Agenda Item 4a

METROPOLITAN
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COMMISSION

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Memorandum

TO: Legislation Committee

DATE: May 4, 2007

FR: Executive Director

RE: Legislation to Implement Propositions 1B & 1C

Absent legislation to clarify distribution of funds, some of the new Proposition 1B and 1C bond programs may not receive an appropriation in the FY 2007-08 State Budget. This memo summarizes key bond bills by program. Attachment A provides a more comprehensive list.

Proposition 1B: State Local Partnership Program
This $1 billion program provides state matching funds for local and regional transportation funds as a way to encourage local investment. The debate centers on the types of funds that should qualify as local match, and whether to use a "return-to-source" formula or a competitive program.

SB 748 (Corbett), which MTC supports, would make all voter-approved funds (including tolls, property taxes and sales taxes) eligible through a competitive program administered by the California Transportation Commission. AB 1351 (Levine) and SB 872 (Ackerman), on the other hand, limit matching funds to voter-approved sales taxes. AB 1351 and SB 872 also contain a minimum project cost of $25 million, whereas the minimum project cost for SB 748 is only $1 million, allowing substantially more projects to be eligible. SB 748 also provides much broader project eligibility guidelines, including bicycle and pedestrian projects, in addition to state highway, local streets and roads, and transit improvements.

Proposition 1B: Transit Funding
Proposition 1B requires that $3.6 billion in bond funds be allocated according to State Transit Assistance formulas. There are number of issues that require statutory guidance, including: calculation of operators' revenue-based share, projects eligibility, and project administration.

There are two competing bills for this program — SB 716 (Perata) and AB 901 (Nuñez). Whereas AB 901 provides minimal detail about project eligibility and requires that Caltrans administer the funds in cooperation with the State Controller, SB 716 requires that the CTC to ensure that each project: (1) has at least a 10-year useful life and (2) will be fully funded upon receipt of the bond funds.

Proposition 1B: Transit Security
Proposition 1B provided $1 billion for two main types of security-related investments: (1) capital projects to prevent security and safety breaches and (2) capital expenditures for disaster response. At issue are questions about who should allocate funding, the basis for fund distribution and how much to spend on prevention versus disaster response.

As drafted, SB 45 (Perata) proposes that within the prevention category, 75 percent of the funds should be allocated by the state Office of Homeland Security based on risk, as determined by the federal Office of Domestic Preparedness (within the Department of Homeland Security), while the remainder would be allocated by formula to all transit operators that currently operate service. The bill is silent on how much of the $1 billion should be appropriated for disaster response. AB 1350 (Nuñez) takes a completely different approach, putting the funds on hold until February 2008, when the OES and Caltrans, in consultation with eligible transit operators, would be required to issue a joint report.

Overall, SB 45 is consistent with our 2007 Legislative Program, which advocates allocating the majority of these funds according to risk. In addition, we support relying upon the federal DHS risk assessments as the basis for allocating the prevention funds, as it is best positioned to assess risk on the basis of classified intelligence as well as information that would be widely available. Given the certainty of a major earthquake occurring in our region, we recommends that at least half of the funds be allocated to disaster response.

Proposition 1B: Trade Corridors

Proposition 1B provides detailed direction on how the $2 billion Trade Corridors program is to be administered, giving the CTC the final determination as to which projects are to be funded as well as describing the types of projects that are eligible. SB 9 (Lowenthal) requires that projects be included in an approved regional transportation plan and be fully funded and ready for construction upon receipt of the bond funds. The bill further limits project eligibility to the "construction" phase of a project. Based on an initial review of the region's priority projects, we believe these requirements don't negatively affect us. However, SB 9 also removes the local match requirement for border projects, a move that clearly places the Bay Area at a disadvantage.

With regard to ranking criteria, the bill places a new emphasis on air quality by requiring the CTC to prioritize projects that reduce emissions and providing for a $50 million set-aside for projects that can move freight in a manner that produces zero emissions. Project sponsors must submit a plan to mitigate the emissions associated with the project. It is unclear whether SB 9 requires the plan to be funded, however. In lieu of a plan, the bill allows project sponsors to propose a fee payable to the local air district to prepare a plan and mitigate the emissions associated with the project. MTC staff would like to see the bill allow mitigation to be developed on a whole suite of projects — at the corridor level — rather than on a project-by-project basis.

Proposition 1B: Air Quality

SB 19 (Lowenthal) is the primary vehicle for the air quality component of the bond. It requires the State Air Resources Board — as administrator of the grant program — to ensure that the bond funds are supplemented by other federal, state, local and private funds "to the maximum extent feasible." The bill requires that all projects achieve emission reductions "not otherwise required by existing law or regulation," and clarifies funding eligibility, including for comprehensive plans to reduce emissions associated with goods movement; replacement or upgrade of heavy-duty diesel trucks, diesel locomotive engines, and harbor craft that operate at seaport; provision of on-shore electrical power for ocean carriers to reduce use of auxiliary and main engine ship power; and replacement or upgrade of seaport cargo-handling equipment

Proposition 1B: Local Streets and Roads
SB 286 (Lowenthal) is the primary vehicle for this $2 billion for local streets and roads. Funds are broadly defined and not limited to maintenance. The bill clarifies that while maintenance, rehabilitation, construction, etc. of facilities to expand transit ridership is an eligible expense, transit operating costs are not eligible. Funds would be allocated in two cycles over four years, beginning on January 1, 2008, with the first payment being at least half of the local agency's total share. If a local agency can demonstrate that it can spend more than half its share in the first cycle, the bill requires the Controller to allocate up to the entire amount.

Propositions 1C: Regional Planning, Housing and Infill Incentive Account
There are at least seven bills dealing with this broadly defined, $850 million account created by Proposition 1C. Key policy questions for this fund include: what role should regional agencies, non-profits and private developers have in reviewing or ranking project proposals? What types of projects should be eligible — infrastructure supporting housing or housing itself? Should Proposition 1C's $200 million cap for new parkland be treated as a guaranteed set aside?

MTC and ABAG have focused our energies on the first question, as we believe these funds provide an excellent opportunity to help implement the Focusing Our Vision effort. Specifically, the funds may be used as a "carrot" to reward local agencies that choose to become Priority Development Areas. Most of the bills include as a criteria projects that are "consistent with regional blueprint efforts" or similar language, but do not explicitly provide a role for regional agencies in project review or selection. Assembly Speaker Fabian Nuñez and Assembly committee chairs have put bills on this topic on a "two-year" track (i.e. they will not be taken up this calendar year) and do not support making an appropriation from this fund in FY 2007-08. Senate President Pro Tempore Don Perata does not necessarily agree with this approach, however, and is authoring SB 46, which is currently in the Senate Appropriations Committee. While the bill does not contain much of a role for regional agencies, Senator Perata's staff has indicated that they are open to making this change.

Proposition 1C: Transit Oriented Development
Proposition 1C provided considerable responsibilities to the state Department of Housing and Community Development (HCD) for implementation of this $300 million program. Accordingly, HCD intends to distribute draft guidelines for its first Notice of Funding Availability (NOFA) on this program in late June and issue the NOFA later in the fall for $95 million, as proposed by the Governor's budget. However, AB 1091 (Bass) would restrict the program to infrastructure that supports housing projects (including mixed-use), rather than for loans to support the construction of the housing itself, and requires that the projects contain at least 15 percent affordable units. It also expands the definition of "close proximity to transit" to a half-mile, rather than a quarter-mile. These changes seem to be consistent with MTC's legislative priorities.

Based on your discussion at the May meeting, we will return to this committee with specific recommendations for positions on these bills in the coming months.

Steve Heminger

Attachment A

Attachment A

Proposition 1B: Transportation Infrastructure Bond		
Proposition 1B: Transportation	**Relevant Legislation**	**Status as of May 1, 2007**
State Local Partnership Program ($1 B)	SB 748 (Corbett)	MTC supports; Senate Appropriations Committee
	AB 1351 (Levine)	Assembly Appropriations Committee
	SB 872 (Ackerman)	
	SB 47 (Perata)	Spot bill
Local Streets and Roads ($2 B)	SB 286 (Lowenthal)	Senate Transportation Committee
Transit ($3.6 B)	AB 901 (Nuñez)	Assembly Appropriations Committee
	SB 716 (Perata)	Senate Appropriations Committee
Trade Corridors ($2 B)	SB 9 (Lowenthal)	Senate Appropriations Committee
	SB 262 (Runner)	Senate Transportation Committee; hearing postponed
	SB 307 (Dutton)	Senate Rules Committee
	AB 1672 (Nuñez)	Assembly Appropriations Committee
Air Quality ($1 B)	SB 19 (Lowenthal)	Senate Appropriations Committee
	AB 1209 (Karnette)	Assembly Appropriations Committee
Transit Security ($1 B)	SB 45 (Perata)	Senate Appropriations Committee
	AB 1350 (Nuñez)	Assembly Appropriations Committee
Port Security ($100 M)	SB 745 (Oropeza)	Senate Transportation and Housing Committee; hearing canceled at author's request
	AB 784 (Karnette)	Assembly Appropriations Committee
	AB 1202 (Richardson)	Assembly Governmental Organization Committee
General (Project Delivery/ Project Benefits)	AB 784 (Karnette)	Assembly Appropriations Committee
	AB 412 (Smyth)	Assembly Transportation Committee; hearing postponed by committee.
	AB 995 (Nava)	Assembly Appropriations Committee

Proposition 1C: Housing Bond		
	Relevant Legislation	**Status as of May 1, 2007**
Transit-Oriented Development Implementation Program ($300 M)	AB 1675 (Nuñez)	Assembly Rules Committee (spot bill)
	AB 1091 (Bass)	Assembly Appropriations Committee
	Next Steps	With or without subsequent legislation, the Housing & Community Development Department plans to move forward with developing guidelines for first round of funding ($95 million) and will issue a draft this summer
Housing Infill Incentive Funds ($850 M)	AB 29 (Hancock)	Assembly Housing and Community Development Committee
	SB 522 (Dutton)	Senate Rules Committee
	AB 842 (Jones)	Assembly Housing and Community Development Committee
	AB 997 (Arambula)	Assembly Housing and Community Development Committee; hearing postponed by the committee
	AB 1017 (Ma)	Assembly Housing and Community Development Committee
	AB 1053 (Nuñez)	Assembly Appropriations Committee
	AB 1231 (Garcia)	Assembly Housing and Community Development Committee; hearing postponed by the committee
	AB 1536 (Smyth)	Assembly Water, Parks and Wildlife Committee; hearing canceled at author's request
	SB 46 (Perata)	Senate Appropriations Committee

Proposition 84: Park/Water Bond		
	Relevant Legislation	**Status as of May 1, 2007**
Sustainable Communities Planning Funds ($90 M)	AB 1253 (Caballero)	Assembly Appropriations Committee