

T&E COMTE: 03-01-10  
ITEM: C2

# Memorandum

**TO: TRANSPORTATION AND ENVIRONMENT COMMITTEE**

**FROM: Betsy Shotwell  
Roxanne Miller**

**SUBJECT: REPORT ON KEY LEGISLATIVE ITEMS**

**DATE: February 17, 2010**

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Approved  Date 2/19/10

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## RECOMMENDATION

Accept the staff memorandum and attached 2010 State Legislative Bill Matrix dated February 11, 2010, concerning pending State legislation in the transportation, aviation, environmental, and utilities City Service Areas.

## BACKGROUND

Included in the Transportation and Environment Committee work plan for 2010 is the request for a legislative update to be brought forward to the Committee by the City Manager's Office of Intergovernmental Relations.

## ANALYSIS

The following is a brief update of legislative matters concerning transportation and the environment.

## FEDERAL:

### Aviation

**Federal Funding for the Airport Checked Baggage Explosive Detection Systems for Terminals A and B** – This funding objective has now been fully met. As previously reported, in October 2008, the City and TSA signed an Other Transaction Agreement (OTA) that provided for up to \$18.1 million in federal funding for the baggage system in Terminal A. In the summer of 2009, TSA awarded the City (OTA) an additional \$20.9 million to cover the costs of installing of the new, state-of-the-art baggage handling system for Terminal B. In the summer of 2009 TSA also provided

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\$2.5 million to mitigate additional and unbudgeted costs to the Airport related to a delay in delivering the new baggage screening machines for both Terminal A and Terminal B. Delivery of the machines was accomplished in December 2009. The Terminal A and Terminal B baggage systems are currently being installed and tested and will very likely be the most advanced baggage screening systems in the nation when they become fully operational in June 2010. With the federal investment of \$41.5 million in two state-of-the-art baggage systems for the Airport, this legislative funding objective has been fully achieved.

**Increase in Passenger Facility Charges and the Airport Improvement Program –** As previously reported, the House of Representatives adopted its version of the FAA Reauthorization bill in February 2009. It was identical to the bill the House adopted in September 2007 and contained the same increase in ceiling for Passenger Facility Charges (PFCs) (from the current \$4.50 to \$7.00) and the same increase in Airport Improvement Program (AIP) funding (\$100 million a year) that was proposed in the 2007 House bill. PFCs are locally-raised revenue used to address locally-identified airport priorities. In FY 08-09 the Airport realized \$17.7 million in PFC revenue based on passenger enplanements. (By contrast, in FY07-08 the Airport realized about \$21 million in PFC revenue based on enplanements.)

In the meantime, the full Senate still has yet to vote on its version of the FAA Reauthorization though the Senate Commerce Science and Transportation Committee introduced, marked up and passed its version of the bill in July 2009. That version of the bill contained an increase for AIP funding but *no* increase in the ceiling for PFCs. The Senate Finance Committee must draft the financing provisions of the bill and reconcile those provisions with any differences with the Commerce, Science and Transportation Committee bill before a bill can be considered by the full Senate.

As previously reported by staff, the City, as well as many other airports and airport advocacy groups, continues to support raising the ceiling from \$4.50 to \$7.50. In fact, the Airport has been working in a conscious collective effort with other California commercial airports to encourage the California delegation to include a PFC increase in both the House and Senate versions of the bill. Increasing the PFC ceiling (which has not been raised since 2000) is critical to the Airport's development. Any increase in PFC revenues will allow the City to commit the maximum PFC funding into the remaining TAIP projects and to more rapidly pay down outstanding bond debt for past safety, security, operational and environmental improvement projects.

**Stimulus Funding to be Reallocated for the Taxiway W Project –** As previously reported, in the summer of 2009, at the City's request, the FAA reallocated \$6 million in the American Recovery and Reinvestment Act (ARRA) funding from the five-gate south apron area in front of the new Terminal B to the Taxiway W project on the Airport's west side. The first phases of the Taxiway W project will address safety movements of general aviation aircraft that will reduce the possibility of accidents. The later phases will become the construction of a new taxiway on the general aviation side of the Airport as part of the economic development of the west side of the Airport. The FAA ultimately awarded the Airport \$5.2 million in funding for the Taxiway W project. The FAA had already awarded the project \$2 million in Airport Improvement Program (AIP) funds to the \$7.6 million project with the Airport required put up another \$482,000 in local share match funding,

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making the project 94% federally-funded. Construction of the first phases of the project is now underway and approximately 83 jobs are being created by the construction of the project. AIP funding is used to fund airport capital projects throughout the nation that are in alignment with federal air infrastructure priorities.

**The President's Proposed Funding for the FAA** - The Obama Administration's FY-2011 budget proposal contains a few items of note for the Airport. In the area of homeland security the President's budget proposes \$214.7 million for the purchase and installation of 500 Advanced Imaging Technology units at airports across the country. Should this funding remain in the budget, the Airport will make every effort to secure funding to install this technology at the airport to further enhance the Airport's security. Although the President's proposed budget for the FAA reflects a \$500 million reduction from the current year, proposed funding for the Airport Improvement Program remain at the current level for the sixth year in a row. This should mean no apparent reduction in the AIP funding source in competing for the Airport's most important capital projects. In the area of solar energy, the President budget proposes no new funding for local and state governments within the Office of Energy Efficiency and Renewable Energy (EERE) budget. Established and authorized in 2007 at \$2 billion, the program has since only received \$3.2 billion in one-time funding through ARRA. Although the opportunities do not look very promising, Airport staff continues to look into whether there are any federal programs that will help with funding the Airport's solar energy project for the consolidated rental car garage or any solar projects the Airport may pursue in the future. The solar project for the consolidated rental car garage could provide up to 20% of the electrical power needed for this facility.

### **Surface Transportation**

According to the City's federal lobbyist firm of Patton Boggs, the President's proposed funding for the **U.S. Department of Transportation's** FY 2011 budget includes \$79 billion for federal transportation programs in FY 2011, including new discretionary funding for efforts like the National Infrastructure Innovation and Finance Fund, additional High Speed Rail, and DOT's contribution to the multi-agency "Livable/Sustainable Communities" initiative. In total, the proposed mandatory and discretionary funding represents a \$2 billion increase over the FY 2010 enacted levels.

The budget also includes a specific proposal to further extend the current surface transportation authorization bill from its current expiration at the end of February 2010 through March 2011, consistent with the approach preferred by the Senate.

**Federal Highway Administration (FHWA)/Federal-aid Highway Program** - The President's budget increases the obligation limit to \$41.36 billion, a 0.6% increase, saving \$263 million by rescinding unused highway reauthorization earmarks dating back to bills enacted on or before 1991. The budget also assumes that an authorization extension to March 2011 will require a \$20 billion transfer from the General Fund appropriations to cover Highway Trust Fund gaps. To help create the Livable Communities program, the budget also reallocates \$200 million from the baseline highway formula programs like Surface Transportation Program and Interstate Maintenance to initiate competitive grants for local capacity-building in planning around integrated transportation,

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housing, and land use, and natural resources conservation, and infrastructure cost reduction; funds would be used to improve modeling and data collection, and to implement and assess projects that meet those livability principles.

**Federal Railroad Administration (FRA)** – The budget requests \$2.9 billion in total, with \$1 billion for High Speed Rail and \$1.6 billion for Amtrak, including \$281 million to fully fund Amtrak’s Americans with Disabilities Act (ADA) capital plan for FY 2011. The High Speed Rail amount represents the second year of \$1 billion annual requests over five years, as outlined first in the President’s FY 2010 budget, complementing \$8 billion in Recovery Act funding, and \$2.5 billion ultimately enacted in FY 2010.

### **Energy**

According to Patton Boggs, the President’s budget request of \$28.4 billion for the Department of Energy (DOE) is a \$2 billion increase from FY 2010 and would support initiatives to advance clean energy alternatives, some of which have direct bearing on local government operations or environmental /economic development goals. As expected, the budget continues significant funding emphasis for energy efficiency and renewable energy programs, and maintains the President’s goal to double science and research-based programs over 10 years – primarily through the roll-out of several “energy hubs.”

Included in the Administration’s FY 2011 strategic objectives is (1) a doubling of renewable electricity generation capacity by 2012; (2) supporting advanced battery manufacturing capacity to deploy 500,000 plug-in hybrid cars by 2015; (3) providing significant financial and technical support to revitalize the nuclear power industry; (4) accelerating home energy efficiency programs; and (5) rolling-out the fourth “energy hub” – for batteries and energy storage, with a total funding for the four hubs at \$107 million. The proposed budget increases funding for the Weatherization and Assistance Program and the Office of Energy Efficiency and Renewable Energy (EERE), including solar energy technology, however as noted above in the Aviation section, it proposes no funding for the Energy Efficiency and Conservation Block Grant Program (EECBG) which has only received \$3.2 billion in one-time funding through the ARRA.

### **STATE:**

#### **State Highway Relinquishment**

Within San José’s city boundaries are State Routes 82 (The Alameda and Monterey Highway) and Route 130 (Alum Rock Avenue). Although these roadways act as City arterials, they are within the jurisdictional authority of the California Department of Transportation (Caltrans) and any changes to the roadways resulting from a development project or local or community-based improvement requires Caltrans’ involvement at all levels. Because these facilities are within Caltrans jurisdiction, all public improvements within the right-of-way of these corridors are subject to Caltrans’ design standards and approval.

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Additionally, the City is involved in the development of several transportation projects that will be located along Routes 82 and 130. These projects include Bus Rapid Transit (BRT), Bay Area Rapid Transit (BART) and California High Speed Rail (HSR). Relinquishment will provide the City of San José control along these facilities as these three major transit projects are developed and built. This will allow the City better opportunities to pursue economic development, other improvements to the roadway system, and community enhancements without the constraints of Caltrans' requirements.

In order to meet the City's goals and to facilitate the development of these projects, the City has worked with Assemblymember Jim Beall to sponsor AB 1670. This bill would authorize the relinquishment of specified portions of State Routes 82 and 130 to the City of San José. The introduction of AB 1670 aligns with the City's *2010 Legislative Guiding Principles, Priorities and Advocacy Issues* approved by the City Council at its December 15, 2009, meeting, which supports initiating legislation for the relinquishment of portions of State Route 82 and State Route 130 to San José. AB 1670 has been assigned to the Assembly Transportation Committee.

### High-Speed Rail

In June 2009, the State of California submitted an application for nearly \$4.7 billion in American Recovery and Reinvestment Act (ARRA) funds for the planning and development of the California High Speed Rail project. The Bay Area identified nearly \$2 billion in High Speed Rail investments for consideration as part of the application for the Federal grant funds. On February 5, 2010, the Obama Administration unveiled their plan for the distribution of \$8 billion for the development of High Speed Rail nationwide. As part of their allocation, the Administration committed \$2.25 billion of these funds to four segments of the California High Speed Rail Project. The corridors identified for funding include:

- San Francisco to San José;
- Merced to Fresno;
- Fresno to Bakersfield;
- Los Angeles to Anaheim.

The determination of the specific allocation of funds to these project segments will be determined by the California High Speed Rail Authority and the Schwarzenegger Administration in the next few months.

City Department of Transportation staff is working with the Metropolitan Transportation Commission, the Transbay Joint Powers Authority, the Peninsula Joint Powers Board and the Santa Clara Valley Transportation Authority to advocate for the expenditure of at least \$1 billion of the Federal allocation to the Bay Area. Some of the projects identified for immediate funding consideration include the Transbay Terminal Station Box, Peninsula Corridor Positive Train Control Systems, Peninsula Corridor Electrification and Grade Separations, and Diridon Station Planning and Design.

## PENDING STATE LEGISLATION

The 2009-10 State Legislative Session reconvened in Sacramento on January 4, 2010, and the deadline for bills to be introduced in the State Legislature is February 19, 2010. A total of 3,271 bills and constitutional amendments have been introduced thus far. Proposed legislation included in the attached matrix reflects two-year bills carried over from 2009 and legislation introduced in 2010 in the areas of transportation, aviation, environment, and utilities. The next major bill deadline in the Legislature is April 23, which is the last day for policy committees to meet and report bills to Appropriations Committee, followed by a May 28 deadline for fiscal committees to report bills to the full Assembly or Senate. Since this is the second year of the 2009-10 session, all bills need to be passed by the Legislature by August 31, and the Governor will have until September 30 to sign or veto bills. Bills signed into law will become effective January 1, 2011, unless otherwise specified.

The attached matrix includes 2009-10 pending State legislation relating to transportation and the environment that are still active or were recently introduced this year. In cases where the City has taken a position, those positions are reflected. All legislation is continually reviewed by IGR and other City departments for new amendments, and significant bills will be brought forward to the Rules Committee and the City Council for consideration and adoption of City positions.

## 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.)**

This document will be posted on the City's website for the March 1, 2010, Transportation and Environment Committee, where the Council and the public have the opportunity to comment.

## EVALUATION AND FOLLOW-UP

The City Council will be informed as to the status of these measures as part of the regular Intergovernmental Relations legislative updates.

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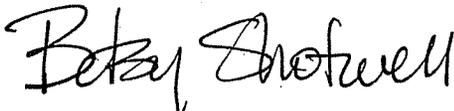
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**COORDINATION**

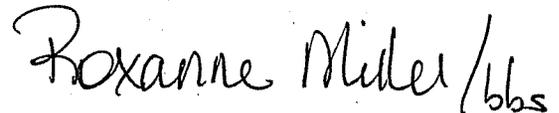
This memo was coordinated with Aviation, the Environmental Services Department, the Department of Transportation, the City Attorney's Office, the City's Legislative Representative in Sacramento, and the City's Federal lobbyist firm of Patton Boggs, LLP.

**POLICY ALIGNMENT**

The measures and critical funding issues identified in the memorandum are based on the City of San José's 2010 Legislative Guidelines and Priorities adopted by the City Council on December 15, 2009.



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Attachment: February 11, 2010, State Legislative Bill Matrix re: Transportation and Aviation and Environmental and Utility CSAs.