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TO: Spokane Transit Authority
FROM: Michelle Giguere
DATE: June 30, 2006
RE: Federal funding opportunities for Spokane Transit Authority's Proposed LRT project

This memorandum has been prepared in connection with the development of a finance plan for the Spokane Transit Authority's (STA) proposed LRT project ("project"). It discusses current and future federal funding opportunities through the Congressional appropriations and authorization legislative processes. The memorandum does not address the Federal Transit Administration's (FTA) "New Start" program because STA's analysis to date has concluded that this type of federal funding is not likely to be approved by FTA. It also does not address certain federal financing opportunities such as the Transportation Infrastructure Finance and Innovation Act (TIFIA), State Transportation Financing Banks, Grant Anticipation Revenue Vehicles (GARVEE), and Private Activity Bonds (PAB's).

Federal funding for transportation and economic development projects can be obtained through: 1) Major transportation re-authorization bills which occur every 5-6 years (i.e., ISTEA, TEA-21, SAFETEA-LU); 2) Annual appropriations bills for transportation and economic development; and, 3) competitive grants from various federal agencies.

Each of these opportunities has a different set of rules and a different set of timeframes for project development, requests, and funding. Each opportunity also requires implementing a political strategy that involves important partnerships with local, regional, private, State, and federal partners. The competitive grant process does not currently hold much promise for securing funds for LRT projects, so it is not discussed here, although there could be opportunities in the future depending on congressional action. There are only a few minor competitive grant programs in the transit area, and they are mostly for research.

Major infrastructure authorization bills: Opportunity, process, timing

Every 5-6 years, Congress reauthorizes the existing statute for funding highway, transit, safety, and some rail programs. The current version of this law called SAFETEA-LU (Safe, Accountable, Flexible, Efficient Transportation Equity Act: A Legacy For Users) was enacted on August 10, 2005 and provides \$244 billion in funding. It establishes the gameplan, basic rules,

and authority for funding for all major transportation programs (except aviation and marine) in the country from 2005 through 2009. The prior act (TEA-21) had expired in 2003 but Congress was unable to enact legislation by the deadline, instead passing 13 extensions of that bill prior to enactment of SAFETEA-LU.

This legislation provides a particularly important opportunity to secure special project funding for projects through a number of mechanisms, including: policy changes to allow project eligibility where it does not now exist; creation of new programs; creation of special carve-outs of existing programs; addition of funds onto an existing program for a specific purpose; and, securing funding for what are generally known as “demonstration” or, “high priority” projects.

In the last three iterations of these bills, ISTEA, TEA-21, and SAFETEA-LU, Congress provided specific project earmarking for both highway and transit projects. SAFETEA-LU provided no Spokane-specific transit authority for light rail, BRT, bus, or transit facilities. It did, however, provide approximately \$20.3 million for five highway projects in the Spokane region. The prior act, TEA-21, did include final design and construction authority for Spokane light rail.

One of the reasons this bill is of such importance is that many of its provisions provide what is called “contract authority” for funding from the Highway Trust Fund and its Mass Transit Account. This type of funding is automatic or guaranteed, as opposed to the discretionary competitive type of funding that can be sought as part of the annual appropriations bills. It is also important because in order to qualify for certain programs, even in appropriations, you must have existing authority to do so.

It is important to start early, preferably several years prior to expiration, to seek special project funding in these major reauthorization bills. For instance, many interests around the country had been working on their project requests in 2001, prior to expiration of TEA-21 in 2003. By the time it came around to last summer when the bill was finally being finished, anyone who had shown up in 2004 or even 2005 was already behind the curve with others well ahead of them in line. Hence, local, regional, and State entities usually begin several years ahead of expiration of these Acts to prepare for special project requests from the Congressional delegation or to work with U.S. DOT, and/or your State DOT, to create a new program or establish new criteria that can be submitted to the Congress by the President as part of the President’s proposed reauthorization.

There is currently a bit of a “burnout” in Congress from the extended deliberations over SAFETEA-LU. I would recommend approaching the Congressional delegation somewhere around the Fall of 2007 (particularly if this is coordinated with advance appropriations requests as explained later in this memo) on any project funding or program changes that STA might seek. It is not clear yet whether the Congress will consider taking up what is referred to as a “technical corrections” bill to the massive SAFETEA legislation, but it is possible that they could act on a technical corrections bill next year. If so, this should be closely monitored since it presents an opportunity to add new projects or correct existing project definitions, and perhaps to “grandfather” Spokane’s LRT project into the bill based on its prior authority in TEA-21.

In order to best position any project or phases of a project for success, STA would want to build public and private partnerships prior to submitting any funding request. The Congressional delegation is literally bombarded with billions in project funding requests, and as they sort through candidate projects, some rise to the top and others tend to fall nearer to the bottom of the list. Those projects that end up being high priorities tend to be ones that meet existing federal criteria, and which have: broad general public support; local/regional elected official support; MPO support; private sector, Chamber, small business support; a well thought-out budget that meets the timeframe of the Act; been thoroughly vetted in a public manner; environmental work underway or completed; local financing commitment established or planned; any required non-federal match identified; and, the ability to leverage local, private, State and federal resources.

In addition, the Congressional delegation often considers regional equity and fairness as they try to figure out how to best serve the interests of their individual Congressional Districts and the entire State. Fundamentally important in almost all cases is some level of support from Washington DOT, although there are exceptions to this “rule”. It is also important to garner support from regional federal agency officials as appropriate, FHwA, FTA, FRA, etc. If agency support is not forthcoming, it is important to provide a justification as to how and why your project should be funded anyway.

There are many ways to have your project fail to get included in these bills. Here is a short list of potential fatal flaws, beyond the most fundamental problem of not meeting program requirements: failure to get significant partnerships and local support; ongoing public disputes about nature of project or need for project; cheaper alternatives forwarded by other parties; active opposition of State DOT or regional federal agencies; poorly thought-out budget; lack of non-federal match; pending ballot measures opposing or repealing funding sources; opposition of major employers, employment centers, development agencies, planning councils, etc.; pending but not completed negotiations on critical path elements (such as agreements with Railroads); and, pending or existing environmental lawsuits which threaten project design, schedule, and completion..

In recent years, Congress has provided project funding request forms that must be filled out if a project is to be considered by the Committee. For instance, in January of 2003, the House Transportation and Infrastructure Committee provided a form (see attached) with 13 specific questions related to project eligibility, budget, timeframe, non-federal match, priority Statewide, etc. While the Senate Environment & Public Works Committee did not provide forms for candidate highway projects, the Senate Banking Committee (which authorizes transit programs) did (form attached). All of these forms need to be completed accurately and by established deadlines. If a deadline is missed, that is the first easy cut.

From the beginning to the end of project development, partnering, and advocacy for federal resources, it is critical to understand the need for firm project support from as many stakeholders as possible. Some are described above, but in addition it is highly effective to form a working coalition such as service clubs, Chambers, school districts, tourism and economic development councils, conservation groups, construction trades, etc.

In some other cities and regions of the country, there is a process for ranking projects and setting priorities for funding requests that are presented to Congress. This might be something regional players in Spokane could consider, or perhaps it already exists. If it does already exist, obviously it would be important to have LRT established as a priority in the mix of other project such as I-90, Spokane North, etc.

In addition to regular meetings and briefings with local, regional, and State entities, project sponsors need to arrange early and regular briefings for Congressional Members and their staff. These can be done locally in Spokane when possible, or in Seattle, Olympia, and definitely in Washington, D.C. Rep. McMorris, and both Senator Murray and Cantwell make regular visits to Spokane and your region, particularly during the congressional recess periods. These are great opportunities to arrange special briefings, tours, and present specific proposals.

Regular opportunities for meetings in D.C. to promote your project occur each year, primarily in February and March (but also at other times of the year), during national legislative conferences for the Mayors', Cities, Counties, State Legislators, transit associations, State DOT's (AASHTO), Ports, and even the Western or National Governor's Association meetings. The yearly D.C. visit of business and public entities representing the Inland Northwest is also an opportunity to have STA's projects included on their agenda. Courtesy calls and updates to key Members of the authorizing committee from Washington State also have a positive impact (Representatives Larsen, Baird, and Reichert all serve on the House Transportation and Infrastructure Committee).

Regular updates on key milestones and project updates or changes are extremely important to project success. The key is early, ongoing, accurate, and sustained advocacy. Other than having a poorly developed project with anemic public support or missing a key committee deadline, perhaps the biggest threat to any project's success is poor communication. Quick responses to questions and timely provision of requested additional materials demonstrate that the project is a real priority to its sponsor and lend confidence to those making key decisions about what to and what not to fund. It is a mistake to think that the process is complete because a form has been submitted. Another common mistake is to fail to share the bad news as well as the good. Your congressional delegation will want to work with you to help you solve problems, and if there has been some kind of a negative development, it is always best to be the first to tell them so that they can consider the situation and work with you rather than to be caught unexpected by a reporter's call or a negative article.

Appropriations: An opportunity every year

Congress must pass annual appropriations bills to fund government operations each year. The subject of "earmarks" has been in the press a lot for the last year and a half, first with the Alaska "bridges to nowhere" and then with the whole Jack Abramoff scandal. Even though both the House and the Senate have passed different versions of lobbying and earmark reform, to date no action has been taken to even begin a conference between the House and the Senate to reconcile differences between the bills and send something to the President.

At the same time as the debate between the Administration and the Congress over “earmarks” and the congressional prerogative to decide how taxpayers' funds should be used continues, the House is already well underway working on its versions of the appropriations bills. So far, the House bills continue to earmark special projects, but the number of earmarks is greatly reduced, the amounts of money provided is also reduced, and some programs that have been earmarked in the past now contain no earmarks. The environment for special project requests is more competitive than it has ever been and many good projects are not making the cut despite strong backing from their Congressional delegation. For instance, whereas in the past Members were not limited in what they can ask for, in the House this year the transportation appropriations subcommittee limited Members to no more than 15 requests, including transportation, housing, and economic development requests. Members of the Appropriations committee fare much better than members not on the Committee, and the average Member of Congress might receive 3-4 project earmarks. This is a dramatic reduction from even just one year ago.

With regard to the organization of the Appropriations Committees, the House has ten subcommittees and the Senate has 12 subcommittees. Both the House and the Senate used to have 13 subcommittees, but in a reorganization several years ago, some subcommittees were eliminated or consolidated. The key subcommittee for STA is called Transportation, Treasury, HUD (TTHUD). This subcommittee funds all the operations of U.S. DOT, the Department of Housing and Urban Development, and some independent agencies. Most of the federal programs that STA would want to seek funds for from transportation and economic development programs are in the jurisdiction of this one subcommittee. There are a few other subcommittees that might provide funding opportunities, and they are the subcommittees that fund the Departments of Commerce and Labor. Senator Murray is the highest ranking Democrat on the Senate TTHUD subcommittee and is the former Chair of that subcommittee; hence she is incredibly important to the process.

The budget and appropriations process is very complicated, but the key thing to be aware of is that both the House and the Senate committees have now established very rigid deadlines on when Members of Congress can submit requests. The House subcommittees all have forms that must be filled out. Some of the Senate subcommittees require forms, and others do not. Both TTHUD subcommittees require forms for transportation requests and for economic development requests. In addition, most Members of the Washington Delegation set their own internal deadlines for when projects must be submitted. For instance, this year both Senators Murray and Cantwell's deadlines were March 3, several weeks in advance of any subcommittee deadlines. The House Member deadlines were on various dates in February and early March, in advance of the House Appropriations Committee's requirement this year that all subcommittees' deadlines were March 16. These schedules allow the Members and their staff to have time to evaluate projects, ask questions of project sponsors, work with federal agencies, etc., so that they can prioritize what they will submit to the subcommittees. A few representative samples of these forms are attached.

In order to work effectively with your Congressional delegation, it is important to be aware of the Congressional schedule. The federal fiscal year runs from Oct. 1 to Sept. 30. We are currently in the FY'06 federal year, and Congress is working on its appropriations bills for FY'07, which begins on Oct. 1. While Congress is supposed to pass all the appropriations bills

by Sept. 30, that probably will not happen this year and in all likelihood there will be a "lame duck" session of Congress where work will be completed. All deadlines for FY'06 appropriations requests have long since passed, and except for in very unusual circumstances, anything that is just now being brought forward as a new funding request will not even be considered. Because of this, STA should look to the FY'08 process as its first opportunity to secure special congressional funding.

Here are some important general timeframes, using FY'08 as an example:

- Fall of '06 – prepare and finalize project and funding request
(including work with local, regional, State, federal partners)
- Jan. of '07 - present funding requests to Congressional delegation
- Feb/Mar ' – meet with Congressional delegation in WA and D.C.
 - make sure to meet congressional deadlines and fill out forms accurately
 - Mayors, cities, transit/APTA, county reps, etc. attend conferences in D.C. and do meetings with congressional delegation
- April '07 - follow-up with delegation and work with partners
 - Inland NW delegation goes to D.C., presents priorities
- May '07 - House usually begins markups in subcommittee mid-month, full committee markups begin
- June '07 - Subcommittee/full committee mark-ups continue in House, start in Senate
- July '07 - House and Senate floor consideration of bills
- August '07 - Congressional recess
- Sept. '07 - House and Senate reconcile differences between bills and send to the President
- Fall '07 - in some years, completion of appropriations process
 - work on identifying requests for FY'09

There are many twists and turns in this process, and each year is different. For instance, in FY'06, the entire LHHS (Labor, Health & Human Services) appropriations bill included no earmarks. Since the Department of Homeland Security was created, there has never been an earmark in the Homeland Security Appropriations bill. Sometimes no earmarks are put in at subcommittee but are added on the floor. Sometimes earmarks are added in conference. It changes every year and the only thing completely predictable is that eventually Congress will pass all the needed bills, even if that means going into January and February of the following year, which has happened twice in the last four years.

There are a number of appropriations accounts where STA could seek funds for certain project elements of the overall LRT project. While this is not a comprehensive list of all potential federal funding programs, it represents the programs that appear to present the most immediate opportunity and utility for STA.

Transit accounts:

Sec. 3 “New Starts”: Not applicable due to criteria for FTA approval and decision of STA. However, it may be possible to secure an earmark in the Capital Investments FTA account if the

work is limited to early project work and PE; it might be possible to include report language directing FTA to work with STA; it might be possible to “grandfather” STA.

Sec. 5307: Formula funds, not earmarked. However, STA could use its share of these funds for purchase of rolling stock and other eligible LRT project funding. Section 5307 funds can also be used for debt service on “GARVEE” bonds issued to fund capital construction.

Sec. 5309 Bus and Bus Facilities Account: Discretionary account earmarks bus and bus facilities projects. Congress provided specific authority for 646 projects in SAFETEA-LU, thereby earmarking nearly half the total amount available. However there are still many earmark opportunities. For instance, in the House version of the TTHUD bill that was recently approved, there are approximately 250 earmarks. The funding levels for projects was generally in the range of several hundred thousand to \$1 million, with some coming in at \$2-4 million. STA could seek funds in this account for transit centers, intermodal facilities, transit improvements, bus purchase and rehab, street enhancements, systems improvements, bus facilities, park & rides, etc.

Jobs Access and Reverse Commute (JARC): Not an option, but for information purposes, this is a transit program which is aimed at providing transportation to employment to low-income people. Prior to passage of SAFETEA-LU, this program was a discretionary program earmarked by Congress. It is now a formula program distributed to transit providers and States (60% goes to urban areas over 200,000 population; 40% is distributed by the State through competitive grants to smaller urban and nonurban areas).

Alternatives Analysis: SAFETEA-LU created a new \$25 million program for Alternatives Analysis and the account is earmarked by the Appropriations Committees. It is not clear if STA could or would want to try for these funds based on upcoming decisions about its LRT project, but it might provide an opportunity for funding.

Transportation & Community System Preservation (TCSP): (\$61.25 authorized per year, but Congress regularly provides more, up to as much as \$300 million.) This is a highway account that can be used for some transit activities. Funds are generally available for any project that qualifies for transportation funding, but there is some focus on projects that: Improve the efficiency of the transportation system of the United States; reduce the impacts of transportation on the environment; reduce the need for costly future investments in public infrastructure; provide efficient access to jobs, services, and centers of trade; examine community development patterns and identify strategies to encourage private sector development; and, other activities to implement transit-oriented development plans, traffic calming measures, or other coordinated TCSP practices. The entire program is usually earmarked by Congress, and it could be used for land acquisition, protective purchase of right away, streetscape and community enhancements, connectors to transit, transit oriented development projects, and a host of other uses.

Surface Transportation Program (STP): This is a major formula funding program provided to States under SAFETEA-LU with sub-allocation of dollars to urban areas, but the program is also regularly earmarked with discretionary funds by Congress. This is a very flexible account and funds can be used for nearly any highway project, bridge projects on any public road, and transit capital projects, bus terminals and facilities. Passenger rail projects have been earmarked in prior years.

Interstate Maintenance (IM): The IM program funds “4R” programs (resurfacing, restoration, rehabilitation, and reconstruction) on the Interstate system. The majority of funding to States is provided by formula but there is a \$100 million discretionary pot of funds that Congress will earmark each year. STA could seek transit improvements that thereby improve the function of the Interstate System, but this would have to be approved by Washington DOT.

Bridge/NHS/CMAQ/ITS/STP formula Programs: No earmark opportunities. However, the State can choose to transfer from these funds to transit projects if it so chooses, but that would take a lot of work and strong support from Washington DOT. So far WSDOT has not been supportive of transfer to transit use. There may be some utility in a regional (SRTC) discussion on use of sub-allocation dollars that could benefit STA’s LRT project.

Rail-Highway Crossings: \$220 million is provided per year by SAFETEA-LU for improving highway-rail grade crossings to eliminate safety hazards. Parts of the LRT project might involve eligible project use of these funds and the funds are earmarked.

Rail Line Relocation Program: SAFETEA-LU created a new program (\$350 million annually) for rail relocation projects. If track needs to be relocated because it interferes with vehicle traffic flow, quality of life, or economic development, funds could be used to relocate track. However, SAFETEA-LU did not provide any automatic funding for this program, so it would have to be specially appropriated. Current budget constraints probably mean no funding for this new program will be provided (the Administration did not include any funds in its budget for this program), however, it is something worth watching should Congress decide to allocate funds because if it does, they will most likely be earmarked..

Research and Technology funds There is also a small research and technology program that might prove useful in the future. For instance, earmarked grants can be used to support planning and public participation related to transit projects, and systems technology.

Economic Development Initiatives (EDI): Congress regularly earmarks hundreds of millions each year for certain economic development projects. It is one of the most flexible, and therefore one of the most competitive, appropriations accounts from which to seek project earmarks. The individual project numbers, however, are getting smaller and smaller. Five years ago it was not unusual to get \$10 million for a project, but now the project numbers range in the \$50,000 to \$2 million range, with some projects coming in at \$4-5 million or in some cases as much as \$12-14 million. Those higher funding levels are rare, but can be attained, especially with strong support from a Committee member in a leadership position. STA could seek these funds for many parts of the LRT project -- everything from land acquisition to community improvements, streetscapes, rehabilitation of facilities, etc. These funds cannot be used for any pure road project or for health care or college facilities, but other than that they are pretty flexible. These funds have traditionally been 100% federal, but there is a move in Congress to require a non-federal match as high as 40%.

Community Development Block Grant: Right now this account is formula driven and generally not earmarked. However, there is some beginning discussion about a possible change in the approach to earmarks on this program. At one time, Congress did earmark CDBG, and did so specifically to build transit projects. It's not clear how soon changes might occur, but it is worth watching.

Neighborhood Initiatives:

This is a relatively new program, which for the last four years has been earmarked by Congress. Very few projects are approved; between 10-45 each year. However, it could be a quite useful account to STA because funds can be used for land acquisition related to community development, construction and renovation of facilities, park acquisition, preservation of greenspace, etc.

Other potential opportunities: Depending on final decisions about the LRT project, various components of actual construction, operations, and supporting the system, there are some other federal funded and earmarked accounts that could potentially prove useful. These would be in the area of anything STA/LRT was doing to support jobs creation or training, workforce investment efforts, job retraining, incorporation of new technologies, ITS or signalization projects, alternative energy use, anything remotely tied to international trade, and energy conservation.

Conclusion:

Between the Congressional transportation authorization and appropriations processes, it appears there are quite a few ways STA could use federal funds for part of its LRT project. Under current law and policies, some of STA's opportunities are limited, but as mentioned in this memo, changes to current law could be sought. Even without changes to current authorizing laws and policies, there is the ability for STA to work with its partners and with the Congressional delegation to secure funding on a phased basis to support its project. For instance, it could put forward elements of the project for special appropriations in FY'08 and '09 and work toward specific authority and contract authority funding for elements of the project in 2009 as part of the reauthorization of SAFETEA-LU.

