Memorandum

To: CHAIR AND COMMISSIONERS

CTC Meeting: August 22, 2012

Reference No.: 3.8
ACTION

From: BIMLA G. RHINEHART
Executive Director

Subject: **PROPOSITION 1B SEMI-ANNUAL STATUS REPORT**

ISSUE:
Should the Commission approve the attached Proposition 1B Semi-Annual Status Report for submittal to the Department of Finance?

RECOMMENDATION:
Commission staff recommends that the Commission approve the attached Proposition 1B Semi-Annual Status Report for submittal to the Department of Finance.

BACKGROUND:
Senate Bill 88 designates the California Transportation Commission as the administrative agency for the Corridor Mobility Improvement Account, Route 99, Trade Corridor Improvement Account, State & Local Partnership, Local Bridge Seismic Retrofit Account, Highway Railroad Crossing Safety Account, STIP and SHOPP programs funded by Proposition 1B. As the administrative agency, the Commission is required to report on a semiannual basis to the Department of Finance on the progress of the projects in these Proposition 1B programs. The purpose of the report is to ensure that the projects are being executed in a timely manner and within the approved scope and budget.

The Proposition 1B Semi-Annual Status Report, issued in July of each year, and the Commission's Annual Report, issued in December, provide the reports mandated by Senate Bill 88.

Attached is the proposed Proposition 1B Semi-Annual Status Report. Upon Commission approval, the attached report will be submitted to the Department of Finance with the current Proposition 1B Quarterly Reports, which were presented at the June 2012 Commission Meeting.

CALIFORNIA TRANSPORTATION COMMISSION

Proposition 1B Highway Safety, Traffic Reduction, Air Quality and Port Security Bond Act of 2006

Semi-Annual Status Report
July 2012

BACKGROUND

Proposition 1B, approved by the voters in November 2006, authorized the issuance of $19.925 billion in State general obligation bonds for specific transportation programs intended to relieve congestion, facilitate goods movement, improve air quality, and enhance the safety of the state's transportation system. These transportation programs included the Corridor Mobility Improvement Account (CMIA), State Route 99 Corridor Account (SR 99), Trade Corridors Improvement Fund (TCIF), State and Local Partnership Program (SLPP), Local Bridge Seismic Program, Highway-Railroad Crossing Safety Account (HRCSA), Traffic Light Synchronization Program (TLSP) and the augmentation of the existing State Transportation Improvement Program (STIP) and the State Highway Operation and Protection Program (SHOPP). Consistent with the requirements of Proposition 1B, the Commission programs and allocates bond funds in each of the above-mentioned programs.

In clarifying legislation to Proposition 1B, Senate Bill 88 (SB 88), enacted in 2007, includes implementation and accountability requirements for Proposition 1B projects and further defines the role of the Commission as the administrative agency for the CMIA, SR 99, TCIF, STIP, SLPP, Local Bridge Seismic Account, HRCSA, TLSP, and SHOPP funded by Proposition 1B. SB 88 requires the Commission to report to the Department of Finance, on a semiannual basis, on the progress of the Proposition 1B bond projects in these programs. This report, as well as the Commission's Annual Report issued in December of each year, satisfies the reporting requirements of SB 88.

To date, the Commission has programmed $11.1 billion of the $11.6 billion of the Proposition 1B funds within its purview. The remaining $465 million represents primarily State-Local Partnership Program (SLPP) funds, which are to be programmed on a five year period on a formula basis. The Commission has allocated $9.6 billion of the programmed Proposition 1B funds, primarily to projects that were ready to commence construction.

PROJECT FUNDING ISSUES

Availability of Bond Funding

As with almost any state program during Fiscal Year 2011-12, the most pressing issue for the Proposition 1B programs has been the state's ongoing financial challenges and the limited availability of cash to fund projects. In the past, the Commission typically approved allocations to projects when requested by project sponsors. Since January 2009, however, the Commission's ability to allocate to Proposition 1B projects and allow these projects to proceed to construction has been constrained by the State Treasurer's ability to sell bonds and the availability of bond proceeds for transportation projects. These funding constraints have forced the Commission to defer allocations to delivered projects, negatively impacting project baseline agreement schedules, and reducing the economic stimulus generated through the construction of infrastructure projects. During the summer of 2011, more than $650 million of shovel ready projects were stalled until bond sales in the fall of 2011 enabled the Commission to allocate to these projects in October 2011. At that time, however, based on an analysis of bond cash reserves, forecasted project expenditures, and scheduled project delivery, the State Treasurer determined that there was adequate cash flow capacity for the Commission to allocate to all Proposition 1B projects scheduled for delivery in Fiscal Year 2011-12. Therefore, during the balance of Fiscal Year 2011-12, the Commission allocated to all Proposition 1B projects deemed by the Department of Transportation (Department) as Ready to List (RTL) and eligible for allocation.

Availability of Local Funding

The ongoing economic downturn also threatens local funding for Proposition 1B projects. Nineteen counties in California have adopted local sales tax measures to fund transportation improvements, including local contributions to Proposition 1B projects. As local sales tax revenues have declined approximately 5 percent to 20 percent in the last three years, project sponsors may have difficulty meeting existing local funding commitments to Proposition 1B projects or funding potential cost increases. In addition, many local agencies issue bonds against future sales tax revenues to raise funds to pay current project costs. However, local agencies may have difficulty issuing bonds because of the tight credit markets.

Another challenge for local agencies is the loss of redevelopment funds as a result of AB X1-26. Many Proposition 1B projects include redevelopment funds as part of the funding plan and the loss of these funds places these projects at risk for delivery. Local agencies must redirect other funds to bridge the funding gap caused by the loss of redevelopment funds, often to the detriment of other local projects or priorities. At a minimum, the loss of redevelopment funds has caused construction delays of six months to a year on affected projects, while local agencies work to address the funding gap. Where alternative funding is not available, affected Proposition 1B projects will not be delivered.

DELIVERY TRENDS & CHALLENGES

Construction Cost Trends

Since 2009, the economic downturn provided one tangible benefit for the Proposition 1B projects, that is, lower construction costs. The trend for lower construction costs continued in Fiscal Year 2011-12. Through the fourth quarter of Fiscal Year 2011-12, the Department has received an average of 6.1 bidders per contract advertised, a slight increase from the average of 5.8 bidders per contract in Fiscal Year 2010-11. The low bid for contracts was 15.5% below the Engineer's Estimate for the same period versus 11.3% below the Engineer's Estimate for Fiscal Year 2010-11.

Program Specific Issues

Corridor Mobility Improvement Account (CMIA)

The Highway Safety, Traffic Reduction, Air Quality, and Port Security Bond Act of 2006 was approved by the voters as Proposition 1B on November 7, 2006. Proposition 1B authorized $4.5 billion in general obligation bond proceeds to be deposited in the CMIA. Funds in the CMIA are available for performance improvements on the state highway system, or major access routes to the state highway system on the local road system, that relieve congestion by expanding capacity, enhance operations, or otherwise improve travel times within these high-congestion travel corridors. Inclusion of a project in the CMIA program was conditioned on the commencement of construction no later than December 31, 2012.

At the time of adoption of the original CMIA program in February 2007, the Commission programmed 54 projects for $4.5 billion, leveraging another $4.6 billion in additional federal, state and local funds. As the Commission focused on assuring the delivery of the CMIA program within the statutory deadline, the Commission also worked with sponsoring agencies to recapture any cost savings at construction contract award. These contract award savings were proportioned among the mix of project funding sources and resulting CMIA dollars were recycled to program additional CMIA projects. Through June 30, 2012, the Commission committed $937 million of CMIA savings to 42 additional projects, leveraging an addition $900 million in other federal, state and local funds. What started as a program of 54 projects valued at $9.1 billion in total project cost grew to a program of 96 projects valued at $10.6 billion in total project cost, generating over 190,000 jobs and providing critical improvements to the state transportation system.

The Commission is working with the Department to capture and utilize CMIA project cost savings accrued after June 30, 2012 through the statutory deadline of December 31, 2012 on CMIA eligible SHOPP projects currently in the construction procurement phase.

Commission believes this approach will allow the maximum utilization of CMIA funds within the statutory deadline and at the same time bring additional benefits to preserving the state highway system by advancing eligible SHOPP projects that would otherwise be subject to SHOPP funding constraints.

Trade Corridors Improvement Fund (TCIF)

Proposition 1B authorized $2 billion of state general obligation bonds for the TCIF. Funds in the TCIF are available for infrastructure improvements along federally designated "Trade Corridors of National Significance" in the state or along other corridors within the state that have a high volume of freight movement. Acknowledging that the freight infrastructure needs of the state far exceed the $2 billion provided under Proposition 1B, the Commission overprogrammed the TCIF by approximately $600 million upon adoption of the program in April 2008. The overprogramming assumed that new revenue sources would become available and would be dedicated to funding the adopted program. Unfortunately, new revenue sources to address the overprogramming have not materialized. However, the Corridor Coalitions have diligently addressed the overprogramming and all three Corridor Coalitions – the Northern California Trade Corridors Coalition (NCTCC), the Southern California Consensus Group (SCCG), and the San Diego/Border Corridor (SDBC) – will be at or near the statutory programming levels by the end of 2012.

Highway Railroad Crossing Safety Account (HRCSA)

Proposition 1B, approved by the voters in November 2006, authorized the issuance of $19.925 billion in State general obligation bonds for specific transportation programs, including $250 million to fund the HRCSA program. The HRCSA program includes two sub-programs. Part 1 provides $150 million for highway railroad grade separations derived from the California Public Utilities Commission's Section 190 grade separation priority list and Part 2 provides $100 million for non-Section 190 high-priority grade crossing improvements.

In accordance with the HRCSA Guidelines, all funds programmed in the initial HRCSA Program that are not allocated by June 30, 2012, will be reprogrammed into a 2012 HRCSA Program. At its March 28, 2012 meeting, the Commission approved updated HRCSA Guidelines to establish the schedule for the 2012 programming process, with applications due to the Commission on July 1, 2012 and adoption of the 2012 HRCSA Program scheduled for September 2012.

ACCOUNTABILITY

In clarifying legislation to Proposition 1B, on August 24, 2007, the Governor signed into law Senate Bill 88 (SB 88) which designates the Commission as the administrative agency for the CMIA, SR 99, TCIF, STIP, SLPP, Local Bridge Seismic Account, HRCSA, and SHOPP funded by Proposition 1B. SB 88 imposes various requirements for the Commission relative to adopting guidelines, making allocations of bond funds, reporting on projects funded by the bond funds, and ensuring that the required bond project audits of expenditures and outcomes are performed.

In addition, Executive Order S-02-07, issued by Governor Arnold Scharzenegger on January 24, 2007, significantly increases the Commission's delivery monitoring responsibility for the bond funded projects. Specifically, the Commission is required to develop and implement an accountability plan, with primary focus on the delivery of bond funded projects with their approved scope, cost and schedule.

A key element of the Commission's responsibility for accountability as an administrative agency for specific bond programs is submitting reports to the Department of Finance on a semiannual basis. The purpose of these reports is to ensure that projects are proceeding on schedule and within their estimated cost. As part of its Accountability Implementation Plan, the Commission requires bond fund recipients to report to the Commission on a quarterly basis. These reports are reviewed by the Commission and posted on the Bond Accountability website. In addition, the Commission prepares the Semi-Annual Proposition 1B Status Report and the Annual Report to the Legislature, which includes the status of the Proposition 1B Programs.

Another key element of bond accountability is the audit of bond project expenditures and outcomes. Specifically, the Commission is required to develop and implement an accountability plan which includes provisions for bond audits. Under the Executive Order, expenditures of bond proceeds shall be subject to audit to determine whether the expenditures made from bond proceeds:

- Were made according to the established front-end criteria and processes.
- Were consistent with all legal requirements.
- Achieved the intended outcomes.

The Commission's Accountability Implementation Plan includes provisions for the audit of bond projects. In order to ensure that the Commission is meeting the auditing requirements of an administrative agency, as mandated by SB 88 and the Governor's Executive Order, the Commission has entered into a Memorandum of Understanding with the Department of Finance to perform the required audits of Proposition 1B projects, effective July 1, 2009. In addition, the Department of Finance, in consultation with Commission staff, is currently developing the Fiscal Year 2012-13 Audit Plan for the Proposition 1B Bond Program.