



Memorandum

TO: RULES AND OPEN GOVERNMENT COMMITTEE **FROM:** Betsy Shotwell

SUBJECT: SEE BELOW

DATE: April 20, 2010

Approved

Date

4/20/10

SUBJECT: FEDERAL RELATIONS UPDATE – 2010 FIRST QUARTER REPORT

RECOMMENDATION

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

OUTCOME

That the Rules and Open Government and the City Council have the opportunity to review the summary report by Patton Boggs staff on the City's federal activities in Washington, D.C. in the first quarter of the second year of the 111th Congress in 2010.

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 Mayor's advocacy trip to Washington, D.C., the City's interests regarding the FY 2010 appropriations process and the federal budget; transportation, the airport, housing and community development; and advocacy efforts with federal agencies and other governmental bodies. This Federal legislative update reflects the City's 2010 legislative policy goals and priorities and the City's efforts to work with our federal partners to advocate on issues of concern and interest to the City.

PUBLIC OUTREACH

- Criteria 1:** Requires Council action on the use of public funds equal to \$1 million or greater. **(Required: Website Posting)**
- Criteria 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)**
- Criteria 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)**

By providing this document to the Rules and Open Government Committee in April, this document will be posted on the City's website with the April 28 meeting agenda and interested public will have the opportunity to review the document prior to the full Council acceptance.

COORDINATION

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



BETSY SHOTWELL
Director, Intergovernmental Relations

Attachment: Patton Boggs, LLP, Federal Relations Update – First Quarter Report

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MEMORANDUM

To: City of San Jose
From: Patton Boggs LLP
Date: April 16, 2010
Subject: Federal Relations Update – 2010 First Quarter Report

This memorandum highlights Patton Boggs federal relations work on behalf of the City of San Jose for the first quarter of 2010. Specifically, the memo focuses on activities related to –

- Mayor's Federal Advocacy and March Washington, D.C. Visit
- FY2011 Appropriations
- President Obama's FY2011 Budget
- Transportation
- Norman Y. Mineta San Jose International Airport
- Housing and Community Development
- Federal Courthouse
- Employment
- Federal Grant Opportunity Tracking

Mayor's Federal Advocacy and March Washington, D.C. Visit

We organized one trip for the Mayor in March, principally focused on Fiscal Year 2011 appropriations projects, urban economies, transportation, and energy, and meetings with agency leads and external interest groups to raise awareness of San Jose priorities such as the new courthouse location and justice issues.

In addition to meetings with San Jose's House and Senate delegation to discuss FY2011 appropriations projects and policy priorities, the Mayor also met with the –

- Environmental Protection Agency regarding Energy Star certification delays, Green Vision implementation, Sustainable Communities and Smart Growth resources, grant, or technical assistance opportunities
 - Joint meetings with leads for the Office of Policy and Economic Innovation; Office of Policy, Economics, and Innovation; Office of Air and Radiation; and Office of Water
- Department of Justice regarding the City's use of force and conflict assessment
 - Assistant Attorney General, Civil Division
- Department of Transportation regarding the Automated Transit Network and Electronic Transportation Development Center's transportation innovation investments, High Speed Rail, SAFETEA reauthorization topics including Metropolitan Planning Organization governance and the Metropolitan Mobility Program
 - Administration, Research and Innovative Technology Administration; Deputy Administrator, Research and Innovative Technology Administration; Deputy Assistant Secretary for Governmental Affairs in the Office of the Secretary
- Department of Health and Human Services and Department of Education regarding SJ2020 and education reforms/data systems, Promise Neighborhoods, early childhood education, childcare and education workforce development, early learning and education funding
 - Deputy Assistant Secretary, Administration for Children and Families; and Senior Advisor to the Secretary of Education
- Department of Energy regarding the Loan Guarantee Program
 - Executive Director
- General Services Administration regarding the San Jose courthouse site
 - Assistant Commissioner for Program Management, Public Buildings Services; Director of Courthouse Programs, and the Chief Architect

FY2011 Appropriations

Our efforts in January-March 2010 predominantly involved work on the City's FY2011 appropriations agenda. A primary function in the appropriations process is to help the City execute an effective approach to identify, seek, and secure funding 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, energy, or social services projects.

We worked with the Mayor's Office and City leads 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, facilitating delegation meetings and informal Congressional staff consultation on Member priorities, preparing background papers and justifications, supplementing project requests with support letters, and otherwise advocating for the identified projects.

It should be noted that the process to secure Congressionally-directed project funding has become increasingly competitive in recent years, with pressure against the practice of “earmarking” notably impacting funding results overall.

Despite these constraints, potential funding for City-led projects advanced in the House and Senate now total over \$7.3 million to date – in addition to a \$20 million request advanced for the Bay Area Rapid Transit extension to San Jose advanced in the House, and pending notification of additional projects advanced in the Senate with Member deadlines later in April. City-led projects pending for FY2011 funding consideration thus far include –

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| ▪ Police eCite devices | <i>Advanced by: Boxer, Honda, Lofgren</i> |
| ▪ San Jose courthouse site acquisition | <i>Advanced by: Feinstein</i> |
| ▪ Smart LED Streetlights | <i>Advanced by: Feinstein, Honda, Lofgren</i> |
| ▪ Clean Tech Center incubator | <i>Advanced by: Honda, Lofgren</i> |
| ▪ Alviso Storm Pump improvements | <i>Advanced by: Honda</i> |
| ▪ Water Reclamation reimbursement | <i>Advanced by: The President, Feinstein, Honda</i> |
| ▪ work2future clean tech job training | <i>Advanced by: Boxer, Honda, Lofgren</i> |
| ▪ Mental Health services at 1-stop centers | <i>Advanced by: Honda, Lofgren</i> |
| ▪ Family Learning Centers in libraries | <i>Advanced by: Honda, Lofgren</i> |
| ▪ Veterans transitional housing | <i>Advanced by: Honda, Lofgren</i> |
| ▪ Underwood neighborhood revitalization | <i>Advanced by: Honda</i> |
| ▪ BART extension | <i>Advanced by: Honda, Lofgren</i> |

It is important to reiterate that a project advanced by a Member of Congress to the House and/or Senate Appropriations Committee(s) does not guarantee that it will be included in an appropriations bill, nor does it guarantee that it will ultimately be funded. The trend in recent years has been a decrease in both the number and amount of earmarks – from FY2008 (11,523 earmarks totaling \$16.6 billion) to FY2009 (11,124 earmarks totaling \$15.3 billion) to FY2010 (9,192 earmarks totaling \$11.1 billion). In FY2011, House Republicans voluntarily opted not to submit any earmark requests.

Separately, we also provided guidance on follow-on for successfully funded FY2010 appropriations projects, such as the Skills to Succeed Discharge Planning project and a legislative adjustment for the Sobrato Transitional Center that had been sought by the City in support of the Emergency Housing Consortium, in order to address a technical problem and enable current spending for various improvements to homeless services and prevention facilities.

President Obama’s FY2011 Budget

On February 1, President Obama released his Administration’s FY2011 budget proposal, and Patton Boggs provided an immediate analysis of components relevant to San Jose. The memorandum (1) analyzed the budget proposal; (2) highlighted relevant policy, program, and funding reforms; (3) summarized and analyzed relevant tax and revenue provisions of particular interest, such as local government bonding authority, economic development tools, and expanded aid to families and individuals; and (4) assessed impacts, opportunities, and prospects for action.

The President's FY2011 budget proposal totaled \$3.834 trillion, of which \$1.415 trillion is for discretionary programs (subject to annual appropriations decisions) not including military operations in Iraq and Afghanistan, with a particular focus on job creation. It represents a 2.7% increase in discretionary spending from FY2010.

The President's budget proposal is principally a policy document that serves as a reference point for consideration by Congress as it prepares to make its own funding and programmatic decisions. The final appropriations levels passed by Congress often deviate substantially from the Administration's budget. In many instances, the President's budget may lower costs and create offsets for new efforts by suggesting cuts to popular programs that Congress supports and can be fully expected to continue.

With regard to elimination of earmarks, the budget does not take as overtly aggressive a stance as the Administration had in FY2010. Rather, the standard seems to be focusing on the President's proposal in the State of the Union to impose additional transparency measures on the process, such as publishing all projects on a single website before a vote.

Transportation

We provided early notification regarding the Department of Transportation's announcement that the Federal Transit Administration (FTA) rescinded the current policy for New Starts analysis that bases transit project recommendation status on receiving a "medium" or higher cost effectiveness rating, and congestion reduction. FTA reverted back to considering benefits related to economic development, community impact, and environmental outcomes consistent with the Administration's Sustainable/Livable Communities Initiative principles. We circulated a "Dear Colleague" letter from Secretary Ray LaHood sent to transit agencies and informed the City that FTA would begin a public comment and rulemaking process on how to measure these factors.

We also provided advance notification on high speed rail funding. The State of California was allocated approximately \$2.3 billion, not specifically allocated to segments, via the High Speed Rail Commission. The West region's Oakland - Sacramento (Capitol) Route has an estimated funding potential of \$23 million, noting that construction of four new station tracks at San Jose Diridon Station would almost double the capacity of the station.

Patton Boggs provided consult on extension funding for the Safe, Accountable, Flexible and Efficient Transportation Equity Act (SAFETEA) in the recently enacted "jobs bill" (Public Law 111-147), noting that the SAFETEA extension is not new money, but rather allows the regular annual funding to be distributed at about prior year levels. We further noted that California would receive slightly less because the extension fixed a formula that directed the same amount of previously earmarked highway accounts to states in proportion to the original earmarks. We continue to believe that there is only a far outside chance that a full reauthorization bill can be accomplished during a "lame duck" session that followw the November mid-term elections, and that there is almost no chance of action before then.

The Senate approved a Federal Aviation Administration (FAA) reauthorization bill on March 23. We monitored Senate debate on the legislation and provided information and assessment on several potentially relevant amendments for the City. This included an unsuccessful amendment by Senator Tom Coburn (R-OK) to revise the formula for apportionment funding for primary airports to what is termed "proportional apportionments". The two-year, \$34.5 billion bill is now pending consideration in the House; because the House has a competing bill that includes more controversial provisions such as an increases in fees paid by passengers for airport improvements, the bills will need to be conferenced to resolve differences.

Finally, we provided an assessment of proposed Federal legislation that would expand Safe Routes to Schools funding to high schools.

Norman Y. Mineta San Jose International Airport

We provided advance notification and guidance regarding the Department of Homeland Security's (DHS) announcement to accelerate deployment of Advanced Imaging Technology (AIT) units purchased with American Recovery and Reinvestment Act funds. On March 5, DHS Secretary Janet Napolitano announced that, based on security and operational needs, the Transportation Security Administration (TSA) would deploy the first AIT units to eleven airports – including the Norman Y. Mineta San José International airport. The effort is intended to strengthen security at airports throughout the country while boosting local economies. TSA expects to deploy a total of 450 AIT units by the end of this year.

Housing and Community Development

We continued to monitor and provide updates on the U.S. Department of Housing and Urban Development's (HUD) implementation of the Neighborhood Stabilization Program (NSP) to address the nation's housing and foreclosure prevention needs. In February, we provided early notification that HUD would be releasing NSP "Round 2" awards, and that the Housing Trust of Santa Clara County, Inc. had been selected to receive a \$25 million consortium grant award. We understand that HUD received over \$15 billion worth of applications for \$1.93 billion in available NSP-2 funding -- and that approximately 60 grants would be primarily allocated to consortium applicants with around 15 to local governments and remainder to states, national nonprofits, and national consortiums.

The Administration also released a Sustainable Communities Initiative planning implementation proposal for comment. We provided a copy of the draft notice to allocate funds appropriated in FY2010 prior to formal release for public comment in the Federal Register. We noted that the proposed design had broadened slightly to allow more potential designees, and that HUD would conduct a series of site visit listening sessions. We also highlighted that the majority of questions that HUD raised in their proposal were in line with what we had previously identified as priority interests for the City and had discussed with staff internally over prior months. We advised that the City should focus comments on issues of governance and eligible lead entities (to avoid unnecessary Metropolitan Planning Organizations control), eligible use of funds, and selection criteria that could best advantage San Jose.

Finally, we provided consult on HUD's timing for release of FY2010 Community Development Block Grant funds. Based on discussions with HUD staff, we subsequently advised that their allocation release was delayed from their targeted March date due to administrative issues beyond their control. We advised that the City should expect to see an increase over FY2009 levels of approximately 7.5%.

Federal Courthouse

We continued to monitor, provide guidance, and discuss with Congressional staff leads and relevant Administration officials on siting and development issues related to construction of a new federal courthouse in downtown San Jose. We responded to City questions and recommended local action with the General Services Administration (GSA) and other stakeholders in order to assure future progress on the project. This included work with Senator Dianne Feinstein's office to secure funding through the FY2011 appropriations process to assist GSA in moving the project forward.

Employment

Patton Boggs continued to keep the City apprised regarding legislative movement to extend COBRA benefits and the Department of Labor's efforts to provide updated information on COBRA. We provided informative employer/employee fact sheets, model notice packages, and educational materials to enable employers to provide notice on the availability of COBRA continuation coverage premium reductions under the Recovery Act through March 31. The Temporary Extension Act had amended the Recovery Act's COBRA premium reduction provisions by extending the eligibility period through March 2010 and modifying the definition of assistance-eligible individuals to include individuals who were involuntarily terminated after first losing health coverage related to having their hours of work reduced. The subsidy allows individuals to pay 35% of their COBRA premiums, the remaining 65% is reimbursed to the employer through a tax credit.

National Association and Intercity 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, including attendance at weekly and monthly association meetings, as well as participating in relevant portions of national conferences and briefing City officials in attendance.

We also generally facilitated City collaboration with other similarly situated large localities for the purposes of sharing best practices, and advising on involvement in national initiatives.

Federal Grant Opportunity Tracking

On a regular 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 help to

answer City questions regarding these grant program opportunities, and in some cases, we draft and secure Congressional letters of support for submissions.

We continue to identify and circulate potential competitive grant solicitations of potential interest to the City, along with additional information on grant modifications.