RULES COMMITTEE: 08-29-07
ITEM: C2a

CITY OF SAN JOSE
CAPITAL OF SILICON VALLEY

Memorandum

TO: RULES AND OPEN GOVERNMENT COMMITTEE

FROM: Betsy Shotwell

SUBJECT: SEE BELOW

DATE: August 24, 2007

Approved Deanna Santana Date 8/24/07

SUBJECT: FEDERAL RELATIONS UPDATE – AUGUST RECESS 2007

RECOMMENDATION

Acceptance of the attached report from the City's Federal lobbyist firm of Patton Bogs, LLP, in Washington, D. C.

BACKGROUND

The firm of Patton Boggs, LLP is providing the attached update on their lobbyist activities on behalf of the City in Washington, D.C. This activity supports the City's advocacy and education in promoting our federal legislative priorities.

ANALYSIS

The attached report describes in detail Patton Boggs various activities including, but not limited to: the City's interests regarding the FY 2008 federal budget and appropriations process; homeland security funding and public safety; funding for the Airport ; housing and community development; environmental and energy issues; and advocacy efforts with federal agencies and other governmental bodies.

COORDINATION

This report was coordinated with our Washington, D.C. lobbyist firm of Patton Boggs, LLP.

Betsy Shotwell
BETSY SHOTWELL
Director, Intergovernmental Relations

For information contact: Betsy Shotwell, Director of IGR at (408)535-8270.

Attachment

PATTON BOGGS LLP
ATTORNEYS AT LAW

2550 M Street NW
Washington DC 20037
(202) 457-6000

Facsimile (202) 457-6315

MEMORANDUM

To: City of San Jose
From: Patton Boggs LLP
Date: August 23, 2007
Subject: Federal Relations Update – August Recess 2007

This memorandum summarizes Patton Boggs federal relations work on behalf of San Jose from mid-year 2007 through the annual Congressional recess in August. Specifically, the report highlights activities related to –

- FY2008 Appropriations Projects
- San Jose International Airport
- Homeland Security and Public Safety
- Housing and Community Development
- Environmental and Energy Issues
- Federal Tax Withholding
- National Association Coordination and Support
- Federal Grant Opportunity Tracking

FY2008 Appropriations Projects

The appropriations process remains behind schedule, with no prospect to complete the majority of spending bills prior to the October 1 start of the new federal fiscal year. The House recessed after passing all twelve of the appropriations bills, but the Senate passed only the Homeland Security bill, with the remaining bills reported out of the Appropriations Committee. The President has threatened to veto all but two bills, asserting that the funding levels notably exceed those in his

Budget proposal. An omnibus or minibus bill ultimately is likely late in the year, carrying multiple spending measures on a must-pass appropriation such as Defense.

As anticipated, most of the appropriations bills dramatically reduced the number and amounts of project earmarks, increasing the competitiveness of the process and reducing potential returns. As a comparison point, the number of earmarks in the Interior & Environment, Transportation-HUD, and Labor-HHS-Education bills was reduced by between 50% and 70%, and the total funding level for earmarks in those bills cut by between 50% and 80%. Per the new procedural requirements for earmarking projects, the bills now include project lists prior to Committee approval and identify the names of the sponsoring Members, and new projects added during Conference consideration are subject the earmarks to points of order and removal.

Despite these overall cuts, the City-led project priorities received measurably greater returns in the pending appropriations bills. However, these amounts likely will be lower in the final enacted measures; the total amount of Senate earmarks notably exceeds the House, so the pressure will be to achieve equity in conference through reductions, especially because the new earmark rules impede compromise by increases or additions for the House. Ongoing advocacy will focus on justifying preservation of these projects and sustaining maximum funding levels.

To date.,City-led projects for San Jose total $3.125 million, versus $1.945 million pending at the same point in the FY2007 cycle. These project results include --

▪ Homeless Job Training Program	$400,000
▪ Gang Intervention service expansion	$375,000
▪ Services to New Americans immigrant life skills program	$200,000
▪ Early Start, Great Start early childhood education for school readiness	$200,000
▪ EHC Sobrato House facility replacement	$200,000
▪ San Jose Smart Start Program training partnership with National Hispanic University	$150,000
▪ Blossom Hill / Monterey Highway Pedestrian Overcrossing	$100,000
▪ San Jose Area Water Reclamation and Reuse Project *(increase by $1.3 million over President's Budge requestt)*	$1,500,000

In addition, we worked with the congressional delegation in support of a request led by the U.S. Court Administrator seeking supplemental funding for San Jose Courthouse site acquisition, with $32,000,000 pending in the Senate bill.

Finally, the City supported Santa Clara Valley Water District leadership on various projects with local impact but for which the District is the primary sponsor, including: Coyote / Berryessa Creeks Protection for $1,500,000 (versus $950,000 in President's Budget); Upper Penitencia Creek for $300,000 (versus $191,000 in Budget); and Guadalupe River Flood Control for $1,000,000 (versus $0 in Budget)

Homeland Security

Efforts on homeland security focused on work with Homeland Security Committees during final conference deliberation on the 9/11 authorization bill involving reforms to grant program, and advocacy on funding prioritization in implementation of the Public Safety Interoperable Communications Grant program.

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.
- Preventing expansion of automatic program eligibility for the 100 largest Metropolitan Statistical Areas, thereby greatly diluting funds, by instead requiring continuation of current policy for the Department of Homeland Security (DHS) to assess those 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.
- Codifying utilization of the key risk assessment criteria that have supported significant funding allocations to San Jose and the Bay Area.
- 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, ongoing City 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. The City 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.

San Jose International Airport

With overall reauthorization of federal aviation programs now stalled after passage by the House and Senate Committees, further work with the Airport centered on federal funding related to installation of in-line Explosive Detection Systems (EDS) in old and new terminals. That activity included continued advice on Airport dealings with the Transportation Security Administration (TSA) and direct advocacy with House and Senate Homeland Security Committees to include supportive legislative provisions in the 9/11 authorization bill.

Specific to the 9/11 bill, the City sought expansion of and direction on TSA funding authority for in-line EDS, including provisions that would enable reimbursement for prior eligible expenses that allow construction to progress now without sacrificing potential federal participation, as well as prioritization of large hub airports like San Jose. During conference discussions, we followed up on initial meetings facilitated with Airport officials regarding how to address these issues. The final 9/11 bill includes –

- Letter of Intent language that renews the authority and effectively directs TSA to execute new LOIs, rather than allow TSA discretion not to do so.

- Aviation Capital Security Fund reauthorization through FY2028, collecting at least $250 million annually and allocating at least $200 milion to LOIs with large and medium airports and $50 million discretionary grants to smaller airports, shifting the current distribution more to larger airports.

- Supplemental discretionary EDS grant funding authorization of $450 million per year through FY2011, dependent on annual appropriations.

- Direction to TSA to produce a risk-based prioritization schedule for future funding decisions.

The bill also includes a provision allowing reimbursements to airports that previously incurred eligible costs, which actually expands the scope of possible competition for these funds in the near term.

Moving forward, we are helping the Airport explore TSA implementation of these provisions, especially a potential Letter of Intent.

Housing and Community Development

Due to opposition raised by the authorizing committees against legislating on appropriations bills, as well as concerns by the Congressional Budget Office, efforts stalled on advancing language as part of the U.S. Department of Housing and Urban Development (HUD) spending bill that would restore the San Jose "Difficult Development Area" (DDA) program designation for affordable housing. However, we continue to work with the authorizing committees on including this provision in germane legislative vehicles that may be considered.

However, the HUD appropriations bill did include the clarification sought by the Santa Clara County Housing Authority and the City to facilitate implementation of a Moving-to-Work program designation "preference" that was included as a rider to FY2006 appropriations language.

With regard to general legislative priorities with notable impact to San Jose, we continued to engage in direct advocacy with a few other major municipalities on key provisions of H.R. 2895, creating a National Housing Trust Fund (NHTF), which passed the House Financial Services Committee. Specifically, we sought to protect local government use of the NHTF and helped to ensure inclusion several funding criteria –

- Protecting direct funding to localities, in opposition to States seeking to receive and control suballocation of the full amount, ensuring that 60% of funds must go direct to local jurisdictions
- Allocating funds based on population, housing development costs, and other factors advantageous to very large, expensive areas.
- Allowing localities to provide grants to themselves.

Environmental and Energy Issues

Per the City's support of the local government energy and environment block grant concept proposed by the U.S. Conference of Mayors, we joined in advocating successfully for inclusion of the program in the comprehensive energy bills passed by House and Senate prior to August recess (H.R. 3221 / S. 1419). Although somewhat different versions of the program were passed in each bill, it seems secure for inclusion during a conference agreement; however, prospects for completing a bill before the end of the year are very uncertain due to controversies over car emissions standards, renewable energy portfolio requirements, and other elements.

In addition, we focused on block grant provisions that would ensure that resources are targeted to the largest jurisdictions with sufficient scale and scope to deliver maximum impact, rather than be diluted. To that end, both House and Senate provide 70% of the total funds direct to localities and 30% to States. However, the House bill is more narrow in local government eligibility, limiting it to cities with a population of 50,000 and counties with 200,000, while the Senate bill threshold is 35,000 for cities and guarantees the ten most populous cities and counties in each State will be included. Thus, the Senate version would be less advantageous to San Jose because it significantly adds to the number of eligible local governments without increasing the total funding available, cutting into the amounts that the City could expect to receive.

Federal Tax Withholding

We continued efforts to recruit more supporters for repeal of 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.

Specifically, we supported Mayor Reed in leading a U.S. Conference of Mayors resolution endorsing the repeal, securing 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.

In addition, we sought co-sponsorship by the area congressional delegation of pending repeal legislation, with Reps. Honda, Lofgren, and McNerney signing onto H.R. 1023 thus far.

Intercity and National Association Support

We expanded work to help connect City leads with other similarly situated localities that have common issues and priorities for the purposes of sharing best practices, coordinating policy agendas, and raising the City profile. For example, we provided support to the Mayor and senior staff for involvement in the USCM Annual Meeting, helping to arrange one-one-one discussions with mayors from Denver, Seattle, and San Diego; and advised on involvement in national initiatives dealing with topics such as illegal guns and climate change. We also continued to monitor and participate on behalf of the City in selected U.S. Conference of Mayors (USCM) and National League of Cities (NLC) policy activities with clear local impact.

Federal Grant Opportunity Tracking

On a daily 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. We also help to answer City questions regarding these grant program opportunities, and in some cases, we draft and secure congressional letters of support for submissions. Thus far this year, we identified and circulated more than 100 potential competitive grant solicitations.