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December 4, 2015

TO: BOARD OF DIRECTORS

THRU: PHILLIP A. WASHINGTON PAW
CHIEF EXECUTIVE OFFICER

FROM: PAULETTA TONILAS P.T.
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SUBJECT: FEDERAL SURFACE TRANSPORTATION AUTHORIZATION

## ISSUE

Earlier today, President Obama signed into law a long-term surface transportation bill entitled the Fixing America's Surface Transportation Act (FAST Act) that Congress had voted to approve yesterday. The bill authorizes $305 billion over five-years for federal transportation programs. Overall, the bill authorizes funding for highway, transit and railroad programs and projects nationwide at increased levels, with funding coming from the federal gas tax and $70 billion from the General Fund. The FAST Act represents the first surface transportation bill longer than two years in over a decade, during which time dozens of extensions were enacted by Congress. Metro worked effectively with the Los Angeles County Congressional Delegation on the FAST Act and is appreciative of their leadership in ensuring long-term certainty for federal transportation programs. The following is a summary of some of the major programs and policies embedded in the FAST Act signed into law by President Obama earlier today.

## DISCUSSION

### TIFIA Program

- The FAST Act would reduce budget authority for the Transportation Infrastructure Finance and Innovation Act (TIFIA) program from a maximum of $1 billion per year authorized by MAP-21 to $275 million in FY16 and gradually increasing to $300 million per year in FY19 and FY20. At this level of funding, the U.S. Department of Transportation (USDOT) could provide approximately $3 billion annually in TIFIA loans for transportation projects across the nation. Metro Government Relations staff worked with conferees to ensure that the Conference Agreement included funding at the the Senate DRIVE Act's authorization level instead of the House STRR Act's authorization of $200 million per year. Regarding the large decrease in funding, the

TIFIA program was underutilized nationwide and therefore did not provide support for continuing to fund the program at the MAP-21 level.

- The bill includes language to facilitate TIFIA Master Credit Agreements that could be useful for our agency. Master Credit Agreements would permit our agency to bundle multiple TIFIA loan requests and present them as a one application to USDOT.

- Language was included to provide eligibility to Transit Oriented Development projects.

**Capital Investment Grants (New Starts, Small Starts, and Core Capacity)**

- The FAST Act increases funding for Capital Investment Grants (CIG) from the current $2.1 billion to $2.3 billion per year during FY16-20.

- Retains ability to use other federal transportation funding as a portion of the local match for a combined total not to exceed 80% of the project's net total capital cost. The House bill restricted this ability. Reverting the language back to what is stated in current law was a top priority for Metro.

- Reduces the maximum New Starts share in Full Funding Grant Agreements to 60% from 80% of the project's net total capital cost. The originally House bill reduced the maximum share to 50% and Metro advocated strongly for an increase.

- Increases the threshold for the net total capital cost for a Small Starts project to $300 million and the Small Starts share to less than $100 million (from less than $75 million).

**Congestion Mitigation and Air Quality Improvement (CMAQ) Program**

- Flexibility to use CMAQ funds for operating expenses is maintained for the first five years of a new transit line's operation.

- Originally, both the House the Senate bill, included language that gave priority consideration in the distribution of CMAQ funds apportioned to a state to the most cost-effective projects and programs that are proven to reduce "directly" emitted fine particulate matter ($PM_{2.5}$). This would have potentially created a problem for Metro over the life of the 2014 Short Range Transportation Plan (SRTP) and would have reduced our ability to fund transit, bicycle, and pedestrian projects and programs. Metro's Government Relations staff worked with conferees U.S. Senator Barbara Boxer and Congresswoman Grace Napolitano to favorably resolve this matter by removing the language entirely in the final conference report.

**Surface Transportation Block Grant Program**

- Converts the Surface Transportation Program (STP) into a block grant program.

- Proposes to gradually increase the amount of funds that can be sub-allocated within a state by population from 51 % to 55 % (1 % annual increase through FY20). The proposed revision would increase the funding allocation for large urbanized areas, which would result in an increase in our agency's annual share of funds.

- Re-designates the current Transportation Alternatives Program as a sub allocation of the Surface Transportation Block Grant program. The bill funds transportation alternatives at $835 million in FY16 and FY17 and at $850 million per year during FY18-FY20.

**National Freight Programs**

- The bill creates two funded freight programs for projects of national or regional significance:

    1. A formula National Highway Freight Program funded at about $6.3 billion over 5 years which is allocated to the states.

    2. A competitive grant program for Nationally Significant Freight and Highway Projects funded at $4.5 billion over 5 years that state and local governments can apply for. The bill maintains the House's $500 million flex spending cap (in the aggregate during FY16-FY20) for some types of multimodal freight projects. Highway- railway grade crossings and grade separation projects are excluded from this limitation.

**High Density States Program**

- The FAST Act makes a minor adjustment to the apportionment formula by specifying annual authorizations instead of 50% of the total amount authorized per year for the High Density States Program and the remaining 50% for Growing States Program. The bill still limits funding eligibility under the High Density States Program to states with a population density in excess of 370 persons per square mile. Only the following seven northeastern states, and Washington, D.C., have benefited from this program since it was authorized by SAFETEA-LU: Connecticut, Delaware, Maryland, Massachusetts, New Jersey, New York, and Rhode Island. These states, and Washington, D.C., would receive about $1. 3 billion during FY16-FY20.

- The State of California, with a population of density of 239 persons per square mile (2010 US Census) is not eligible to receive funding through this program. The urbanized area of Los Angeles-Long Beach- Anaheim, with a population density of about 7,000 persons per square miles, would not receive any funds from this program.

**Positive Train Control**

- The bill provides $199 million in grant funding for the installation of Positive Train Control. The grant funds can also be used for credit-risk premiums on a RRIF loan.

- An extension of the mandate to implement PTC nationwide is not included in the bill because it was already approved by Congress as part of the surface transportation authorization extension that was signed by the President on October 29, 2015. The deadline for nationwide implementation is now the end of 2018.

- The FAST Act increases the liability cap for Amtrak and those commuter railroads with no existing state award limits to $295 million per incident with adjustments every five years to reflect changes in the Consumer Price Index.

**Innovative Procurement**

- The bill creates a new Innovative Procurement Program for contracts under which vendors provide an option to purchase rolling stock and related equipment to multiple participants. This pilot program creates a method for small and medium sized transit agencies to purchase or lease rolling stock vehicles, presumably buses, in a manner that is similar to the State of California Multiple Award Schedules. The pilot program has the added feature of allowing transit agencies to make interstate purchases from participating states throughout the country.

**Buy America**

- The bill increases the Buy America requirement on rolling stock from 60% to 70% (incrementally) by 2020. Metro's 900 Bus Buy Contract recently underwent a Post-Award Buy America audit on the 350 Option Buses manufactured by New Flyer America that confirmed the achievement of over 75% U.S. content. These buses are fully assembled in the U.S. (St. Cloud, MN and Ontario, CA). This high content was only achieved because Metro included a scoring incentive in its Best Value solicitation for enhanced U.S. content. This enhanced U.S. content program is a result of California Assembly Bill AB1097, enacted in October 2011, which provides the state or local agencies with the ability to provide a scoring preference for proposers who exceed the 60% minimum U.S. content. The bill would create the same obligation from all Transit Vehicle Manufacturers across the United States.

**Transit Workforce Training Programs**

- The bill focuses transit workforce training programs on the front line workforce (bus drivers, rail operators, mechanics, etc.). The bill also focuses on career opportunities for underrepresented populations, including minorities, women, veterans, low-income persons, and persons with disabilities.

**Allowing Paratransit Coordinated Fare Structures to Continue – Los Angeles County Issue**

- The bill allows Access Services paratransit provider of Los Angeles County to continue using a tiered, distance-based coordinated paratransit fare system. For over 20 years, Access Services has had a tiered fare structure approved by the United States Department of Transportation (USDOT) that averages all the fares of 44 transit agencies into 2 fares. For riders traveling under 20 miles the fare is $2.75 and for riders traveling over 20 miles the fare is $3.50. USDOT was going to require Access Services to change their fare structure by January 1, 2016 based on formulas for each individualized trip a disabled customer takes. However, about 95% of the public comments that were received from the ADA community strongly opposed this change. This provision will allow Access to continue operating with their current tiered fare structure.

**NEPA-CEQA Reciprocity**

- The bill creates a pilot program where 5 states can apply to the White House Council on Environmental Quality to have their state environmental review law (CEQA in California) replace the need for NEPA if the Council on Environmental Quality determines that such state laws are substantially equivalent to NEPA. California would be one of the only state's that could apply for this designation for highway projects because they are currently enrolled in the Surface Transportation Project Delivery Program.

**Surface Transportation System Funding Alternatives**

- The bill creates a grant program (approximately $20 million) to allow states to experiment with alternative transportation user fees such as vehicle miles traveled taxes. California would benefit from this program because we are implementing one of the only alternative transportation user fee pilot programs in the country.

**National Surface Transportation and Innovative Finance Bureau**

- The bill creates a new Bureau within the office of the Secretary to streamline the administration of the TIFIA and RRIF loan programs, private activity bonds, and the new freight program. The bill also permits TIFIA and RRIF loans to be used for Transit Oriented Development projects.

**Funding for Locally owned Bridges on the Federal-Aid Highway System**

- The bill fixes a major concern that California Counties had with the last transportation bill (MAP-21) which only allowed bridges on the National Highway

System to be funded by the National Highway Performance Program. Many locally owned bridges in California are on the federal-aid highway system. These bridges previously received direct bridge funding. However, they became ineligible for funding under MAP-21 because they are not on the National Highway System. This bill allows all locally owned bridges on the federal-aid highway system to be eligible for funding in the National Highway Performance Program.

**Park and Ride Relinquishment**

- Allows states to relinquish ownership of park-and-ride lots to local governments.

**HOV Degradation Standards Impact on California**

- The bill allows for California or a local transportation agency to apply for a waiver from the current HOV degradation standard. It also requires the state or local agency to have a plan to improve their HOV operations.

**NEXT STEPS**

Metro's Government Relations Department, in coordination with our agency's Countywide Planning and Development Department, will continue to engage with federal legislators and their senior aides to ensure that the implementation of the FAST Act will benefit the priorities of our Board-approved Federal Legislative Program. Following the passage of the federal surface transportation bill, Metro staff will be coordinating with state and regional transportation partners on the state policies for distributing funds between the State and regions. This will include the determination of how well existing state law supports the distribution of continuing and new federal programs to confirm whether additional state legislative efforts are required or whether any necessary changes can be handled administratively. Metro's Government Relations Department will continue to keep the Board apprised of these efforts and their outcomes.