Memorandum

To: Chair and Commissioners **Date:** February 2, 2009

From: JOHN F. BARNA, JR. **File:** Agenda Items 3-9

Ref: **Staff Report related to Agenda Items 3-9 of the February 10, 2009 Meeting**

Staff will be asking you to act on four items, which are described below:

1. Cash Management Strategies - Staff is recommending that the Commission adopt the framework presented in this document in response to the current funding uncertainties and the potential impact on the delivery of Proposition 1B projects.

2. I-15 Corridor CMIA Program Amendment- Staff supports the proposal to combine the I-15 North Segment, which is fully funded with local, federal and SHOPP dollars, with the South Segment, which is solely funded with CMIA dollars. Both Segments are currently under construction with 2 individual contracts in the North Segment and 3 individual contracts in the South Segment. This reprogramming action will require a CMIA program amendment and a project baseline amendment. The program and baseline amendments will document the exchange of local and federal dollars for CMIA dollars between the North and South segments, respectively. Aside from de-allocating award savings into a CMIA reserve and swapping funds from the North to the South and vice versa, the Commission should bear in mind the following when supporting this action:

- Two additional contracts may be subject to suspension or termination cost and would constitute an additional liability to the State and SANDAG if bond funds are not made available in the near future.
- Sequential funding to allow the expenditure of local and federal funds prior to bond funds be granted, and require that all potential savings resulting from the high contingencies applied to the South Segment will be converted to CMIA dollars and returned to the CMIA account upon project closeout.
- SANDAG and Caltrans must be reminded that all contracts in the North and South Segments funded with Bond funds are now subject to Proposition 1B reporting and auditing requirements mandated by SB 88, Governor's Executive Order S-02-07, and Commission guidelines and policies.
- Additionally, the Commission should be aware that this action may not be in compliance with the Department of Finance’s Budget Letter of December 18, 2008 that restricts new obligations of bond funds. Technically, this action may result in the Commission’s operating budget being obligated to pay for that expenditure.

3. <u>SR-905 Project</u> – This proposal addresses two projects, Phase 1A is a STIP project and is currently under construction and Phase 1B is a TCIF project recently voted by the Commission to allow for advertisement and award. Phase 1B also has federal and local funding available for construction implementation. The Department has frozen the bid opening on Phase 1B due to the uncertainty of Bond fund availability, and has recently de-obligated the federal funding from the project. The Department is considering this project as a prime candidate for federal stimulus funding, and has agreed to pursue this option with SANDAG. Funding this project with stimulus funds will free up all local and federal dollars from this project thus making them available for cash flow purposes on Phase 1A. Staff is still opposed to the proposal in the book item. However, we expect the Department and SANDAG to discuss this approach at the February 10th meeting. Should the stimulus plan take root, staff would propose a TCIF program amendment in March to delete the SR 905 from the TCIF program and adjust the over-programming to reflect actions taken by the Commission.

4. <u>SR-52 Corridor</u> - Although we are awaiting a final proposal from SANDAG and the Department, the SR 52 corridor involves three ongoing construction contracts, two of which are fully funded with STIP dollars (Units 4 & 5A) and one (Unit 5B) is fully funded with local and federal dollars. The plan is to reprogram the STIP dollars across all three contracts of SR 52 and also on a project along SR 76 (not currently programmed for construction in the STIP), and replacing those STIP dollars with local and federal funds. There are several issues that the Commission must consider in approving this action:

- Streets and Highway Code Section 188.8 (e) states that project costs may not be changed to reflect any of the following: (1) Differences that are within 20 percent of the amount programmed for actual project development cost; (2) Actual right-of-way purchase costs; (3) Construction contract award amounts, except when those amounts are less than 80 percent of the engineer's final estimate, excluding construction engineering, and the commission has adjusted the project construction allocation; and, (4) Changes in construction expenditures, except for supplemental project allocations made by the commission.
- The Department and SANDAG are recommending that the Commission suspend or make exceptions to a long standing practice of not allowing amendments of prior year programming or project amendments after allocation and award.
- STIP guidelines call for project savings to be proportional across all project funding sources, and resulting savings are incorporated into the next STIP programming cycle on a statewide basis.
- The G-12 delegation to the Department to adjust the contract amount to complete the project should be suspended in this case, since all award savings are being diverted to

other projects. In this case SANDAG should be expected to fund any increases in project completion cost directly - without applying the G-12 option.

- At least one additional contract may be subject to suspension or termination cost and would constitute an additional liability to the State and SANDAG if bond funds are not made available in the near future.
- SANDAG and Caltrans must be reminded that all contracts funded with Bond funds are now subject to Proposition 1B reporting and auditing requirements mandated by SB 88, Governor's Executive Order S-02-07, and Commission guidelines and policies.
- Additionally, the Commission should be aware that this action may not be in compliance with the Department of Finance's Budget Letter of December 18, 2008, that restricts new obligations of bond funds. Technically, this action may result in the Commission's operating budget being obligated to pay for that expenditure.

The book items for the SR 905 and the SR 52 are the subject of ongoing discussions. The book items should remain appropriate as a STIP notice and pending the outcome of the discussions and availability of further details, we anticipate a request for action at the Commission's March meeting.