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TO: Barbara Neustadter, TRANSPAC
Andy Dillard, SWAT
John Cunningham, TRANSPLAN
Christina Atienza, WCCTAC
Lisa Bobadilla, TVTC
Calvin Wong, LPMC/SWAT (TAC)

FROM: Robert K. McCleary, Executive Director Bob McCleary

DATE: September 17, 2009

SUBJECT: Items approved by the Authority on September 16, 2009, for circulation to the Regional Transportation Planning Committees (RTPCs), and items of interest

At its **September 16, 2009** meeting, the Authority discussed the following items, which may be of interest to the Regional Transportation Planning Committees:

1. **Proposed Policy for use of Bid Savings for American Recovery and Reinvestment Act (ARRA) funded projects.** Some Contra Costa jurisdictions realized bid savings in their ARRA projects. Recommendations on how to reprogram these savings are discussed in this item. *The Authority approved Resolution No. 09-46-P, which reprograms savings from the Walnut Creek ARRA project to the Ygnacio Valley Road Pavement Rehabilitation project, Town of Danville savings to the Camino Tassajara/Crow Canyon Road project, and directs other realized ARRA savings, not immediately usable on the same or another Federal project within a jurisdiction, to be reprogrammed to the Vasco Road Safety Improvements Project.*

2. **Measure J Strategic Plan Update.** Last June the Authority approved postponing the update to the 2007 Measure J Strategic Plan to get a better handle on actual Measure J revenues and debt service on the first bond. Staff provided updated Measure J revenue projections, key policy issues to be addressed and revised schedule leading to adoption in December. *The Authority approved staff's recommendations on the 2009 Update to the Measure J Strategic Plan, which includes a "moderate growth" revenue scenario. The draft plan is scheduled to be presented to the Authority in November, with adoption scheduled for December 2009.*

3. **Legislation. Attached is a status report on:**
   - AB 744 (Torrico) Bay Area HOT Lane Network
   - SB 406 (DeSaulnier) Vehicle Registration Fee to Fund Regional Blueprints
   - AB 1175 (Torlakson) Bay Area Toll Bridges
   - California Commisison on the 21st Century Economy

Contra Costa Transportation Authority, 3478 Buskirk Ave., Ste. 100, Pleasant Hill, CA 94523
Phone: 925-256-4700 Fax: 925-256-4701 Website: www.ccta.net

Legislative Report to the Contra Costa Transportation Authority
September 16, 2009

<u>AB 744 (Torrico) Bay Area HOT Lane Network</u>

Status:	**Senate Appropriations (this has become a two-year bill)**
Authority Position:	**Support (assuming any future amendments to the bill are consistent with the Authority's requirements)**

Key Provisions:
This bill would authorize the Bay Area Toll Authority (BATA) to develop and operate a regional high-occupancy/toll (HOT) lane network and to establish a fee structure (tolls) to fund the network.

This bill, as originally introduced, was problematic from the Authority's standpoint, however subsequent amendments adequately addressed our main concerns. Key amendments include:

- The requirement that BATA demonstrate that the conversion of HOV lanes to HOT lanes, or the construction of new HOT lanes, is feasible and will be advantageous in terms of traffic management on the corridor;
- The requirement that HOT lanes do not have a negative impact on the surrounding communities or transit riders;
- The requirement that the speed level in the HOT lanes is maintained at a sufficient level so as to continue to serve as an incentive for carpools and transit;
- The requirement that transit will be the priority beneficiary of any net revenues and that corridor investment plans must include a plan to improve transit in the corridor;
- A ban on the conversion of general purpose lanes to HOT lanes;
- The addition of privacy measures for FasTrak* users.

Status:
On the basis of these (and other) amendments, the Authority weighed in with a position of support. However, issues arose from other sectors, namely the environmental community and the Professional Engineers in California Government (PECG), that were unable to be resolved in time for this bill to move out of the legislature this year. As a result, the bill has become a two-year bill and will be held in Senate Appropriations until the legislative session reconvenes in January.

<u>SB 406 (DeSaulnier) Vehicle Registration Fee to Fund Regional Blueprints</u>

Status:	**To Governor for Signature**
Authority Position:	**Support**

Key Provisions:
This bill would authorize an MPO or COG to impose, by a majority vote of its board, a \$1 or \$2 surcharge to fund the development and implementation of regional blueprints (or the Sustainable Communities Strategies required under SB 375). In the Bay Area, MTC and ABAG

would both have to adopt a resolution to trigger the surcharge. If a $2 surcharge were to be enacted in the Bay Area, $1 would be shared between MTC and ABAG for development of the SCS; the second dollar would go to the cities and counties, on a grant basis, for planning and programs consistent with the SCS. Five percent of the first dollar would be taken off the top for statewide coordination of land use planning and related activities.

The Authority originally took a position to support this bill if amended to provide that the second dollar would be allocated by the congestion management agencies, consistent with the intent of the bill. The Authority conveyed this position and a request for amendment to the bill sponsor (CALCOG). While CALCOG and the author did not provide a direct return-to-source of the second dollar to the CMAs, the bill was subsequently amended to provide that the CMAs would be eligible recipients of the grant money generated by the second dollar of surcharge revenue (the CMAs were not indicated as potential recipients in the original bill). This amendment was an effort to accommodate the Authority's requested amendment, although it does not go as far as to give the CMAs control over the grant money to their respective counties.

The Authority reconsidered its position at its September 16 meeting, and agreed that the bill, as amended, does provide an opportunity for funding to the CMAs, through a regional grant program, and that any options for funding SB 375 related obligations should be pursued. On that basis, the Authority adopted a support position on this bill.

<u>AB 1175 (Torlakson) Bay Area Toll Bridges</u>

Status:	**To Governor for Signature**
Authority Position:	**Support**

Key Provisions:

This bill was originally intended to add the Antioch and Dumbarton Bridges to the Bay Area's Toll Bridge Seismic Retrofit Program (2005), but also would have allowed MTC open-ended authority to put regional measures on the ballot that would raise bridge tolls and authorize expenditure plans that would go beyond paying for the seismic program.

The Authority was concerned that the bill was missing any details as to how the expenditure plans would be developed, how the nexus to users would be established, and the fact that it included no adequate 'return-to-source' provision. Other legislators had concerns about raising the tolls at all and privacy issues regarding the use of FasTrak*.

The bill was amended to remove MTC's ability to place future toll increase measures on the ballot without legislative approval. It still allows MTC to raise tolls to pay for bonding and other costs—including maintenance and operations—associated with the two new bridges that would be incorporated into the seismic retrofit program. It also provides that the tolls may be varied on the different bridges. There are new provisions to address privacy, such as the development of a system enabling users to purchase a FasTrak* with cash, and a ban on toll discounts for FasTrak* users. The bill still provides that maintenance expenditures on the bridges can be funded with toll money, but only after payment of costs of bonds secured by the tolls.

At the time of the APC meeting, there were outstanding issues raised by the Department of Finance regarding the priority use of toll funds for bond (as against maintenance) costs, and it was unclear whether the bill would be further amended. However, the bill passed in the legislature and has been forwarded to the Governor for signature. On this basis, the Authority adopted a 'support' position for this bill.

State Budget

Notwithstanding recent revisions to the state budget, many issues remain outstanding. One concern is the potential reactivation of a proposal to redirect Highway Users Trust Account (HUTA) funds (the portion of the state gasoline tax that is directed to cities and counties) to the general fund. Part of this summer's budget resolution involved a deferral of HUTA payments to the cities and counties until January, 2010. Should the legislature decide to redirect the funds for the current fiscal year as part of a further budget fix, the deferred amount, plus the amount that would have gone to the cities and counties for the remainder of the year will be directed to the general fund.

Report on California Commission on the 21st Century Economy

Last year, the governor and legislators appointed a panel to review and make recommendations regarding a potential overhaul of California's tax structure. The panel is due to make its report by the end of the week; a special session of the legislature is expected to be convened subsequently to consider implementing legislation. Two approaches are being worked through by the commission, both intended to be revenue neutral, i.e., reducing or eliminating some existing taxes and replacing them with a version of the value-added tax (VAT). At one point, there was discussion of applying an 18-cent per gallon tax on gasoline (a 'petroleum fuels pollution tax') that would be directed to the general fund; however that proposal appears to have been taken off the table.

Obviously, should legislation pass that would eliminate the state sales tax on gasoline, it would have a disastrous impact on transportation. Specifically, Proposition 42, which is funded by the state sales tax on motor fuel, funds the STIP, local streets and roads and transit; the state sales tax on diesel and the state sales tax on the excise tax on gasoline fund the Public Transportation Account; and the 'spillover' funds to transit are generated from the sales tax on motor fuels when there is a spike in gas prices. Transportation advocates have been working with the Commissioners and have come up with an alternative proposal, i.e., to retain the sales tax on fuel only, while phasing out all other state sales taxes. Under this scenario, Prop 42 and the PTA would remain fully funded.

DATE: **16 September 2009**

TO: **Authority Board**

FROM: **Bob McCleary, Executive Director**

SUBJECT: **Notable Milestones Achieved – Recognition of Authority Staff and Partners for the Accomplishments**

At this time, I want to highlight for the Authority Board a number of recent accomplishments and acknowledge the Authority staff and our partners for their significant contributions.

- **Caldecott Tunnel, Fourth Bore Project.** The bids for this project are due on September 16, and it is our expectation that we will have good news for the Board. Reaching this milestone reflects the excellent partnership between the Authority, Caltrans, and the Alameda Congestion Management Agency. You have recognized the Authority's designated Deputy Project Manager, Kanda Raj of Nolte, as well as key Caltrans personnel: Bijan Sartipi, Cristina Ferraz, and Mark Zabaneh. I wanted to also note the key contributions to this project made by Chief Deputy Director Paul Maxwell, who has overseen the work as our key staff representative and manager of the Parsons Transportation Group contract for tunnel design.

- **$200 Million Bond Anticipation Note Sale, Buy-out of $100 Million Swap, and Continuation of $200 million Swap.** The Authority has been very ably represented by our Chief Financial Officer (CFO) Randall Carlton, who has overseen all of the financial analysis, document preparation, strategic review, and formulation of strategies over the past 10 months. I also want to complement our partners involved in these transactions, particularly: Peter Shellenberger of PFM; Kathleen Leak of Orrick, our Bond Counsel; and Barney Allison of Nossaman, our Issuer Counsel. Bryon Rockwell of Merrill Lynch and John McCray-Goldsmith of Barclay's have led the banking teams. This team effort has lead to the Authority's successful attainment of high investment grade long-term credit ratings, including AA+ from Standards & Poor and Aa3 from Moody's Investor Services.

- **Installation of the Authority's Financial and Accounting System, and Transition From the County as Our G/L and Paying Agent.** This past July, after approximately one year of work, the Authority smoothly activated its new financial and accounting system and began issuing its own checks. The "New World" system has worked exceptionally well, and the transition out of the County – which had served as our paying agent and housed our General Ledger – was largely complete by September 1. The smooth transition is a testament to the drive, focus and attention to detail provided by our CFO, and to the commitment and contributions of our entire finance team including Erick Cheung, Larry Bieber and Cindy Walker-Sales. Mary Klingensmith of Nolte has also been a major part of this effort. The benefits include electronic processing of invoices, more timely payments because the checks are generated at the Authority, better integration of our accounts with our Measure, and more efficient reconciliations with our G/L.

- **<u>Route 4, East: Loveridge to Somersville Project.</u>** Delivering this $140 million project has been very challenging. It was delayed approximately two years while the Authority, Caltrans and BART revised the plans to accommodate BART in the median after the Union Pacific rejected our offer to buy the Moccoco line. We now expect the project to be advertised for bids no later than mid-October. The following challenges had to be addressed:
  - Environmental reevaluation of this project and the balance of the corridor to incorporate the impacts of adding BART;
  - The passage of SB 1210 in 2006 caused additional delay of at least two to three months in right of way acquisition due to a lengthened process and increased uncertainty about the timing of property possession.
  - Permitting issues, particularly the requirement for a water quality permit for the entire corridor to Route 160 that required involvement of the State Board, slowed the approval process.
  - Most recently, recognition that the combined Route 4/eBART project exceeded the $500 million FHWA threshold defining a "major project" that warranted further Federal review has caused an additional two months delay to date.

  Director of Projects Susan Miller, who is responsible for overall management of the Route 4 corridor investments, and our staff have done an outstanding job of resolving these problems as they have arisen. Our goal has been to start construction no later than fall 2009. Other major contributors to the effort include Trudy Presser, the Nolte/Gray-Bowen project manager who is managing and coordinating the final design for Route 4 segments from Somersville to Route 160, Karen Laws of Contra Costa County Real Property Division, responsible for addressing right of way acquisition, and our partners at Caltrans, particularly Laurie Lau and Mark Zabaneh, who have championed timely project delivery within the Department and helped resolve the challenges that have arisen.

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SUMMARY MINUTES
August 26, 2009

Commissioners Present:	Janet Abelson, Newell Arnerich, Ed Balico, Susan Bonilla, David Durant, Federal Glover, Michael Kee, Mike Metcalf, Julie Pierce, Robert Taylor, Maria Viramontes
Commissioners Absent:	
Alternates Present:	Dave Hudson for Ed Balico – Items A through C
Ex-Officios Present:	Gail Murray for Joel Keller, Nancy Parent for Mike Shimansky
Staff Present:	Bob McCleary, Randall Carlton, Arielle Bourgart, Susan Miller, Amin AbuAmara, Erick Cheung, Peter Engel, Jack Hall, Matt Kelly, Hisham Noeimi, Stan Taylor (Authority Counsel), Danice Rosenbohm (Executive Secretary)

A. CONVENE MEETING: *Chair Viramontes* convened the meeting at 6:01 p.m.

B. PLEDGE OF ALLEGIANCE:

C. PUBLIC COMMENT:
There were no public comments on items not on the Agenda.

D. APPROVAL OF MINUTES: Approval of Authority Minutes of July 15, 2009.

ACTION: *Commissioner Glover* moved to approve the Authority Minutes of July 15, 2009, seconded by *Commissioner Balico*. The motion passed unanimously, 10-0. *Commissioner Durant had not yet arrived.*

Commissioner Durant arrived at 6:15 p.m.

1. **Approval of Revised 2009 Authority Bond Financing Plan.** On July 1st the Authority provided direction on the 2009 Bond Financing Plan, including a strategy to (a) downsize the issuance from $300 to $200 million of Variable Rate Demand Bonds (VRDBs), (b) negotiate terms with banks to provide required liquidity support for the VRDBs, and (c) delay $100 million of the Forward Starting Interest Rate Swap for 2 years. Although the cost for bank liquidity was acceptable, terms which set the bond interest rate under a failed remarketing situation exceed the Authority's customary risk tolerance. While this may represent the new "standard" for terms and conditions in liquidity agreements, staff does not recommend prematurely establishing a precedent in liquidity documents that may not be in the Authority's long-term interest. These developments suggest that the Authority would benefit by revising the strategy as follows: (1) issue $200 million of fixed rate short-term notes (approximately for 12 months) instead of VRDBs; and (2) permanently buy out $100 million of the Swap. This revised strategy will reduce borrowing costs over the next year, reduce the Authority's exposure to interest rate risks and maintain the VRDB structure for the longer-term. During the year, the Authority would monitor the financial markets to assess how liquidity, Swap rates, fixed interest rates and other business parameters are evolving, and continue to examine the appropriate strategies to obtain a balance between risks and costs.

ACTION: *Commissioner Arnerich* moved to approve Resolution No. 09-45-A and the revised financing strategy to: (1) issue $200 million in short-term Bond Anticipation Notes (BANs) instead of VRDBs; and (2) permanently buy out $100 million of the Swap, seconded by *Commissioner Balico.* A roll call vote was taken. The motion passed unanimously, 11-0.

STAFF REPORT:
Randall Carlton, Chief Financial Officer, introduced Barney Allison from Nossaman LLP, Kathleen Leak from Orrick, Herrington & Sutcliffe, Peter Shellenberger and Kyle Vinson from PFM, Bryon Rockwell from Bank of America, and John McCray-Goldsmith from Barclays Capitol.

Mr. Carlton stated that Authority staff and the financing team had previously identified two preferred alternatives (Plan A and Plan B) for the Authority's consideration at its special meeting of June 3rd. The Authority approved Plan A, which called for soliciting bids from commercial banks for Variable Rate Demand Bonds (VRDBs) and a Standby Bond Purchase Agreement (bank liquidity) from banks through a Request for Proposal (RFP) process.

At a special meeting on July 1st, staff updated the Authority with information summarizing the bank liquidity bids. Staff was authorized to move forward with the 2009 Bond Financing Plan, which included a strategy to (a) downsize the issuance from $300 million to $200 million of (VRDBs), (b) negotiate terms with banks to provide the required liquidity support for the VRDBs, and (c) delay $100 million of the Forward Starting Interest Rate Swap for two years.

Mr. Carlton said that while $400 million of liquidity support was offered, exceeding the requirements for the planned bond issuance, and pricing was within expectations, staff believed that the terms which set the bond interest rate under a failed remarketing situation exceeded the Authority's risk tolerance. Mr. Carlton explained that the bonds would be remarketed every seven days, and VRDBs not purchased by investors would convert to "bank bonds" with an interest rate set at the Prime Lending Rate plus at least 1.5%, with no cap on interest rate exposure. Mr. Carlton stated that staff was able to negotiate a cap of 18%, but that represented a level of exposure higher than what the Authority has accepted on prior transactions and was beyond staff's level of comfort.

Mr. Carlton said that the Plan B recommendation was an interim plan that included the issuance of short term fixed-rate notes, and delaying the start of the forward interest-rate Swap which begins on September 23rd. He said that staff was now recommending a revised financing strategy which would include a short-term fixed-rate note transaction and buying out $100 million of the Swap.

Mr. Carlton said that at a special meeting on August 20th, the APC supported staff's recommendation to reduce the $300 million Swap to $200 million by "buying out" $100 million, move forward with the issuance of $200 million in fixed rate, approximately one year Bond Anticipation Notes (BANs) rather than issuing Variable Rate Demand Bond (VRDBs), and authorize full take-out financing of the BANs subject to Authority approval of necessary documents, in approximately one year. (Resolution No. 09-45-A)

He stated that the $100 million portion of the Swap could be terminated following Authority approval any time between August 27th and September 23rd, at a cost of $8 to $13 million. Mr. Carlton said that staff would closely monitor economic conditions to terminate at the most cost-effective time. He said that funds to terminate the Swap would come from cash on hand, and would be reimbursed upon issuance of the notes on September 23rd.

Mr. Carlton said that Authority staff had met with the ratings agencies (Moody's and Standard & Poors) to discuss the financing plan, and that staff was optimistic about obtaining good short-term ratings, and long-term ratings equivalent to AA.

Bob McCleary thanked *Chair Viramontes* for participating in the ratings agency conference with Moody's. He stated that staff had worked diligently with the banking team and bond counsel to respond to the change in direction and create terms that would be acceptable to the Authority. Mr. McCleary noted that the underlying Swap continued to perform as designed. He said that the revised financing strategy was the most cost-effective approach, and that it maintained flexibility for the Authority.

Chair Viramontes thanked staff and the financing team for their hard work.

Commissioner Arnerich said that reducing the Authority's risk exposure was a priority to him.

Stan Taylor, Authority Counsel, suggested that a roll-call vote be taken.

E. CALENDAR: September/October/November 2009

Bob McCleary stated that there had been interest by some Authority members in changing the September meeting date, due to a conflict with the California League of Cities conference in September. After a brief discussion, it was decided that the September 16th Authority meeting would not be rescheduled.

F. <u>ADJOURNMENT</u> to Wednesday, September 16th, at 6:00 p.m.

Chair Viramontes adjourned the meeting at 6:20 p.m. to the Authority meeting scheduled for September 16th, 2009, 6:00 p.m

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