project into the authority to split future appropriations, with the hope that the larger combined regional program will generate more resources overall. We then conferred with the delegation about funding the new program in FY2009, but given many different factors, including timing of the authorization, the City instead secured \$8 million solely for its existing San Jose Water Reclamation project in the pending FY2009 House appropriations bill.

We also provided the City with information regarding development of the next Water Resource Development Act (WRDA) bill for consideration of any relevant City projects. Intended to be biennial legislation that authorizes U.S. Army Corps of Engineers' Civil Works projects for navigation, flood control, and environmental restoration, such initiatives typically are the responsibility of the Santa Clara Valley Water District. However, a few more basic water-sewer infrastructure projects also may be authorized for later funding that must be secured separately as part of the annual appropriations process. The House Transportation and Infrastructure Committee

solicited new project requests in late April, but because Congress just approved a WRDA bill last year over a Presidential veto, which took nearly seven years to complete, no final bill was anticipated this year; another opportunity to seek projects will be available next year.

Finally, we monitored and conferred on potential local impacts of several water-related legislative and regulatory issues, including proposed financing incentives for public utility water reclamation desalination, and groundwater cleanup projects; Clean Water Act reforms that would expand federal oversight to additional water bodies; and water treatment chemical security rule changes

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 allowed continuation of the Municipal Health Service Program demonstration from 2004 through 2006. The waiver allowed 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.

With the expiration of the Municipal Health Services Medicare waiver extension secured in legislation referenced above, in FY 2007 we explored prospects for a further extension. After consulting with the relevant committees of jurisdiction and potential sponsors for legislation, and City staff feedback in dealing with the three other impacted localities, we determined that another extension was not realistic and recommended planning for an orderly transition.

Labor

We identified and monitored regulatory activity pertaining to the “normal retirement age” as defined by the Treasury Department / Internal Revenue Service (IRS), where regulations that could take effect for governmental plans on January 1, 2009 may have a significant impact. The pending regulation would change a provision in the Internal Revenue Code regarding rules permitting distributions to be made from a pension plan upon the attainment of “normal retirement age” prior to a participant’s severance from employment. Some governmental and retirement associations believe the IRS should refrain from creating standardized definitions for early or normal retirement age with regard to governmental plans (particularly public safety and first responder employees), and instead defer to the applicable state or local laws, regulations, and policies governing the plan as such changes generally require a State legislative initiative or enabling authority.

We supported efforts to seek interim regulatory relief that would delay the effective implementation date beyond January 2009, in order to permit the IRS to fully consider and respond to public sector concerns, provide clarification relative to key definitions, allow for State and local governing bodies to respond, and avoid confusing and potentially harmful actions to public sector employees. The IRS ultimately deferred the effective date to 2011, but a long-term statutory fix still may be needed to change the regulation itself.

In response to requests by Council, we provided information and analysis on the pending AgJOBS bills (S. 340 / H.R. 371), as well as changes being proposed by the Bush Administration to the H2-A guest worker program. We then communicated official City stances to bill sponsors and the congressional delegation.

Federal Courthouse

Upon prioritization by the City and interaction with potential sites for future BART development, we became more deeply engaged in helping to address issues related to construction of the new federal courthouse in downtown San Jose, including near-term funding for site acquisition. We supported congressional delegation efforts and linked the Mayor directly with General Services Administration (GSA) leadership to lay out a clear set of action steps for the City. In addition to ongoing local Redevelopment Authority efforts, those activities helped to secure some specific commitments by GSA senior officials to help avoid any agency impediments that might delay moving forward, and so that future funding can be pursued when appropriate.

Federal Tax Withholding

At the request of the City, we took a lead role in organizing other large municipalities to support repeal of new legislation requiring municipal governments that expend more than \$100 million in outside contracts to withhold three percent from all payments for goods and services, imposing significant new administrative and potential contract costs for the City. The full Congressional delegation joined as cosponsors last year and there are currently 240 cosponsors on the bill. We supported Mayor Reed as the lead sponsor on a U.S. Conference of Mayors resolution endorsing the repeal, helping to draft and advance the proposal. We secured the mayors of Oklahoma City (committee chair), Chicago, Miami, Portland, and Pasadena as original co-sponsors. The resolution passed and serves as proactive policy for advocacy by USCM. Given the federal costs that need to be offset, we expect any final resolution will be deferred until shortly before the deadline for implementation next year.

Reservist Pay Reviews

In response to a Council request, we helped to identify and work with the U.S. Department of Defense so that City staff could secure authority and create a system enabling expedited and accurate review of reservist pay information, to help the City determine supplemental wages.

Pipeline Right-of-Way Access Rates

In order to help set baselines for Department of Public Works negotiation on proposed access across City-owned property, we assisted in identifying federal land right-of-way schedules and criteria for energy pipelines access rates, involving research on administrative and statutory requirements and contacts with the Bureau of Land Management.

Administration Budget Analysis / Post-Election Analyses

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 local governments.

Following each election, Patton Boggs provided San Jose with a comprehensive report of what to expect from the new Congress, and most recently from President-elect Obama, on a very broad range of topical policy areas.

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

On a continuing basis, 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 provided support to the Mayor and senior staff for association involvement, including assistance in relevant committee activities. Throughout April and May of 2008, we assisted the City with the annual USCM resolution process that sets the organization's federal advocacy agenda for the next year. We helped to draft, edit, compile, and assess various resolutions. The Mayor ultimately co-sponsored nearly twenty resolutions on issues related to –

- renewable energy tax incentives and the development of solar energy;
- workforce development; educational access and teaching programs;
- foreclosed properties and assistance for local government action;
- affordable housing trust fund creation;
- chronic homelessness prevention and intervention;
- interoperable communications funding;
- federal anti-crime programs and gang abatement legislation;
- water infrastructure investment tax incentives;
- surface transportation policy framework; and
- municipal bond insurance rates and municipal securities auction rates.

We also generally facilitated City collaboration with other similarly situated large localities for the purposes of sharing best practices, coordinating policy agendas, and raising the City profile, such as helping to arrange one-one-one discussions with mayors from Denver, Seattle, and San Diego, and advising on involvement in national initiatives dealing with topics such as illegal guns and climate change.