

**Holland & Knight**

**Presentation to HART Board**  
**August 16, 2010**

# FY 2011 Transportation Appropriations

- Status of FY2011 Bill
  - House passed its bill on July 29, 2010
  - Senate Appropriations reported its bill on July 22nd
    - **HART received \$1 M in the Senate Bill for PE effort**
  - Conference may take place in September

# FY 2011 Transportation Appropriations

- Shifting Congressional Approach
  - Obama Budget of \$1.822 commits all but \$45 million to projects in final design, anticipated FFGA or under construction
  - House Bill leaves \$227.8 million not earmarked and earmarked \$8.1 million for projects not in Presidents' Budget
  - Senate bill leaves \$177 million not earmarked and earmarked \$54.1 million for projects not in President's Budget (\$40 M for Columbia River Crossing in the state of the Subcommittee Chairwoman)
  - **\$1 M for Tampa is huge since it is one of two projects funded that is not in PE (other is in the state of a Subcommittee Member)**
  - Number and size of earmarks are declining with more discretion given to Obama Administration

# Status of Surface Transportation Authorization

- SAFETEA-LU expires on December 31, 2010
  - Congress must extend SAFETEA-LU if it Congress doesn't adopt a new bill
  - New bill seems far away as there is no consensus on new source of funding
- Highway Trust Fund/Mass Transit Account
  - \$34.5 billion of General Funds in FY2008-10 to cover shortfalls
  - ARRA provided an additional \$26.7 billion in General Funds
  - Gasoline tax revenues into HTF declined \$3.5 billion from FY2007 to FY2008
  - All states are now donor states – receive more back than they pay in

# Status of Surface Transportation Authorization

- Impact of No Authorization Bill
  - Another General Fund infusion may be necessary by end of calendar year 2011 but most definitely in 2012
  - General Funds may soon exceed gasoline tax revenues in the HTF – no longer user pays
- House Transportation and Infrastructure Committee has reported a bill out of subcommittee
- Senate Environment and Public Works and Senate Banking Committee are developing a bill for September
- Want to be ready if a consensus emerges before or after November elections

# Status of Surface Transportation Authorization

- New Starts Program

- Absence of new bill limits additional new starts projects
- President requested \$1,822 M in both FY2010 and FY2011 which is unsustainable
- Even at \$2 billion annually the program is constrained
- Must grow the program to be able to allow for new projects

	2011	2012	2013	2014
Existing or Proposed FFGA Projects	\$1,559.1 M	\$1,722.52 M	\$1,754.43 M	\$1,1692.68 M
Discretionary Monies – Obama Budget	\$24.33 M	\$16.26 M	\$29.35 M	\$91.1 M
Discretionary Monies - \$2 B	\$200 M	\$39.26 M	\$182.35 M	\$244.1 M

# Key New Starts Issues

- Cost Effectiveness/Environmental Justice

- *“Your editorial also cited my observation that the Obama administration's new policy might better enable the Central Corridor project to serve the African American and Asian American communities along the alignment. During the Bush administration, the Met Council advanced a plan to build the foundations for three stations in the heart of those communities but not build the stations themselves - all because the small marginal cost of those stations might push the project to the wrong side of the Bush administration's cost effectiveness index (CEI). More recently, I have been in discussions with Mayors Coleman and Rybak, Ramsey and Hennepin County officials, the Met Council and concerned community groups to avoid such a ludicrous result. There is nothing "cost effective" about using taxpayer dollars to build foundations but not the stations above them. The Obama administration's new policy will allow the Council to rectify this situation promptly, in a manner that will be sensitive to cost but not endanger the eligibility of the entire Central Corridor for federal partnership.” Peter Rogoff Letter to Pioneer Press (January 19, 2010)*
- DOT-HUD-EPA Sustainability Initiative is intended to address transportation, affordable housing and have projects serve transit dependent populations
- DEQ is preparing new NEPA guidelines on environmental justice

# Key New Starts Issues

- Financial Plans

- Once project is in PE FTA will review financial plan
- At outset, financial plan must be reasonable
- Prior to entry into final design – 50% of monies committed

- Emerging 50% Federal Share Policy

- Several recent projects started at 50-50 (New Starts/Non-New Starts) and then sought more New Starts monies in PE or FD due to local financial conditions
- FTA just communicated with Tri-Met that Milwaukie Corridor must be a 50-50 project and not 60-40

# Key New Starts Issues

- LRT Project Length
  - Phoenix is longest in recent memory at 20 miles
  - Except for Honolulu and all projects in FY2011 New Starts Report are less than 10 miles in length
  - Why?
    - Availability of New Start monies and local funding capacity
    - Desire to advance a competitive project for New Starts program
- Title VI Compliance
  - FTA likely to undertake Title VI review of fares and service in PE
  - If service cuts or fare increases contemplated, FTA will want to understand impact on transit dependent populations

# New Starts Changes

- Advance Notice of Proposed Rulemaking (ANPRM) – August 2<sup>nd</sup>
  - Notice of Proposed Rule not expected for 12-18 months
  - Final Rule not expected for 18-24 months
- No guidance changes for FY2012
- May see guidance changes for FY2013 based on comments to the ANPRM