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August 2010 Monthly Report for MTC

**To: Steve Heminger, Executive Director
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**From: Tom Bulger, President
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Re: Monthly Report for August 2010

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- **FREIGHT Act—National Freight Surface Transportation Policy**
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Climate and Energy Update

Congress adjourned for their annual August recess without passing climate and energy legislation. In the last two months, a number of Democratic senators produced an outline of various bills, with changes aimed at attracting Republican support. The proposed legislation included provisions aimed at broadly reducing greenhouse gas (GHG) emissions from the transportation sector by increasing transportation options and improving overall transportation efficiency. However, the effort to pass comprehensive energy and climate change legislation stalled amid competing priorities. Congress shelved comprehensive legislation and instead offered a narrower energy bill to respond to the Gulf oil spill.

Surface Transportation Authorization Update

The law directing federal surface transportation programs and policies, the Safe, Accountable, Flexible, Efficient Transportation Equity Act — a Legacy for Users (SAFETEA-LU), expired in September 2009. In the absence of a new transportation authorization, SAFETEA-LU has been extended several times.

Conversations with the Senate Environment and Public Works (EPW) Committee this August revealed that the Committee's timeframe for transportation authorization has been pushed back. EPW staff recently indicated that in September they are planning on holding a hearing, writing a white paper, or releasing a set of principles that will be incorporated into their comprehensive proposal for the highway portion of the surface transportation authorization legislation. The Committee previously suggested that they would complete authorization language by the end of September 2010. The Senate Commerce Committee, which has jurisdiction over the freight portion of the surface transportation program, recently introduced language that could be a baseline for the larger authorization (more detailed information below).

Without active movement on developing legislative language, there is little chance that a comprehensive six-year authorization bill will be passed by the time the current extension of SAFETEA-LU expires on December 31, 2010. An even larger obstacle to passage of a long-term authorization is the absence of an agreed-upon funding mechanism that would pay for the comprehensive bill. Both Congress and the Administration are hesitant to impose a gas tax increase and other funding strategies have yet to gain sufficient support — although Congressman John Mica (R-FL), Ranking Member on the House Transportation and Infrastructure Committee (T&I), recently came out with a proposal to swap the gas tax for a sales tax and then supplement this sales tax with public-private partnership funding. Inaction could result in a fifth extension of the current law.

S. 3629 FREIGHT Act — National Freight Surface Transportation Policy

In late July, Senator Frank Lautenberg (D-NJ), Chair of the Senate Commerce Subcommittee on Surface Transportation and Merchant Marine (with jurisdiction over freight policy) introduced S. 3629, Focusing Resources, Economic Investment, and Guidance to Help Transportation Act of 2010 (FREIGHT Act of 2010). Committee staff expressed that the FREIGHT Act is an attempt

at the national level to take into consideration the freight recommendations given by the National Surface Transportation Commission, of which MTC’s Executive Director Steve Heminger is a member, and to help secure funding for freight projects at a local level. The intent is to utilize this bill as the blueprint for the freight portion of the larger comprehensive surface transportation authorization bill. Below is a brief summary of the FREIGHT Act’s policy and funding components:

Policy (Title I): In accordance with the National Surface Transportation Commission’s recommendations, sets policy in accordance for national freight objectives of promoting (among other things) commerce, jobs, and leveraging partnerships in order to reach more specific policy goals. As part of policy creation, the bill directs the development of a National Freight Strategic Plan that achieves the policy, objectives and goals using the current state of the freight system as a base. In addition, the plan will include a proposed Investment Plan and strategy to develop user-based financing efforts to fund program grants/projects. Lastly, the plan will include list of priority freight corridors and gateways to be improved and developed to meet the policy and objectives set forth in the bill.

Funding (Title II): Provides funding for eligible projects through a National Freight Infrastructure Investment Grant program. This program is modeled after the TIGER grants—a competitive mode-neutral grant program that funds alternative/creative projects that would advance the policy and objectives set forth in the legislation. These projects will not be specifically identified in the Strategic Plan, but would generally be located within the identified priority freight corridors and gateways. The second section of Title II lifts the prohibition of using highway funding for port development.

The House companion bill, H.R. 5976, has been introduced by Representative Albio Sires (D-NJ). We will continue working with Committee staff to address MTC comments and recommendations regarding this legislation.

Fiscal Year 2011 Transportation Appropriations

In late July, both the Senate and the House passed their FY 2011 Appropriations bills. The total budget authority in the Senate is \$67.9 billion — equal to the FY 2010 enacted level, and \$0.7 billion (or about 0.59%) below the President’s FY 2011 request. The House bill totals \$67.4 billion; \$500 million below FY 2010 enacted levels and \$1.34 billion below the President’s request. Total earmark:

	House (H.R. 5850)	Senate (S. 3644)
Budget Authority FY2010	\$67,900,000,000	\$67,900,000,000
Budget Authority FY 2011	\$67,400,000,000	\$67,900,000,000
President’s Request	\$68,740,000,000	\$68,740,000,000
Total FY 2011 Earmark Requests — SF Bay Area	\$62,240,000	53,415,000

Build America Bonds Extension

Throughout the month of August we worked on the extension of Build America Bonds (BABs). The Bay Area Toll Authority, BATA, has used Build America Bonds to help finance almost \$3 billion for infrastructure improvements in the past years, becoming the third largest issuer of BABs in the country. MTC estimates that these bond-issuances will save toll payers more than \$400 million over the life of the bonds. These bonds were originally made available through the American Reinvestment and Recovery Act of 2009 (ARRA), and are set to expire on December 31, 2010. Since these bonds have been a vital source of financing in the Bay Area, we have supported extending the issuance of BABs and recently sent a letter of support to Speaker Nancy Pelosi (D-CA).

A two year extension (through January 1, 2013) was part of the original tax “extenders” package (H.R. 4213) considered by Congress. Although the extension was passed by the House, it was stripped from the bill in the Senate, largely as a result of the estimated \$4 billion cost. In late July, Representative Sander Levin (D-MI), the House Ways and Means Committee Chairman, re-introduced a two-year extension of BABs in his American Jobs and Closing Tax Loopholes Act, H.R. 5893. This legislation has strong support in the House from both the Ways and Means Committee Chair and from the Leadership (Speaker Pelosi). In August, we conferred with the Speaker’s staff to discuss a strategy for supporting BABs in the Senate.

SMART Funding

On July 28, the House passed H.R. 5730: The Surface Transportation Earmark Rescission, Savings & Accountability Act, rescinding unused contract authority from a number of earmarks designated in transportation authorizations dating back to 1987. One of these was a \$10.8 million dollar earmark from the 1991 surface transportation authorization legislation (ICE-TEA) that is currently designated for SMART funding. We have been working in close coordination with Congressman Mike Thompson’s office and MTC staff to get this funding obligated by SMART in advance of losing this \$10.8 million, which would occur if the bill became a law.

Livable Communities Act

On August 3, the Senate Banking, Housing, and Urban Affairs Committee approved Chairman Christopher Dodd’s (D-CT) S. 1619, the Livable Communities Act of 2010. This legislation would formalize the partnership between the Department of Transportation (DOT), the Department of Housing and Urban Development (HUD), and the Environmental Protection Agency (EPA), as well as authorize funding for grant programs to be administered by this partnership. The DOT, HUD and EPA “Partnership for Sustainable Communities” has been active since last March.

This year, HUD is funding \$150 million in grants supporting regional efforts to improve access to transit and promote walkable development (MTC has submitted applications for these grants). The Livable Communities Act would authorize \$4 billion to be distributed through competitive grants by HUD’s Office of Sustainable Communities. The initial round of grants would fund

comprehensive plans — local initiatives to shape growth by coordinating housing, transportation, and economic development policies. Most of the funding — \$3.75 billion — would be distributed over three years to implement projects identified in such plans. The legislation is slated to be voted on by the full Senate after they return in mid-September, and it has yet to clear a committee vote in the House, where Congressman Ed Perlmutter (D-CO) is the sponsor.

TIGER II

Applications for Transportation Improvements Generating Economic Recovery (TIGER) II competitive grants were due August 23. We have been working with the San Francisco Bay Area delegation to send a letter to Secretary of Transportation Ray LaHood supporting MTC's project priorities. They include:

- Improvements to the Bay Area Rapid Transit (BART) District's Hayward Maintenance Yard, including expansion and modernization of the yard, helping facilitate the extension of BART to Silicon Valley (\$20 million).
- The Green Transportation Initiative, which will improve seven bicycle and pedestrian corridors in Alameda & Contra Costa Counties, providing improved non-motorized access to key regional transit service (\$24.5 million).

Originally, MTC also supported a \$15 million TIGER II grant request for the Candlestick Point/Hunter's Point Shipyard. After receiving indication from the Secretary of Transportation that this project is a competitive candidate for a TIFIA loan, the letter was altered to reflect support for this alternate funding.

We have been working with Congressman George Miller's office to garner delegation support. Representatives George Miller, Mike Thompson, Jerry McNerney, Barbara Lee, Pete Stark, John Garamendi, Mike Honda, Zoe Lofgren, and Anna Eshoo have signed on. We also coordinated with Speaker Pelosi's staff — the Speaker sent an individual letter indicating her TIGER II priority (the Mission Bay UCSF Medical Center project).

July and August Meeting Update

Senate Commerce Committee

Throughout the end of July and early August, we had a number of meetings with committee staff from the Senate Commerce Subcommittee on Surface Transportation and Merchant Marine regarding Senator Lautenberg's recently introduced FREIGHT Act of 2010. We discussed the basic policy and funding intents behind the legislation, and introduced MTC's comments and preliminary concerns/recommendations.

Senate Banking, Housing, and Urban Affairs Committee

In late July, we met with staff members of the Senate Banking Committee to discuss the transportation authorization and introduce an alternative mechanism to fund the upcoming bill. The Senate Banking, Housing, and Urban Affairs Committee has jurisdiction over the transit portion of surface transportation policy. We also discussed the Livable Communities Act.

Speaker Nancy Pelosi (D-CA)

On August 6, we had a meeting with Speaker Pelosi's staff regarding Build America Bonds. The Speaker iterated her support for a BAB extension, and we discussed strategy for moving this extension in the Senate.

On August 26, we met again with the Speaker's staff to discuss San Francisco's requests for TIGER II funding and to coordinate her requests with the delegation-wide TIGER II support letter.

Congressman Mike Thompson (D-CA)

Throughout the months of July and August we met a number of times with Congressman Thompson's staff to coordinate obligation of unspent earmark money to fund SMART.

We were also in contact with Congressman Thompson's staff regarding signing on to a delegation support letter for TIGER II projects.

Congressman George Miller (D-CA)

Throughout August, we worked with Congressman George Miller's staff to draft and send a delegation letter to Transportation Secretary Ray LaHood indicating support for MTC's TIGER II project requests.

MTC Commissioners' 2011 Washington, D.C. Trip

In late August, we had a meeting with MTC staff to begin preparation for the MTC Commissioners' annual advocacy trip to Washington, D.C., as well as MTC's annual transportation reception.