

# ***Aldaron, Inc.***

*Public Policy Advisors to Industry and Government*

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12/1/2010

## **MEMORANDUM**

TO: Jacki Bacharach  
FROM: Don Camph  
RE: Activities Summary, November, 2010

### **Measure R Highway Program**

The Measure R Highway Program continued to develop. In consultation with the Infrastructure Working Group (IWG), Metro and Caltrans, the project team has continued to refine the three project groupings:

Group 1: The Early Action Program (Projects to be Completed in the First 5 Years)

Group 2: The Strategic Positioning, or "Incubator" Program

Group 3: The Longer-Term Program of Projects

Work continues on schedule, and it is anticipated that a recommended South Bay Measure R Expenditure Plan for the first five years of the program will be finalized in January.

### **South Bay Green Line Extension**

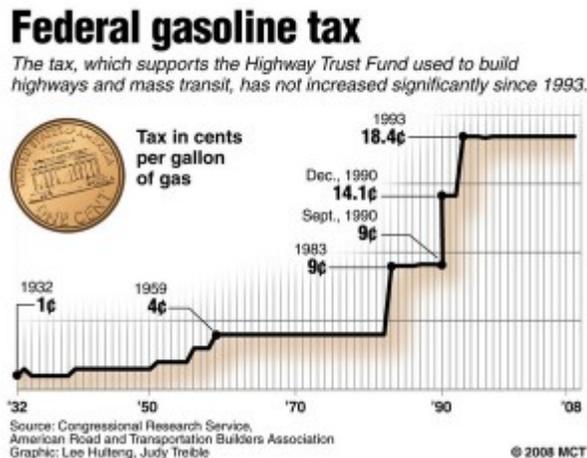
On November 30 I attended a briefing at Metro along with Metro Board Deputy Mike Bohlke to get an overview of the project status. I have filed a report on this meeting under separate cover.

### **Washington Report**

The prospects for a new, multi-year transportation funding bill seem to be growing even dimmer, especially one that would materially increase the level of Federal investment in the Nation's transit and highway systems. There appears to be little appetite for increasing the Federal gas tax (which hasn't been increased since 1993, see chart next page), and other schemes for raising revenue don't appear to be gaining traction. One possibility that is now being mentioned is that of a three-year bill at roughly the same funding levels as the current program, effectively kicking the question down the road until after the 2012 presidential election.

As has been widely reported in the press, there is significant momentum in Congress and from the White House to ban, restrict and/or reform the process of Congressional earmarking. Both parties are to some degree split on this question, so the outcome is uncertain. For example, Sen.

Jim DeMint (R-S.C.), leader of the Senate's conservative caucus, is strongly in favor of restricting earmarks, whereas Sen. James Inhofe (R-Okla.), the former chairman of the Senate Environment and Public Works Committee, has said Republicans have wrongly “demagogued” the issue and that a ban would only increase the amount of money President Obama has to spend.



Nor is there any agreement as to how much money would be saved from earmark reform. For example, in the transportation arena, the overall amount authorized for transit and highway programs is fixed by law and most (thought not all) earmarks come within that limit, so eliminating those earmarks would simply mean the same amount of money would be apportioned to the core formula programs apportioned to states or to discretionary programs controlled by U.S. DOT.

## Sacramento Report

### Gerald Desmond Bridge Replacement Project Authorized as P3 Project

At its November 2010 meeting, the California Transportation Commission (CTC) authorized a design-build demonstration program for the Gerald Desmond Bridge Replacement Project in Long Beach. The commission acted on staff’s recommendation that the project be granted one of 10 available slots under the state's design-build demonstration program. The request came from Caltrans, in conjunction with the Port of Long Beach. Under the authorizing legislation (S.B. X2 4) the program allows for design-build procurement on five local projects and 10 Caltrans proposals. The total project cost is estimated to be \$950 million.

### PECG Sues over Presidio Parkway P3 Project

On Nov. 2, Professional Engineers in California Government (PECG) filed a lawsuit against the California Department of Transportation (Caltrans,) CTC, and SFCTA, challenging the Presidio Parkway (Doyle Drive Replacement) project's P3 component ( Prof'l Eng'rs in Calif. Gov't v. Calif. Department of Transportation, Calif. Super. Ct., RG10544672, filed 11/4/10).

Like the Gerald Desmond Bridge project (see above), the Presidio Parkway project was approved by the CTC earlier this year as a P3 under S.B. X2 4. The 9,000-member PECG union is arguing that Streets and Highways Code section 143 requires P3s to rely on tolls or user fees, rather than the “availability payments” scheme of financing envisioned for the Parkway. According to the

complaint filed in Superior Court for the County of Alameda, Section 143 permits P3s on “supplemental” transportation projects, but not on “replacement” efforts such as Presidio Parkway. The same code section designates Caltrans as preparer of preliminary engineering, pre-bid services, project reports, environmental and scoping documents, which it did not perform on the project in question, PECG said. The union is seeking an immediate halt to the pursuit of the project as a public-private partnership and a declaration that the named defendants violated mandatory duties imposed by California law.

### California I-Bank Director to Seek Expansion of Bank's Authority, Board Composition

The executive director of the California Infrastructure and Economic Development Bank (I-Bank) wants to expand the bank's lending and bond issuing and plans to seek structural changes to give the bank more flexibility and authority. Some of the changes Executive Director Stanton Hazelroth would like to see include making the bank a stand-alone entity free from another agency's oversight and bringing more finance experts onto the board of directors.

He believes that the I-Bank could help finance the Metro's 30/10 initiative. The Republican takeover in the House of Representatives poses uncertainties for such transit financing proposals at the federal level and could mean that the I-Bank might be able to play a greater role. Larger projects often require authorizing legislation, but the I-Bank is looking for the capability to approve such projects without legislative approval.

The I-Bank's mission is to finance public infrastructure and private development that promote economic growth, revitalize communities, and enhance quality of life. Following an initial \$181 million legislative appropriation to set-up and finance its first round of transactions, the I-Bank is self-funded through fees it charges on transactions, interest on loans, and loan repayments. It has issued some \$31 billion-worth of tax-exempt bonds, its primary business. The bank has also made a total of \$161 million in loans.

I-Bank staff are preparing proposed legislation that would clarify its ability to issue bonds for a wider range of borrowers. Two other objectives may be to remove the I-Bank from the Business, Transportation and Housing (BT&H) and set it up as a stand-alone entity within state government and to change the make-up of the I-Bank's board of directors, ensuring that future members have finance experience, which has not always been the case in the past.

### Meetings of Note

On November 22 Jacki Bacharach and I met with MTA Board Deputy Mike Bohlke to discuss a number of issues important to the subregion. As always, Mike's insights into the inner-workings of the MTA were illuminating and helpful.