To VTA Board of Directors:

Attached is Legislative Update for the week of February 16, 2009.

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MEMORANDUM

TO: Santa Clara Valley Transportation Authority
Board of Directors

FROM: Kurt Evans, Government Affairs Manager
Santa Clara Valley Transportation Authority

DATE: February 23, 2009

SUBJECT: Weekly Legislative Update: Week of February 16, 2009

FEDERAL

Economic Stimulus Legislation: On February 17, 2009, President Barack Obama signed into law H.R. 1, the American Recovery and Reinvestment Act (ARRA). This comprehensive economic stimulus legislation provides approximately $790 billion in spending and tax relief to help kick-start the struggling national economy. The measure was crafted to achieve the following six goals:

1. Preserve or create up to 4 million jobs.
2. Promote economic recovery.
3. Assist those most impacted by the economic downturn.
4. Spur technological advances in science and health care.
5. Invest in infrastructure with long-term economic benefits.
6. Stabilize state and local government budgets.

The ARRA includes roughly $507 billion in spending and $282 billion in tax relief. Some of the key features of the legislation are as follows:

Infrastructure:
- ✓ $48 billion for transportation infrastructure.
- ✓ $18 billion for clean drinking water, flood control and environmental restoration projects.

Energy, Science and Technology:
- ✓ $30 billion for modernizing the nation’s electricity grid, promoting advanced battery technologies, and financing a broad array of energy efficiency programs.
- ✓ $20 billion in tax incentives for a wide range of renewable energy efforts.
- ✓ $15 billion for scientific research in areas such as energy, climate change, manufacturing, biomedicine, and engineering.
- ✓ $7 billion for extending broadband services to underserved communities.

Health Care:
- ✓ $19 billion for modernizing health information technology systems.
- ✓ $87 billion to help states meet rising Medicaid costs.

Education:
- ✓ $53.6 billion provided through a State Fiscal Stabilization Fund to prevent cutbacks in education and other key state government services.
- ✓ $1.1 billion for Early Head Start and $1 billion for Head Start to provide comprehensive development services to low-income infants and preschool children.
- ✓ $2 billion for Child Care Development Block Grants to provide child care services to low-income working parents.
- ✓ $13 billion for grants to help disadvantaged children reach high academic standards.
- ✓ $12.2 billion for special education grants.

Tax Relief:
- ✓ A scaled-back version of President Obama's "Making Work Pay" Plan, under which individual workers would receive a refundable tax credit of $400 and married couples $800. The tax credit would phase out completely at $100,000 for individuals and $200,000 for couples filing jointly.
- ✓ $70 billion in tax relief to spare millions of middle-income Americans from paying the alternative minimum tax in 2009.
- ✓ Tax credit to make college more affordable for 3.8 million families.
- ✓ Tax incentives for homebuyers, new car purchases, and businesses making investments in plants and equipment in 2009.

Protecting the Vulnerable:
- ✓ Extension of unemployment benefits.
- ✓ Increased food stamp benefits.
- ✓ $4 billion for job training programs.
- ✓ $100 million for emergency food and shelter grants.
- ✓ $100 million for elderly nutrition programs.
- ✓ $2 billion to help communities purchase and rehabilitate foreclosed, vacant properties.
- ✓ $1.5 billion for short-term rental assistance.
- ✓ One-time payment of $250 to Social Security beneficiaries, SSI recipients, and veterans receiving disability compensation and pension benefits through the Veterans Administration.

Transportation Provisions in the Economic Stimulus Bill: The ARRA provides roughly $48 billion for transportation infrastructure. The key elements are as follows:

Highways: The ARRA includes $26.66 billion in grants under the federal highway program. Of these funds, 50 percent would be distributed to states through the Surface Transportation Program (STP) formula, and 50 percent based on the obligation limitation ratio from the FY 2008 appropriations bill. While public transit and passenger rail projects are eligible for these funds, it is expected that states will use most, if not all, of their share for their state highway and local roadway systems.

Of each state's apportionment, 30 percent must be suballocated to metropolitan planning organizations (MPOs). The remaining 70 percent could be used at the state's discretion. In the case of California, existing law would require a portion of the 70 percent funds to be taken off the top for state highway rehabilitation projects under the State Highway Operation and Protection Program (SHOPP), with the rest being programmed through the State Transportation Improvement Program (STIP) process. Here are the estimated numbers for California:

- Total = $2.6 billion.
- 70% State Discretion = $1.8 billion.
- 30% Suballocated to MPOs = $770 million.

Under the provisions of the ARRA, the Federal Highway Administration (FHWA) must make apportionments available within 21 days of enactment of the bill. The legislation stipulates that states must obligate 50 percent of their funds within 120 days of the apportionment. Funds not obligated within the designated period would be recaptured and redistributed to other states that demonstrate that the funds could be spent in a reasonable time frame. The remaining 50 percent must be spent within one year, or those funds also would be subject to redistribution. The federal share for these grants is 100 percent.

<u>Public Transit:</u> The ARRA includes $8.4 billion for new capital investments for public transit. California would receive approximately $1.1 billion. Of the $8.4 billion nationwide total, $6.9 billion is available for capital projects eligible for funding under existing transit formula programs as follows:

- $5.44 billion under the Urbanized Area (UZA) Formula Program.
- $680 million under the Rural Formula Program.
- $680 million under the Growing States and High Density Formula Program.

For each of these programs, the Federal Transit Administration (FTA) must make apportionments available within 21 days of enactment of the economic stimulus legislation. The bill stipulates that grantees must obligate 50 percent of the funds under these programs within 180 days of the apportionment. Funds not obligated within the designated period would be recaptured and redistributed to other grantees that demonstrate that the funds could be spent in a reasonable time frame. The remaining 50 percent must be spent within one year, or those funds also would be subject to redistribution. The federal share for these grants is 100 percent.

In addition to the formula grants, the ARRA makes available $100 million for new discretionary grants for public transit agencies to "reduce energy consumption or greenhouse gas emissions." FTA is required to publish guidance with program details and instructions on how to apply for these funds.

The ARRA also includes $750 million for rail rehabilitation projects under the Fixed Guideway Modernization Program. Funds would be distributed according to the first four tiers of the formula for the program in existing law. Like the other formula public transit grants, FTA must issue apportionments within 21 days of enactment of the economic stimulus legislation. Grantees must obligate the first 50 percent within 180 days, and the remaining 50 percent within one year or be subject to the same “use-it or lose-it” requirements. The federal share for these grants is also 100 percent.

Under the transit title of the ARRA, a final $750 million is made available for capital investment grants under the New Starts and Small Starts Programs. These discretionary grants would be competitively awarded by FTA. Under the provisions of the economic stimulus bill, priority must be given to projects that are currently in construction or are able to obligate funds within 150 days of enactment. The federal share would be consistent with existing Full Funding Grant Agreements (FFGAs). For new projects without FFGAs that could be initiated within the time limits, the federal share could be up to 80 percent. Funds would remain available for obligation until September 30, 2010.

<u>Supplemental Discretionary Grants for a National Transportation System Program:</u> The ARRA includes $1.5 billion for a new discretionary multimodal program entitled the “Supplemental Discretionary Grants for a National Transportation System Program.” Under this program, the U.S. Department of Transportation (DOT) would award grants ranging from $20 million to $300 million for highways; bridges; public transit, including New Starts and Small Starts projects; port infrastructure; and freight rail projects of national, regional or metropolitan significance. No more than 20 percent of the $1.5 billion total may be spent in one state, and grants must be distributed equitably among urban and rural areas. Furthermore, priority must be given to projects that “require a contribution of federal funds in order to complete an overall financing package” and that can be completed within three years of enactment of the ARRA. DOT must issue a request for proposals and guidance within 90 days, grant requests under the program must be submitted within 180 days, and grants must be awarded within one year of enactment of the economic stimulus bill. The federal share for these grants is 100 percent.

<u>High-Speed and Intercity Passenger Rail:</u> The ARRA allocates $9.3 billion for the development of intercity and high-speed passenger rail. Of this total, $1.3 billion is available for capital improvements and security upgrades for Amtrak. The remaining $8 billion would go for the development of new intercity and high-speed rail passenger service. This funding would be distributed under the Intercity Passenger Rail Grants to States Program and the High-Speed Corridors Grant Program, both of which were authorized in last year’s Rail Safety Improvement Act. The ARRA does not indicate a specific distribution among these two programs, but does note that priority must be given to “projects that support the development of intercity high-speed rail service.” Under the provisions of the economic stimulus legislation, the Federal Railroad Administration (FRA) is required to issue a strategic plan for the distribution of the funds within 60 days of enactment and program guidance within 120 days. The federal share for these grants is up to 100 percent.

<u>Grants-in-Aid for Airports:</u> The ARRA includes $1.1 billion for Airport Improvement Program discretionary grants. The Federal Aviation Administration (FAA) is required to award 50 percent of the funding within 120 days of enactment of the economic stimulus bill and the remainder within one year. Priority must be given to airport improvement projects that can be completed within two years of enactment. The federal share for these grants is 100 percent.

STATE

State Budget: After five intense days of marathon sessions lasting through the night, heightened drama, frayed nerves, mounting tension, and aggressive arm-twisting, Gov. Arnold Schwarzenegger and the Legislature successfully enacted an intricate package of 33 bills that attempts to close the massive $40 billion gap between state revenues and spending over the next 17 months, while at the same time stimulating the economy by accelerating some public works projects and giving tax breaks to some businesses. Action came three months after Gov. Schwarzenegger declared a fiscal emergency and called on lawmakers to convene a special session to solve the state's budget crisis.

After weeks of grueling negotiations and stalled talks, the Governor and legislative leaders finally agreed on a compromise plan that was presented to the Assembly and Senate on February 14. Given that the key elements of the plan required a two-thirds vote, at least three Republicans had to go along with the 51 Democrats in the Assembly, and three Republicans had to do likewise with the 24 Democrats in the Senate. Those votes, however, were hard to come by since most GOP lawmakers had previously taken pledges not to raise taxes and feared that doing so could lead to their defeat in future Republican primaries. Nevertheless, legislative leaders were able to muster the three necessary GOP votes in the Assembly. The hang-up occurred in the Senate, where only two Republican senators—Dave Cogdill of Modesto and Roy Ashburn of Bakersfield—were willing to vote for the package.

Over the course of five days, the squeeze was on to find the one final GOP vote in the Senate. Several times, the whole deal appeared as if it might come undone. Finally, the impasse was broken when Gov. Schwarzenegger and legislative leaders agreed to give Sen. Abel Maldonado (R-Santa Maria) several major concessions that he demanded in exchange for providing the crucial 27th vote in the Senate. Those concessions included placing before California voters at future elections constitutional amendments to establish an open primary system and to ban legislative pay increases during budget deficit years.

In general, the enacted budget package takes a three-pronged approach, with $12.8 billion in temporary tax increases, $15 billion in spending cuts, and $11.4 billion in borrowing. It also includes a $1 billion reserve.

<u>Temporary Tax Increases:</u> The budget package consists of four temporary tax increases. How long they would be in effect would depend on whether California voters approve a constitutional amendment appearing on a special election ballot scheduled for May 19 to impose a limit on future state spending. The four temporary tax increases, which are expected to generate $12.8 billion over 17 months, call for the following:

1. Raising the state sales tax by 1 percent, effective April 1, 2009. This tax increase would sunset on June 30, 2012, if the voters approve the spending cap. If the voters reject the spending cap, then it would expire one year sooner, on June 30, 2011.

2. Raising the vehicle license fee (VLF) from 0.65 percent of the market value of a vehicle to 1.15 percent. The revenues generated from this increase would be split between the

General Fund and a new special account dedicated to funding local public safety programs. The VLF rate increase would become effective for registrations beginning May 19, 2009, and would expire on June 30, 2013, if the voters approve the spending cap. Without the spending cap, the rate increase would expire two years sooner, on June 30, 2011.

3. Imposing a 0.25 percent rate increase for personal income taxes, effective starting in tax year 2009. This rate add-on would apply through tax year 2012 if the voters go along with the spending cap. It would expire two years sooner—applying only to tax years 2009 and 2010—if the spending cap is rejected. Furthermore, if the state receives funding through the federal economic stimulus bill that offsets at least $9.1 billion of General Fund costs, then the rate increase would be reduced to 0.125 percent.

4. Reducing the dependent credit allowed against personal income taxes to the federal level of $100 instead of $300 beginning in the 2009 tax year. The dependent credit reduction would apply through tax year 2012 if the voters approve the spending cap. It would expire two years sooner—applying only to tax years 2009 and 2010—if the spending cap is rejected.

Spending Cuts: The budget package includes $15 billion in reductions that would impact every aspect of state government. The key cuts are as follows:

- ✓ $8.6 billion from K-12 education.
- ✓ $264 million from the University of California and California State University systems.
- ✓ $673 million from eliminating cost-of-living increases for recipients of CalWORKs and SSI/SSP grants.
- ✓ $1.4 billion from the elimination of two paid holidays for state employees, two furlough days per month through June 2010, and cuts in overtime pay.
- ✓ $181 million from state prison medical care.
- ✓ $146 million from the courts.

If California does not receive funding through the federal economic stimulus bill that offsets at least $9.1 billion of General Fund costs, then there would be further cuts to Medi-Cal, CalWORKs, in-home support for seniors, SSI/SSP, and the courts.

Transportation: The State Transit Assistance Program (STA) took the brunt of the cuts in transportation. For FY 2009, STA funding was sliced in half—from $306 million to $153 million. In addition, the budget package calls for using all STA money to pay for yellow school bus service and debt service on transportation-related bonds for the next four fiscal years—through FY 2013. Meanwhile, Proposition 42 funding for local streets/roads and the STIP remains in tact for the current fiscal year and for FY 2010. Finally, $100 million in annual tribal gaming revenues that were intended to repay prior-year loans from various state transportation accounts to the General Fund would remain in the General Fund for FY 2009 and FY 2010.

Borrowing: The budget package calls for $11.4 billion in loans as follows:

- Borrowing $5 billion from the state lottery, subject to voter approval.

- Selling $5.9 billion in reimbursement warrants (RAWs) in July 2009 to be repaid no later than June 30, 2011. The RAWs would not be issued if the state receives more than $9.1 billion from the federal economic stimulus legislation to offset General Fund expenditures.

- Generating an additional $433 million for the General Fund through loans and transfers from various special funds over a 17-month period.

Ballot Measures: The budget plan depends on the approval of five key ballot measures to be considered by the voters during a special election scheduled for May 19. If these measures do not pass, then the plan will likely begin to fall apart. These ballot measures are as follows:

1. Shifting $226.7 million in FY 2010 and up to $234 million in FY 2011 from the Proposition 63 mental health special fund to the General Fund to cover the costs of the Early Periodic Screening, Diagnosis and Treatment Program for low-income children. Proposition 63 revenues are generated through a tax on the wealthy.

2. Transferring $340 million in FY 2009 and $268 million annually for five fiscal years starting in FY 2010 from the Proposition 10 special fund for early childhood development efforts to pay for a series of children's programs that are currently covered by the General Fund. Proposition 10 revenues are generated through a tax on tobacco products.

3. Modernizing the state lottery and allowing future proceeds to be borrowed by the General Fund. The budget package assumes that $5 billion in future lottery revenues would be loaned to the General Fund in FY 2010.

4. Increasing annual K-12 school funding by $9.3 billion in future years in lieu of any maintenance factors that could be required by Proposition 98.

5. Placing a limit on the amount of revenues that could be appropriated for General Fund purposes. This constitutional amendment would require the Department of Finance to forecast a revenue amount for the General Fund for a particular fiscal year derived from the last 10 years of revenue growth amounts. Any revenues exceeding this forecasted amount must be deposited into a newly created Budget Stabilization Fund, which could only be tapped: (1) if revenues are insufficient to cover prior-year expenditures, adjusted for inflation and population; or (2) in cases of a declared emergency. Under this constitutional amendment, money would accumulate in the Budget Stabilization Fund until it equals 12.5 percent of General Fund revenues, at which point the excess funding could be used for one-time expenditures. This ballot measure is tied to the duration of the four temporary tax increases that were included in the budget package. If it passes, then those temporary tax increases would be extended beyond FY 2010 by one to three years.

Economic Stimulus Provisions: At the insistence of Gov. Schwarzenegger, several bills intended to stimulate the state's sluggish economy were enacted along with the budget package. The key ones are as follows:

- Providing unlimited authority for public-private partnerships for transportation projects until January 1, 2017.

- Allowing the use of design-build contracting for 10 Caltrans projects, five regional/local transportation projects, 10 redevelopment agency projects, and five state facility projects.

- Providing exemptions from the California Environmental Quality Act (CEQA) and permit streamlining for eight specific state highway projects being implemented by Caltrans with Proposition 1B bond money.

- Effective in tax year 2011, allowing multi-state businesses to apportion income to California using only their percentage of sales in California.

- Providing a tax credit for the production costs of movies and TV series that are produced in California.

- Providing a tax credit of $3,000 per full-time equivalent employee hired by small businesses. The credit would be available for the 2009 and 2010 tax years.

REGIONAL

Metropolitan Transportation Commission: At its February 11 meeting, the Programming and Allocations Committee reviewed a preliminary staff recommendation on the use of the Bay Area's share of highway/roadway and public transit funding under the federal economic stimulus bill. For public transit, MTC staff proposed the following: (a) $175 million-355 million for transit rehabilitation, which would be allocated to Bay Area operators by formula; (b) $70 million for the Oakland Airport Connector; and (c) $75 for the Transbay Terminal box. For highways/roadways, MTC staff proposed the following: (a) $97 million-157 million for local streets/roads rehabilitation, which would be distributed by formula to cities and counties; (b) $10 million for safety improvements on Vasco Road in Contra Costa County; (c) $9 million for the I-580 High Occupancy Toll Lane (HOT) Project in Alameda County; (d) $5 million for VTA's State Route 237/I-880 HOT Lane Connector; and (e) $19 million for MTC's Freeway Performance Initiative Program for ramp meters.

VTA sent a letter to the committee recommending that all the public transit funding be allocated to Bay Area operators for transit rehabilitation and preventive maintenance in light of the recent cuts at the state level and deteriorating local sales tax returns. Similarly, VTA recommended that MTC dedicate the entire roadway amount to cities and counties for local streets/roads rehabilitation. If the region should determine that a portion of the Bay Area's share of federal economic stimulus money should be set aside for expansion projects, VTA recommended that MTC develop an open process to select the best projects.

The committee heard a great deal of testimony from the public at the meeting. In the end, the committee elected to forward the proposal to the full commission without a recommendation. In the meantime, MTC staff is expected to modify its recommendation prior to the February 25 commission meeting.

NOTE: Also contributing to this report were Susan Lent with Akin, Gump, Strauss, Hauer & Feld; Mark Watts with California Strategies; and Scott Haywood, VTA's Policy and Community Relations Manager.

To VTA Board of Directors:

Attached is a letter from VTA Chairperson Sandoval to Bill Dodd, Metropolitan Transportation Commission Chairperson, regarding MTC Agenda Item #7 regarding Federal Economic Recovery Regional Programming Proposal and Proposed TIP Amendment 2009-07. This item will be considered by the MTC on February 25, 2009.

Deborah Harrington
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SANTA CLARA
Valley Transportation Authority

February 23, 2009

Bill Dodd
Chair
Metropolitan Transportation Commission
Joseph P. Bort MetroCenter
Lawrence D. Dahms Auditorium
101 Eighth Street
Oakland, CA 94607

Dear Chair Dodd:

Thank you for the opportunity to comment on MTC's February 25 agenda item #7 a): Federal Economic Recovery Regional Programming Proposal and Proposed TIP Amendment 2009-07. As I referenced in my February 10 letter regarding this issue, the VTA Board of Directors discussed the stimulus package in detail at our February meeting and approved a set of guiding principles. My comments reflect the principles approved by the Board of Directors.

While I am pleased that staff's revised recommendation invests nearly 80% of the funding in road and transit rehabilitation, VTA still recommends that MTC invest the entire amount to rehabilitation. With both the transit and roadway money from the economic stimulus coming in lower than hoped, it is even more important that the maximum amount of funding be utilized for rehabilitation projects. This funding will help local communities and transit agencies repair crumbling roads and keep needed service on the streets.

VTA is also pleased that MTC is taking a proactive approach and developing advocacy priorities for non-formula programs. However, there are other regionally significant projects that MTC should consider setting as priorities. VTA recommends MTC add the following projects to the advocacy list:

Project	*Proposed Funding Program*
Caltrain Diridon Station Design	High Speed Rail & Intercity Rail Grants
Caltrain Electrification: Design	High Speed Rail & Intercity Rail Grants
BART to Silicon Valley: Construction	NSTP Competitive Program
Capitol Expressway Light Rail Extension	NSTP Competitive Program
Vasona Light Rail Extension	NSTP Competitive Program
I-880/I-280/Stevens Creek Improvements	NSTP Competitive Program
US 101 Improvements at Capitol & Yerba Buena	NSTP Competitive Program
Silicon Valley Express Lane Program	NSTP Competitive Program
VTA Renewable Energy Conversion Project	Transit Energy Efficiency

All of these are significant regional projects that will go far in our efforts to improve the Bay Area's mobility, reduce congestion and clean our air. Below is a brief description of the projects:

Caltrain Diridon Station Design

With the construction of High Speed Rail (HSR) and BART to Silicon Valley, the Diridon Station will serve passengers traveling on HSR, BART, Caltrain, Capitol Corridor, the Altamont Commuter Express, VTA light rail, Amtrak as well as local and regional bus services. No other station will have this many regional services at one site. Diridon will be the premier station for travel in the South Bay, if not the entire Bay Area. As such, Diridon must be redesigned to handle the level of passenger services that will be required. There are also tremendous opportunities around the station for transit-oriented development and smart-growth projects.

Caltrain Electrification

Caltrain electrification is a priority project for San Francisco, San Mateo and Santa Clara Counties. The project will produce significant air quality benefits by reducing nitrogen oxide, reactive organic gasses and particulates. The project will also increase ridership while modernizing the Caltrain system.

BART to Silicon Valley

BART to Silicon Valley will finally connect BART to the largest city in the Bay Area and the Silicon Valley. The project will extend BART 16.1 miles from Fremont to Milpitas, San Jose and Santa Clara. With an estimated 98,000 daily boardings, it will produce significant mobility and air quality improvements by providing congestion relief for east bay and south bay travelers.

Capitol Expressway Light Rail Extension

This project will extend light rail in San Jose 2.6 miles and connect the East Valley to job-rich north San Jose, downtown San Jose and BART. Serving one of MTC's communities of concern, the project will extend service to a major commercial shopping area and transit center in East San Jose. East San Jose has the highest transit ridership per capita in Santa Clara County.

Vasona Light Rail Extension

This project will extend light rail 1.6 miles through the cities of Campbell and Los Gatos. The extension will connect suburban neighborhoods to job-rich north San Jose, downtown San Jose and BART. It will build upon the success of the current Winchester Extension and provide further relief for commuters along the highly congested I-880 – Highway 17 Corridor.

I-880/I-280/Stevens Creek Improvements

Consistently ranked as the worst back-up in Santa Clara County by the San Jose Mercury News, this projects serves as the crossroads to two freeways, two major arterials and two of the region's most popular shopping malls in Santana Row and Valley Fair. The project will improve traffic operations, safety and access.

US 101 Improvements at Capitol & Yerba Buena

A Corridor Mobility Improvement Account (CMIA) project, this effort will improve operations at one of the most congested areas of Highway 101. The project will not only improve congestion in the corridor, but it will also fully accommodate bicyclists and pedestrians with a bike lane and sidewalks on both sides along Tully Road.

Silicon Valley Express Lane Program
The program will convert existing HOV lanes into Express Lanes or High Occupancy Toll (HOT) Lanes. HOT lanes are a centerpiece of Transportation 2035 and VTA is moving forward with programs in highly congested corridors in Santa Clara County.

VTA Renewable Energy Conversion Project
The project will install a photovoltaic system at one or two of VTA's facilities to offset electrical use. Once completed, the project will increase the use of clean, renewable energy in order to conserve natural resources, reduce greenhouse gas emissions and decrease VTA's long-term costs for electricity.

For these reasons, VTA requests that MTC include these important projects on the advocacy list. VTA looks forward to working with MTC on the implementation of the federal stimulus program.

Sincerely,

Dolly Sandoval

Dolly Sandoval
Chair,VTA Board of Directors

Cc: Dave Cortese, MTC Commissioner
Dean Chu, MTC Commissioner
Ken Yeager, MTC Commissioner
VTA Board of Directors